

Questions for s42A Report Writers

A. Generic Issues

Validity of S.32 Assessment

Laurie McCallum

1. s.32 analysis – what is the response to the assertion by many submitters that the use of methods such as ULs and/or sequencing are defective because of reliance on the UDS, and/or lack of independent analysis, or departure from the UDS proposals in respect of such matters as:

- a) It is not defective to rely on the UDS in the development of PC1. Under section 61(2)(a)(i), regional councils in relation to regional policy statements “shall have regard to”, any management plans and strategies prepared under other Acts. The UDS is a strategy prepared under the broad context of the Local Government Act 2002 (LGA 2002) and is relevant and appropriate to consider in the PC1 processes under the RMA 1991). The UDS only contains an Indicative Map of Urban Limits and within that map, for Rolleston, Kaiapoi and Woodend there are only dots. It is unrealistic to expect PC1 to be completely independent of the UDS, given the similarity of the two processes and parties involved. Equally it is unrealistic to expect PC1 to be exactly the same as the UDS as PC1 is only the land use component of the UDS, not its totality.
- b) In respect of the Section 32 analysis for Proposed Change 1 (PC1) its variations, while it draws on the comparison of options and other work carried out as part of the UDS, it stands on its own “two feet”. Although the UDS is the starting point for (and has significantly informed the preparation of) PC1, one does not move seamlessly from UDS to PC1.
- c) Section 32 analyses were prepared for PC1 and for each of the variations 1-4. These were published with each document at the time of notification. There are therefore five Section 32 analyses which encompass everything within each document as opposed to multiple section 32 reports on particular parts of PC1 and Variations 1-4.

Laurie McCallum

- **A. How was the boundary of Greater Christchurch determined for the RPS and was it subject to a section 32 analysis?**
 - a) The boundary for the scope of PC1 was taken as what is known as Greater Christchurch because that was the area for the UDS and over which consultation on the extent and manner of urban development occurred. The Greater Christchurch area was defined as such because it coincided with the Traffic Model for Christchurch and encompassed the commuter area for Christchurch.
 - b) Section 32 requires an assessment that the objectives are the most appropriate way of achieving the purpose of the Act and that the policies and methods are the most appropriate for achieving the objectives. The boundary of PC1 is not an objective, policy or method but does define the areas within

which those set out in PC1 apply. It has not been subject to an individual S32 analysis.

Ken Tremaine

- **B. Specific Urban Limit areas – what if any detailed consideration occurred of alternatives, costs / benefits for each area affected?**

a) The consideration of specific Urban Limits in particular localities and their alternative and costs/benefits occurred as part of:

- the Inquiry by Design Workshop (Report March 2007), particularly Part 11 Growth Options;
- the UDS (see pages 30 – 31 Option Process); and
- each of the five Section 32 Reports that were notified in accompaniment with PC1 and Variations 1-4 to PC1. These (albeit in a more limited manner) considered the detailed reasons for the location of the Urban Limits.

b) Specifically, a number of investigations (including modelling of the transport, wastewater and water supply networks), assessments and reports which underpinned the UDS provided a detailed analysis of the effects, costs and benefits of the different growth options available to the Greater Christchurch councils. The PC1 Section 32 Report references many of these reports. Information on the suitability of different land areas for urban development was also drawn from a review of the Christchurch City Plan which CCC adopted in 2007). As outlined above, potential growth pockets and alternative urban limits lines were further assessed through the Inquiry By Design workshops. Each growth area was considered in regard to its effect on the following networks and systems:

- Blue network – flood risk, impact on ground and surface water quality and the capacity of the river catchment to accommodate further land development.
- Green network – access to open space, impact on significant landscape features and ecological diversity, including the potential for future land development to promote investment to improve the open space network and environmental systems.
- Social network – access to community facilities and services, social cohesion and communities of interest.
- Employment – issues and distribution of business land, proximity of residential areas to employment and accessibility of new business areas to the strategic transport network, support services and a local labour market.
- Movement network – the capacity of the road network (including the availability of additional capacity as a result of planned major roading improvements), accessibility to public transport routes and future potential interchanges (including rail), and the potential for future land development to improve community access to walking and cycling facilities.
- Water supply and wastewater network - the capacity of sewer and water supply infrastructure (including the availability of additional capacity as a result of planned major infrastructure improvements).

The analysis of specific urban limits areas in PC1 included the high-level cost/benefit analysis of these factors. In carrying out the section 32 analysis, regard was had to the fact that "benefits and costs" is defined in section 2 of the RMA as including benefits and costs of any kind, whether monetary or non-monetary. The capacity of these identified areas was assessed and compared to the projected demand.

- c) In terms of the specific locations of the Urban Limits, and which areas of greenfields Residential and Business should be included on Map 1 of PC1, the Regional Council has drawn on assessments and then worked closely with the relevant territorial authorities i.e. Christchurch City and Waimakariri and Selwyn District Councils. The section 32 report for PC1 took a view on the locations. These were then tested in terms of their infrastructure networks and costs and assessed as part of the development of PC1 and the subsequent Variations..
- d) The specific areas selected are guided by Policy 6 of PC1, which contains development sequencing for Greater Christchurch. Policy 6 is not a prescriptive land release programme. There is flexibility in terms of timing and specific locations. Policy 6 acknowledges that the sequencing of urban development may need to be varied in order to provide for unanticipated growth, respond to community needs, and to accommodate changes in priorities of local authorities and government agencies. Sequencing is about making sure under Policy 6 that growth is managed in a timely manner and that there are funds available for servicing.

Laurie McCallum

- **C. Potential under provision of greenfields areas to meet demand - In the light of criticisms of the lack of flexibility, how much areal 'overprovision' has been made, (i.e. hectares needed) in terms of Policy 6, Table 2, and actual provision of mapped areas – respectively initially in PC1, in the following Variations 1-4, and as a result of the recommended additions in the Officers Report.**
 - a) The intention of PC1 (for both greenfields Residential and Business) is to adequately provide for such demand through the assumptions used and the mechanisms included within PC1 so as to make it more (rather than less) likely, that demand for land will be provided for. These include:
 - The projected population growth rate used being "medium-high" over the entire UDS life to 2041, which is a rate of growth that has never been achieved in Greater Christchurch over such a long period of time;
 - The growth rate being currently well below the "medium-high" rate anticipated by the UDS and PC1;
 - Provision being made in Policy 6 (b) for ODP areas to be brought forward if, for various unanticipated reasons, the development of particular areas does not occur;
 - Household numbers being set out in Policy 6 (b) so as to illustrate how provision can be made for the portion of the 75,000 households anticipated to be accommodated on greenfields areas. An arithmetic assessment of those areas (by taking the household densities set out in Policy 11 of PC1 (i.e. 10hh/ha for Selwyn and Waimakariri Districts and 15hh/ha for Christchurch City, multiplied by the geographic extent of individual ODP areas) shows that the combined total greenfields

area for Greater Christchurch in PC1 can accommodate this number of households and leave 20% of the area for stormwater retention and treatment, schools etc per the definition of net density. This in turn is supported by the evidence of Mr Sellars for CIAL.

- Provision being made in Policy 15 of PC1 for regular review and adjustments to Policy 6 tables to respond to changes in the rate of growth.
- b) The number of households in new Greenfields areas (ie excluding existing urban zones) to be provided for in Policy 6, Table 2 is as follows:
- Christchurch City 16400 hh at 15hh per ha = 1093ha (1375 ha provided)
 Selwyn District 10470 hh at 10hh per ha = 1047ha (11326 ha provided)
 Waimakariri District 5290 hh at 10hh per ha = 529ha (895ha provided)
- c) In terms of existing undeveloped zoned land within Christchurch City, an analysis of the Vacant Land Register at June 2008, shows there were approximately 4400 greenfield lots(exclusive of the Port Hills). This was comprised of 306 ha undeveloped land (conversion factor of 10 hh per ha), 1065 subdivided lots and 23 ha of deferred residential zoning.
- d) The adjustments as a result of the recommendations in the Officer Report are relatively minor with the deletions being more than covered by the inclusions. See answer to Question Bullet Point H.

Mike Theelen

- **D. Predicted household growth in different areas –**

- (i) **Please clarify the relationship between greenfields allocations and intensification – i.e. is there an assumption or implied objective that greenfields development needs to be limited in order to achieve the desired intensification of existing areas? What is the nature of the assumption, and how has it been quantified in practical h/h allocation terms in the overall strategy?**
 - a) The focus of the UDS and PC1 was to promote the achievement of a more consolidated urban form, in contrast to the expanding low density form that was developing under the Business as Usual scenario. A consolidated urban form preference was clearly confirmed through early public consultation and then political acceptance during preparation of the UDS (which has helped to inform PC1) (McCallum Officer Report para 38 pg 11).
 - b) Urban intensification/consolidation occurs over a range of development areas including central city, L3 zone (together making up the City Centre) as well as the existing L1, L2 zones (infill) and L3 around activity centres. The expectation of higher density within the greenfields areas represents a further contribution to urban consolidation.
 - c) As stated in Policy 2(a) of PC1, we are in the process of moving from the current development pattern where there is 75% in greenfields development and 25% in intensification (this being the base position as at 2007), to a more sustainable land use pattern of 60% of new development in intensification and 40% in greenfields.

- d) The intensification to greenfields ratio was calculated by establishing the existing rate of intensification over recent years, allowing for a modest (25%) increase in the first 10 years and a gradually increasing proportion thereafter. The balance of growth was allocated to greenfields (see pages 32 and 33 of UDS).
- e) It is generally assumed that greenfields development and intensification target different parts of the housing market. However given trends nationwide of an ageing population and 1-2 person households being the fastest growing groups, demand for intensified living will continue to grow, particularly if it is well designed and conveniently located in relation to employment, public transport and community facilities. (Theelen Officer Report para 49 pg 11, and para 107 pg 26 also UDS pgs 18, 21 and 22)

Laurie McCallum

(ii) Is any further flexibility now seen as being necessary in addition to Policies 6 and 15 in the light of evidence during the hearings questioning the sufficiency of the greenfields provision currently made in various areas and the repeated questioning of intensification targets being able to be met?

- a) Policies 6 and 15 of PC1 are considered sufficient. Policy 6 (b) in the preamble to Table 2 clearly provides for land to be brought forward where for unanticipated reasons, development of land in the first sequence does not occur. Then there are the review provisions of Policy 15 and the current review provisions for an RPS in the Act.
- b) While the intensification targets have been questioned there is no compelling evidence that (over the next 35 years) they will not be able to be met and that therefore Christchurch City must just grow on the periphery (see also answers to questions on intensification). PC1 and the associated programmes of the CCC for the revitalisation of the Central City should be given an opportunity to work rather than being deemed to have failed from the beginning.
- c) The greenfields areas at Rolleston and east Rangiora, with the more detailed work occurring through Structure Plan processes is known to be significantly larger than required for the household numbers allocated and developers within Christchurch City areas are seeking more households per hectare, rather than less, within individual ODP areas. Given this overall situation, there is ample greenfields land for development provided by PC1. It would be more appropriate to re-consider the extent of available land at the next review or as part of the operation of Policies 6 and 15 rather than extend the area at this time.
- d) To move in any significant way beyond the Greenfield areas provided for in PC1 will lead to a mis- alignment between the methods and the achievement of the objectives.

Ken Tremaine

- **E. Deferral periods and sequencing – in the light of the evidence challenging the timing, inflexibility of the sequencing, and the sufficiency of provision in the**

earliest sequence is any other proposal for increased provision and/or flexibility seen as warranted, and if so where and to what extent?

- a) No further flexibility is warranted at this stage. Also based on current demand, there is more than adequate land provided for in the first sequence.
- b) The sequencing provisions in Policy 6 of PC1 are vital in enabling the City and District Councils to align indicated land development release with the infrastructure provisions in their Long Term Council Community Plans (“LTCCPs”). This approach allows Councils to obtain information on the provision and maintenance of infrastructure. Also it means that the establishment and servicing of new communities can occur at a similar pace with growth rather than in development which occurs in a manner that cannot be as well serviced and progresses over a dispersed number of sites.
- c) Within Christchurch City for example, there is little or no opportunity to depart from the first stage of sequencing in the major growth area in the South-West because of the lack of wastewater capacity prior to 2016. In the North, roading capacity is a constraint on development for all greenfields areas and there is also some wastewater capacity issues. Earlier development may be possible in some areas provided that the advancement of the Northern Arterial is confirmed.
- d) PC1 provides for flexibility in a number of its policies. These include:
 - a. Policy 6 (Urban Form, Infrastructure and Sequencing within Identified Urban Limits) particularly:
 - i. Policy 6(b) Table 2 where it is acknowledged that where development does not occur in particular greenfields areas, that they may be substituted for areas of equivalent capacity where they are able to be serviced by the appropriate infrastructure; and
 - ii. Policy 6(c) Table 3 where it is acknowledged that were business land development does not occur in particular greenfields areas that they may be substituted for areas of equivalent capacity where they are able to be serviced by the appropriate infrastructure;
 - b. Policy 12 on the Resolution of Urban Limits where during the process of completing district plan changes and Outline Development Plans (“ODPs”), authorities may make minor amendments to provide for urban zoning outside the urban limits provided that such land is contiguous to an ODP area and in doing so the ODP area is not changed by more than 5%; and
 - c. Policy 15 on the Circumstances for Altering Growth and Sequencing which sets out that the extent, location and timing of land for development can be reconsidered by the Regional Council and the relevant territorial authority input if the following situations occur:

- i. a difference of 10% or more between the projected household growth in Policy 6(a) Table 1 and the estimated annual change in households;
 - ii. insufficient land exists or development activity occurs at a faster rate than anticipated by the UDS within the Urban Limits on Map 1 of PC1 to provide for the household growth anticipated in the UDS to occur over the following 10 years;
 - iii. it has been demonstrated that altered circumstances have arisen either in one or more parts of Greater Christchurch in relation to the anticipated timing of provision of sub-region infrastructure, and a reconsideration of the extent, location and timing of land for development under Policies 1 (Urban Limits), 3 (Business Land) and 6 (Urban Form, Infrastructure and Sequencing within Identified Urban Limits).
- e) Following further examination, we are satisfied that no change is required to the total allocations in each sequence period in Policy 6 of PC1. There is however merit in providing flexibility within the sequencing periods between locations. How each of the territorial authorities' achieve this will depend upon their LTCCPs and ability to fund and service new development.

Laurie McCallum

- **F. The 5% figure for households chosen for rural/ residential activity – how was this chosen and is any need seen for further flexibility in that figure in the light of the evidence questioning the amount of provision made?(see Janice Carter for Rossendale Holdings 1145715 Vol 1 Ev Disk)**
 - a) The effects of widespread Rural Residential development have been one of the drivers of the UDS and PC1. It has had the most significant effects per household in terms of use of space, inefficiency of infrastructure and traffic generation. Its provision does enable a choice of living environment but due to its overall effect and the extent of existing provision, it is not the intention of PC1 to try and meet perceived demand but to instead, make reasonable provision for it.
 - b) The “not more than 5% of the growth of residential households” provision in Objective 1 is a generous provision for Rural Residential. It’s a balanced figure which is not set at a level which threatens the achievement of the objectives and policies of PC1. For example, within the Greater Christchurch portion of the Waimakariri District, the provision of 1510 households is 43 per year for 35 years. The trend in new rural residential dwellings built over the past 8 years has been only 17 per year.

Laurie McCallum

- **G. Predicted business growth in different areas – what detailed consideration of growth needs was made before PC1 or the Variations were issued affecting this issue, and in the light of the evidence adduced generally questioning the sufficiency of that provision, is any further provision seen as being necessary, and if so how much in areal terms, and where and when in sequencing terms?**

- a) In terms of the consideration of business growth needs that was made prior to the notification of PC1 or its Variations, the section 32 report for PC1 sets a number of these out. In particular there was the report by Property Economics on this issue.
- b) This issue is summarised on pages 40- 44 of my evidence. PC1 makes provision for approximately 453 ha of additional business land with another 140ha recommended in the Officer Report. These provisions were calculated using:
 - Forecasts in labour force growth
 - An extrapolation of consumption rates over the last 15 years
 - The principle of having 10 years supply of zoned land available at any one time
 - Taking account of the emerging needs for larger footprint distribution and storage facilities
- c) So using a variety of methodologies, in my view there is sufficient business land provided for, most definitely for the next 10 -20 years Future reviews of PC1 will allow adjustments to the amount of business land to reflect changes to take-up rates during the 2007-2026 period and to ensure there is adequate supply and development of business land.
- d) The evidence of Gary Sellars for CIAL is the most comprehensive of any witness on both residential and business land supply and comes to conclusions which are the same or similar to those of the Officer's Report (in respect of PC1) in terms of the overall quantity provided.
- e) Within Christchurch City there are some infrastructure constraints which impact on the ability to service certain areas while other areas can be brought forward. These alterations are recommended and are set out below. The total areas for each sequence and total hectares remain the same.

Replacement Table 3 for Christchurch City Business Land Sequencing

	Map Notations for Greenfield areas	2007-2016 Hectares	2017-2026 Hectares	2027-2041 Hectares	Total Hectares
Christchurch City					
New Growth Areas					
Belfast	CB1	98 48	0 50	0	98
Hornby	CB2	42	69	0	111
SW Awatea	CB3	25 0	0 25	0	25
Wigram	CB4	43	0	0	43
Base of Port Hills	CB5	28	0	0	28
Islington Park	CB6	0 75	80 5	0	80
Hornby West	CB7	0	60	0	60
Note – In addition, in Jun 2007 there were around 267 hectares of vacant zoned business land within the Christchurch District Plan area					
Total		236	209	0	445

Laurie McCallum

- **H. Exclusion of certain areas from greenfields - has any assessment been made of the total number of extra h/hs that would arise from granting relief in the greenfields areas sought to be included in the ULs and if so please provide figures for the different areas?**
 - a) The areas recommended in the Officer Report to be deleted from Greenfields Residential are:
 - CPH1 Port Hills West (Kennedys Bush) - 180 households
 - Part of WK3 (part of Ruby Views, east of the realigned McIntosh's Drain at Kaiapoi)
 - b) The areas recommended in the Officer Report to be included within greenfields Residential are:
 - Kaiapoi Golf Course land in north east Kaiapoi

- Christchurch Golf Resort – 150 households
 - Port Hills Map H7
 - SL2 and SL3 at Lincoln (extension to cadastral boundaries of blocks)
- c) In terms of an assessment of the total number of extra households that would arise from granting relief in the greenfields areas sought to be included in the ULs by submitters:

**Original
PC1+V1-4**

RESIDENTIAL SUMMARY		
	Net Area (Ha)	Households
CCC	3996.3	55826
SDC	2351.1	23511
WDC	2026.2	20262
Grand Total	8373.6	99599

BUSINESS SUMMARY	
	Net Area (Ha)
CCC	1344.7
SDC	387.4
WDC	50.6
Grand Total	1782.7

Notes:

1. Submissions seeking mixed development (i.e. residential and business) are marked with an asterisk but have only been placed in a single (assumed most appropriate) category for the purposes of these calculations
2. Land areas sought separately for both residential and business uses include parts of Cranford Basin, North-west Christchurch and Islington
3. 'Net area' refers to any elements of the submitter's submission which fall outside of the areas recommended for urban growth in the S42A Officers Report
4. 'Net area' is recorded in hectares and within each category only counts once any land sought for urban growth by more than one submitter (however see point 2 above)

Ken Tremaine

- **I. Lack of flexibility for 'non-standard' developments - has any thought been given to "special areas" such as Clearwater, Hendersons Basin, Kaiapoi Lakes, Cranford Basin and Montgomery Spur areas, where a specific design/management approach may be needed to achieve residential development more effectively than precise delineated UL areas on a map?**
 - a) In relation to the specific examples of 'special areas' given, these are not "non-standard" developments. Henderson's Basin and Cranford Basin are perfectly standard. The developable area of Henderson's Basin is based on the 200-year flood contour, with the land below excluded from development. This produces a pattern of development around the periphery of the basin which will be similar to existing or future urban areas. Cranford Basin below the 19 metre contour, has severe soil constraints that may be able to be overcome at great expense and difficulty. Such constraints make it unnecessary to develop this area as other more suitable land areas are available for development in the North and South-West of Christchurch City. Montgomery Spur has already been excluded from development by the Environment Court, and most of it is

now owned by CCC. Clearwater is already recognised as an exception in the Christchurch City District Plan.

- b) Therefore we believe that due thought and consideration has gone into looking at 'special areas' and Henderson's Basin has been incorporated within the ULs in PC1 (see Policy 6, Table 2). Officer report evidence has been presented by Mike Theelen and Paul Anderson of CCC that there is adequate land provision without including the Cranford, Clearwater and Montgomery developments. We are also mindful that developments occurring outside of the ULs can lead to pressure for further development and accompanying infrastructure provision requests. This can lead to an extension of the ULs as well as the need for servicing beyond councils' ability to equitably fund them.
- c) As stated in reply to the second bullet point question 'B' above, the consideration of specific Urban Limits in particular localities and their alternative and costs/benefits occurred as part of:
- the Inquiry by Design Workshop (Report March 2007), particularly Part 11 Growth Options;
 - the UDS (see pages 30 – 31 Option Process); and
 - each of the five Section 32 Reports that were notified in accompaniment with PC1 and Variations 1-4 to PC1. These (albeit in a more limited manner) considered the detailed reasons for the location of the Urban Limits.

Therefore in these exercises, due detailed consideration has been given to the 'special areas' outlined in this question.

- d) Having a 'non-standard' development category within PC1 raises the following issues:
- 'non-standard' would be hard to define and would ultimately, is likely to be subject to interpretation by the Environment Court (and subsequent interpretation of its decisions).
 - it would open the door to numerous challenges to PC1 by developments seeking to define themselves as "non-standard". Even if they were "non-standard" they could say that they had the same *effects* as a "standard" development and therefore should be permitted. This would have the effect of significantly undermining PC1.
 - the Regional Council and the City and District Councils will not be unconditionally opposed to all such developments in the future. They will consider all of the circumstances of proposed developments, and where it appears that they will provide overall benefits, the Councils may negotiate and consider making joint changes to the RPS and District Plans.

Reality or likelihood of intensification take-up

Mike Theelen

2. **What if any practical steps have been made by CCC in the current LTCCP to directly assist in the process of intensification, in addition to policies and the more indirect larger scale acquisitions of commercial**

**property for upgrading of the central and southern business districts?
Provide references or copies of the relevant provisions from the LTCCP.**

- a) Within Christchurch City Council 2009-2019 LTCCP there are a number of Council activities and services that contribute to city planning and development including:

- strategic development through policies and plans;
- planning and coordination of Central City revitalisation; and
- urban regeneration.

(CCC LTCCP Volume 1 page 188)

City Council activity management plans also contain a raft of work which includes:

- L3/L4 Plan Change review
- Central City South Plan Change
- Central City Business Zone Review
- Elderly Persons Housing Review
- City Plan Transport Provisions Review and
- Strategic Intensification Review

(see Theelen Officer Report paras 114(a, f(iii), h, j) 119, 120, 121, 124, 126 and 128)

- b) In addition Mr Anderson has outlined planned capital works expenditure to support and encourage Central City development (see Anderson Supplementary Evidence para 40 page 9, CCC LTCCP Volume 1, Council Activity and Services City Planning and Development pages 187 -195, Planned Capital Programme pages 233 to 252.)

Mike Theelen

3. **Given a range of professional opinion evidence and other factual evidence from submitters asserting that the barriers to intensification are significant(including existing fragmented ownership, high capital cost of acquisition of land and old buildings, costs of demolition and consenting and plan change process costs, including in some areas fragmented zoning, and the high holding costs while those processes occur, is the proposition reasonable that 36% of required h/h provision can be achieved in the first ten year sequence from 2007-2016, particularly given that two of those years have already passed?**

- a) The 2007 and 2008 figures show that for both of the intensification categories contained within PC1, Policy 6, Table 1, the number of consents issued for households required to meet the PC1 projections are being met or exceeded. There is sufficient capacity for 36% of household growth to be achieved through intensification in the first period. The City, through the Strategic intensification Review, will investigate, plan and implement initiatives to assist intensification towards the end of the 2007-2016 period and into the next two periods.

Table 1 Intensification and Greenfield Consents 2001-2009 (years till June) in Christchurch City.

Intensification Area	2001	2002	2003	2004	2005	2006	2007	2008	2009
City Centre ie Central City within 4Aves + Inner L3. (PC1 Projections)							300	300	300
City Centre Total (Actual)	95	127	204	215	200	285	411	311	177
	9%	9%	10%	10%	10%	16%	19%	20%	18%
Rest of City ie L3 zone around City Plan consolidation focal points L2 and L1 infill (PC1 Projections)							550	550	550
Rest of City (Actual)	482	510	653	688	776	698	901	688	422
	43%	38%	33%	31%	38%	39%	43%	45%	44%
Greenfields									
Greenfields (PC1 Provision)							651	651	651
Greenfields (Actual)	533	717	1126	1286	1048	829	795	537	363
	48%	53%	57%	59%	52%	46%	38%	35%	38%

Source: Building Consents CCC

The issues raised around the business challenges to developing the intensification areas are overstated. Firstly as noted previous intensification in the city centre encompasses, the wider L3 fringe (collectively making up the city centre) and traditional urban infill.

The evidence shows these markets to be working effectively. In some cases (eg L3 and L4) while some initial costs may be higher, so too is the development yield. The rest is a simple business proposition. The Simes report (pages 31 - 36) demonstrates overall that the city apartment and townhouse yields make them successful investments.

There are development challenges in any market. The Council has demonstrated a willingness to respond to these where they are shown to be true impediments. In 2007 the Council introduced amendments to its Development Contributions Policy to provide incentives to Central City development (a discount on smaller apartments and a removal of open space calculations on multi-unit developments). Council is also preparing a financial incentives policy to target any specific market impediments where these may be creating market bottlenecks.

Mike Theelen

4. **In particular are the conclusions reached independently of each other, and from a different statistical base, in the 2008 Boffa Miskell and 2009 Simes reports that attaining the targets in the first two sequences at least may be problematic accepted by the report writers or rejected? If rejected provide reasons for that rejection in each case.**
- a) As a general comment the question posed is not the conclusion of these reports. Neither report contains a conclusion about the achievability of intensification in the 'City Centre' as set out in Table 1 of PC1.
- b) There are some specific aspects of the Boffa and SIMES reports that require clarification and explanation regarding the relevance of the reports findings to the provisions contained within Table 1 of PC1:
- Both reports have a narrow geographical context that is not directly comparable to the geographical context of the classifications used in Table 1 of PC1. Both reports cover the geographical area of the 'Central City', which is the area contained within the Four Avenues (Fitzgerald, Moorhouse, Bealey and Deans). The 'City Centre' classification of Table 1 refers to a much wider area that incorporates not only the 'Central City' but also the surrounding Living 3 (L3) zoned land (**see map in Appendix 1**).
 - Both reports assess the potential of growth against the target of 30,000 residents by 2026 which is contained within the Central City Revitalisation Strategy. The 30,000 figure is a political BHAG (Big Hairy Audacious Goal) coined by the previous Mayor. It is more exact in its desire, than numerical accuracy. It does not represent the anticipated/ modelled outcome for the Central City over that period. PC1 requires 7,000 households to be provided for by 2026 which equates to 13,650 people based on an occupancy level of 1.95 persons per household (this being the average household occupancy in 2006).
 - Neither report addresses the potential for intensification in the wider city, including the inner suburban L2 zone, and the L2/L3 zones around Key Activity Centres. Further, neither report addresses the potential for infill housing through brownfields redevelopment. Nor do they address ongoing infill in the L1 zone that will be significant in the 2007-2016 period during which, capacity for this type of infill development, will still be available.
 - The supply-focused Boffa Report presents a 'conservative' capacity within the 'Central City' of 17,600 residents. Also presented are 'moderate' and 'aggressive' scenarios. These three scenarios appear to be extrapolations of arbitrarily selected percentages of low or high probability of redevelopment. The purpose of the scenarios is to illustrate the range of potential capacities using the different splits. The Boffa report does not conclude which of the splits is the most likely to occur within the Central City.

- The Boffa report states that all the scenarios fail to achieve the Central City Revitalisation Strategy target of 50 households per hectare across the whole Central City (see page 55). Neither the 'Central City' Revitalisation Strategy nor PC1 contains this target for intensification across the whole 'Central City'. What PC1 does require is that new development intensification areas within the Central City reaches a density of 50 households per hectare. We feel that this is an achievable target as there are examples of recent 'Central City' developments that reach densities well in excess of 50 households per hectare, and in some cases in excess of 100 households per hectare.
- CCC will need to work towards achieving capacities in the Central City in excess of the 'conservative' scenario and closer to (but probably not as high as) the 'moderate' scenario in order to meet provisions for post 2027. However, the capacity of the 'aggressive' scenario would only have to be achieved if there was no intensification in the adjoining L3 zone, and intensification in the 'rest of city' classification fell well short of projections.
- The demand focused SIMES report is positive overall about intensification in the Central City stating that there is an unmet demand for higher-density living. It is acknowledged that there is currently an imbalance in supply across the full range of housing choices resulting in some sectors of the market being oversupplied (high-end apartments) while others undersupplied (affordable townhouses and apartments), and that there is a distinct geographical separation between the west and east of the City in terms of demand for, and desirability of, housing. Effectively addressing these imbalances is likely to be positive for the supply of, and demand for, higher-density development in the Central City overall.
- The SIMES report predicts a Central City population of 17,000 by 2026 (SIMES Report, page 27). This equates to approximately 4,800 additional households (at 1.95 persons per household) to what is provided for in PC1. This would account for approximately 69% of the PC1 household provision for the city centre from 2007-2026, leaving 31% of growth, or about 2,200 households, to occur in the L3 zone around the Central City. Current growth figures support these predictions showing on-target growth for 2007 and 2008. Significantly, the SIMES report predicts a strong upward trend in growth towards 2027. If supply can be maintained there is no reason to expect the long-term growth in City Centre population can not be maintained to achieve the overall 2007-2041 PC1 household provision.

Mike Theelen

5. **If the Commissioners were to decide some modification of the intensification provision is either necessary, or should be provided by allowing for some flexibility in other greenfields areas, if intensification is considered unlikely to proceed in the way and at the rate presently envisaged in the sequencing, then do the report writers have any views**

as to which greenfields areas should have greater priority, and if so in what h/h numbers?

- a) One of the key planks of the UDS and PC1 is to promote urban consolidation. They set out a 35 period to give effect to this. PC1 provides a structured approach to achieving this, with expectations that represent a modest extrapolation of existing market performance. Abandoning this now would simply send a signal that continued greenfields expansion is the future of the City. This is contrary to the direction of the UDS and PC1.
- b) If achievement of these directions are not being met then this is an issue for the first review of PC1, particularly in light of the answer to Question 3 showing that the intensification assumptions are currently being met. In the meantime there is flexibility afforded by Policy 6 (b) which enables lands to be brought forward from the next sequencing stage and Policy 15 which allows changes to growth patterns in the future to ensure they are sufficient.

Urban Limits Mechanism

Laurie McCallum

- 6. **Is it appropriate to use a method in an RPS that fixes boundaries in respect of land areas as small as 1.1 ha (B. Harrington 1150153 Vol 1 Ev. Disk)? Do the report writers consider Policy 12 with the 5 % is sufficient to provide adequate flexibility for such small boundary issues?**
 - a) The Urban Limits have been defined at a cadastral scale (similar to district plan maps) in order to avoid future uncertainty and argument about where the boundaries are. If Urban Limits can be defined in district plans or for the former Regional Planning Schemes at such a scale, then they can also be defined by in a Regional Policy Statement by Environment Canterbury, working with the City and District Councils.
 - b) The 5% provision in Policy 12 of PC1 relates to greenfields areas and their ODPs. This has been set to provide a degree of flexibility. On a 50ha ODP, this provision would cover 2.5ha or 5ha on a 100ha ODP. On the flat Canterbury Plains where most ODP areas are defined by road or cadastral boundaries, it is considered that the need to alter the boundaries will be relatively infrequent.

Laurie McCallum

- 7. **On what basis was that percentage of 5% fixed, and has the likely need for the use of that Policy been calculated in terms of the number of h/h equivalents it could give rise to?**
 - a) See answer to Question 6. There is no magic to the 5% other than that it provides a small degree of flexibility. As it is considered that its use will be relatively infrequent, no analysis has been made in relation to household numbers.

Sequencing issues

Ken Tremaine

- 8. What method was used to settle upon the percentages of 36%, 42% and 56% for intensification – please refer to any documentation relied upon?**
- a) These figures are directly referenced from the UDS. The original UDS consultation demonstrated that respondents clearly preferred a goal that could achieve an urban growth form based on a 60:40 ratio of intensification to greenfields. This was modified in two ways:
 - i. Acknowledging that changing the base ratio (which existed in the early 2000s) of 25:75 intensification to greenfields to a 60:40 ratio by the end of the strategy would require considerable work. (See UDS pages 32-42, in particular Figure 11 on page 32).
 - ii. The projected ratio resulted in 56% rather than 60%, and not until the 3rd sequencing period.

Ken Tremaine

- 9. Is the criticism accepted that there is an inconsistency in allowing for substitution of sequencing within ULs but not between CCC area and TA districts or is that a method, designed to ensure intensification?**
- a) The criticism is not accepted. There are Part II RMA considerations here – particularly the economic and social well being of ‘people and communities’. This is also about setting policy on the sustainable development of existing communities and trying to align as much as possible with the LTCCP provisions of territorial authorities. Furthermore, the sub-regional community indicated in the in-depth consultation of the UDS processes (as well as forming a part of the original UDS agreement) a desire to sustainably develop existing communities. Therefore the regional council is trying to provide for community aspirations and preferences whilst balancing that across the sub-region.
 - b) We have allocated populations by territorial authority area to balance growth between CCC, SDC and WDC – in particular, to enable additional populations in established towns outside Christchurch to be more self sufficient from a social/community service and employment perspective in order to reduce commuting between Christchurch and adjacent towns.
 - c) It was necessary and appropriate to recognise that there would be a certain amount of growth in each district, and that once allocated, this creates expectations among the landowners and Councils that would be difficult to reverse.
 - d) The practicalities of integrated planning, especially under LTCCPs, mean that each partner plans to fund its own allocated level of growth over a 10 year period. Any reallocation between Councils could have a significant impact on their LTCCPs.

Monitoring

Ken Tremaine

- 10. Do the report writers acknowledge the validity of the criticism levelled in the evidence that the 5 yearly monitoring of dwelling building consents in Policy 15 will be cumbersome in that a major time lag is built in to that proposal which envisages reactive calculation only commencing after 5 years leading to probably 2-4 year delays through s.32 analysis, Proposed Changes to the RPS and TA District Plans before extra greenfields areas would be available ?**
- a) The reporting and monitoring processes in place under 12A.7 of PC1 requires the Regional Council and territorial authorities to monitor and report at least every three years. This enables the RPS to reflect changing circumstances that would see more greenfields areas become available more promptly than in the situations described in the question

Ken Tremaine

- 11. How was the figure of 10% in Policy 15 (a) settled upon in terms of its justification, and how do the report writers respond to the criticism that the terms ‘insufficient’ and ‘faster’ in Policy 15 (b) are not defined or definable, or are not precisely comparable with the UDS h/h growth areas given the differences between the UDS growth areas and the PC1 and Variation UL areas?**
- a) The 10% variance provides an appropriate balance between achieving the desired urban form outcomes and allowing for altered circumstances or logical changes. This will ensure that the RPS will be resilient and responsive to change. PC1 provides a clear process for considering extensions to the urban limits and its policies are flexible while still supporting the long term integrity of the urban limits. Whether something is ‘insufficient and/or faster’ is a judgment about the adequacy of land.
- b) Using a 10% difference in yield and a 3-year timeframe allows Policy 15(a) to be precise and measurable and not subject to interpretation. It is accepted that there is a degree of arbitrariness in the 10% figure, as there usually will be when particular figures are adopted in statutory documents. The need for objective measurability often results in the suggestion of arbitrariness. Given the relatively large numbers of households involved, it is considered that the degree of variability should be relatively small and the time period relatively short before any review is triggered. The other three triggers are accepted as being more subjective and this brings both strengths and weaknesses. Relevant monitoring data will be available to inform the review. Furthermore, any party could bring a review forward at any time (rather than having to wait for a numerical measure to be met). The exercise, therefore, would not be totally subjective.
- c) The growth model that underlies the UDS and PC1 uses the same data. The UDS household growth projections for 2007-16, 2017-26, and 2027-41 contained in Table 2 on page 43 of the UDS are the same numbers in Table 1 of Policy 6 (a) of PC1. There is no difference in the

data between the UDS and PC1 however it is accepted that there are physical differences between some of the growth areas illustrated conceptually by the UDS, and the more detailed mapping contained in PC1 and subsequent variations. These differences are a result of further analysis and ground truthing which occurred post the completion of the UDS.

Ken Tremaine

12. **Further is there any proposal by the report writers to address the possibility that monitoring may not be carried out by either the Regional Council or TAs and how that inertia could be required in the RPS to be overcome?**
- a) There is no inertia to be overcome. Ongoing political and administrative arrangements are in place among the UDS Partners to exchange monitoring data and to report on it. A full monitoring regime will be in place from late 2009.
 - b) There is a clear statement in the RPS that the monitoring is required and will be undertaken. The Regional and District Councils have ongoing arrangements in place to ensure the RPS is implemented as intended, and as required by section 84(1) of the RMA. It is also a statutory requirement under section 35 of the RMA to undertake monitoring and this is specifically provided for in 12A.7 Monitoring and Review Procedures of PC1.
 - c) Monitoring of development capacity (including vacant land and redevelopment opportunities) is also mandatory under Method 15.4 of PC1 Policy 15.

Ken Tremaine

13. **Is the criticism accepted that Policy 15 is deficient in not providing a detailed mechanism for monitoring of business and/or industrial land uptake rate at all, and if so how is it suggested that difficulty is overcome?**
- a) The criticism is not accepted. Monitoring procedures are set out in 12A.7 of the PC1 document. 12A.7 (a) currently states that the Canterbury Regional Council and territorial authorities will monitor and report at least every 3 years on matters such as residential and business land availability, and current population, household and business growth rates. Monitoring uptake of business and or industrial land factors into and will form a part of this monitoring.

Ken Tremaine

14. **If so then as a further matter is the Vacant Land Register considered a valid means of averaging to start with, and/or for monitoring, or is it accepted that on the evidence from submitters that it too is open to question in a serious way?**
- a) A purpose of PC1 is to make provision for additional Business Land. Business land forecasting is neither an agreed or exact science. Uptake

rates need to be carefully monitored across Christchurch City and in Selwyn and Waimakariri Districts. Policy 15 of PC1 provides for this to happen.

- b) The Christchurch City VLR is a consistently kept record which monitors the annual uptake of business land. It is a factual representation of what zoned business land is undeveloped. Therefore the use of the VLR is legitimate as a starting point for determining how much vacant zoned land exists. Data of this nature is useful in helping to determine what contribution existing zoned undeveloped land can make to meeting future business land demand. The quantum of new business land to be provided must reflect the amount of land already zoned.
- c) Experts for other submitters, such as Gary Sellars (Registered Valuer) for CIAL, have used the VLR in his evidence to the Hearings Panel.

Rural/residential and Business/Industrial and KAC provision

Laurie McCallum

15. What is the report writers' response to the assertion in the evidence that these activities, as distinct from residential growth, were never really the subject of a proper level of detailed assessment or forecasting as to demand, need or supply?

- a) On Rural Residential, see Question 1, Bullet Point F.
- b) On Business/Industrial Land, see Question 1, Bullet Point G.
- c) On KAC provision, Rangiora, Kaiapoi, Woodend/Pegasus, Lincoln and Rolleston have been virtually self selecting. as these are the existing town centres for the two districts.

For Christchurch City the starting point was the Christchurch City Plan which identifies district and local centres and consolidation focal points. Property Economics Report developed a comprehensive retail model (2003) for Variation 86 to the Christchurch District Plan that examined current retail dynamics and the potential impacts of retail development. It also projected future trends and provided options to manage future retail growth. This work has informed Council position on managing retail growth and distribution since 2003 and informed the Commercial Activity Issues Paper June 2004. (Christchurch Commercial Strategy Background Document December 2003).

Further work was completed for PC1 which identified a geographical spread of activity centres across the city.

Laurie McCallum

16. How was the 5% figure for Rural/resid h/h growth settled upon and how is it justified?

- a) See answer to Question 1, Bullet Point F.

Laurie McCallum

17. Please identify the documents and relevant pages or paragraphs showing the s.32 processes followed in providing for all these activities.

- a) See the Section 32 with PC1 and the relevant objectives and policies for Rural Residential, Business Land and KAC's
- page 12 Objective 1, Urban Consolidation
 - page 16 Objective 5, KAC's.
 - page 18 Objective 6, Business Land.
 - page 25 Policy 3, Business Land
 - page 27, Policy 5, KAC's
 - page 38, Policy 13, Rural Residential

Laurie McCallum

18. Who is it proposed is to carry out the rural/residential review in 2010 referred to in the discussion at the end of the Explanation following Objective 2 in the Officers' report annotated version of recommendations, and against what criteria is such review to occur?

- a) Refer to end of Explanation for Objective 1. Review to be carried out by UDS Partners.

Laurie McCallum

19. Is it intended by the report writers that the requirement in Method 13.1 (ii) for a reticulated sewer and water supply is to publicly provided and maintained services, or is it intended that stand-alone services of a reticulated nature within a particular block of land will meet this requirement? If the former, i.e publicly owned services, are intended, then provide the reasons for that.

- a) Method 13.1(ii) is intended to relate to publicly owned and operated services, not private stand-alone systems where the experience has been one of high maintenance and replacement costs and public pressure for such systems to be taken over by the territorial local authority.
- b) The issue is one of scale and both confidence and sustainability. The operating cost of utility systems is very significantly subject to economies of scale. For example in Waimakariri the 2009/10 rates on some of the smaller water supply schemes are for Fernside (84 connections) \$488, Mandeville (529 connections) \$329, Ohoka (92 connections) \$457, which can be contrasted with Rangiora (6137 connections) \$148. For the sewerage schemes the rates are, for Fernside (21 connections) \$1347, Mandeville (80 connections) \$586, Ohoka Meadows (51 connections) \$720, in contrast to the Eastern Districts sewer rate of \$508 (serves 12800 properties).
- c) The reasons for the association between small size and high unit cost lies in the regular monitoring, treatment and maintenance which is necessary in even the smallest schemes, but which does not increase in proportion to the numbers served, and also in the requirement for councils to provide for depreciation. The small privately owned schemes are run to a much lower standard, with a corresponding greater probability of adverse

environmental effects, and their long term future reliability/sustainability is questionable.

Laurie McCallum

- 20. Is the criticism in the evidence accepted that such services will be unlikely to be economically available at a rate sufficient to enable any reality to the sequencing in table 1 of Policy 6 for rural/resid areas?**
- a) No, the criticism is not accepted. See answer to Question 19 above. In Selwyn the Rural Residential developments are already required to be located adjacent to the existing townships and it is anticipated they will connect to the services for those townships. In Waimakariri District, again it is anticipated Rural Residential will be either adjacent to existing towns or in locations where such development will enhance the provision of services to existing inadequately serviced areas of Rural Residential or small lot development.
 - b) It is anticipated that new rural residential development within the Waimakariri District's UDS area will be able to be serviced by the Eastern Districts Sewerage Scheme at costs equal to or less than those arising from localised package or on-site treatment.

ODPs

Laurie McCallum / Tim Harris/ Bruce Thompson/ Mike Theelen

- 21. Please explain how policies 6, 8 and 14 are supposed/anticipated to work, in terms of timing and sequencing, given the need for plan changes, including using deferred zoning prior to actual zoning, (as currently seems preferred by some of the local authorities).**
- a) Policy 6 simply sets out the main urban growth areas which will be the subject of Outline Development Plans. The intention of Policy 8 is to ensure that each growth area is examined in a comprehensive and integrated way and not fragmented in ways which prevent good integration, e.g. excessive reliance on cul-de-sacs off surrounding arterial or collector roads, or reliance on small individual retention basins. It is recognised that some of these areas are very large and will be or already have been examined comprehensively under a process such as a Structure Plan or Area Plan. Therefore Policy 8(a) requires either a single ODP if no other comprehensive planning exercise has occurred, or if it has the ODPs may be prepared for parts of the overall Growth Area provided they are compatible with the Structure or Area Plan. Policy 14 is a directive to the District and City Councils to adopt provisions to prevent the achievement of PC1 by incompatible or non-conforming development. Experience to date has been that significant developers have been willing to use the ODP technique and in fact Policy 8 derives very largely from the Environment Court's requirements in a number of Christchurch cases, particularly at Yaldhurst Masham which predated PC1 and Belfast (CN1). ODPs are currently being prepared for Wigram (CSW1), Awatea (CSW2) and East Belfast (CN4) within Christchurch City.
 - b) PC1 by identifying Greenfield Residential and Business Areas is, in effect, a form of Deferred Zoning. It is not "zoning" as that only occurs in a

District Plan but it is an identification of the areas which the Regional, City and District Councils consider is suitable for urban development.

- c) To reiterate, Policy 8 requires that either:
- a comprehensive plan such as a structure plan/area plan, prepared by the district/city council for the whole of the Greenfield area, in which case ODP's (and district plan changes including an ODP) can be made for part of the Greenfield area, or
 - an ODP is prepared for the whole of the Greenfield area (and a plan change made for the whole Greenfield area).
- d) On that basis the process after PC1 is in place can either be:
- a two stage process, i.e. a plan change for the whole Greenfield Area and then development (subdivision consent and other resource consents if necessary), or
 - a three stage process, i.e. structure/area plan, then a plan change, then development.
- e) Landowners can drive the process as fast as they wish, if they can put together a plan change for a whole Greenfield area. They could ask for a plan change prior to the sequence period, provided one of the rules of the plan change is that no development can start until the sequence period that the area is allocated to commences. Provided they get the plan change through early enough, they can even lodge their subdivision/discharge/etc. applications prior to the start of the sequence period.

22. How is it proposed by the report writers to respond to the criticism in the evidence that in some greenfield areas the ODP requirements are too broad and/or inefficient or unachievable for large areas (e.g in south west Christchurch), particularly if total landowner 'buy-in' does not occur, thus in practice establishing inherent barriers or at the very least major delays to development?

- a) PC1 seeks that the overall standard and urban design of new greenfields areas is improved. There will be debate about what that entails and it is recognised that it is difficult where a number of landowners have different aspirations for their properties. It is accepted that the City and District Councils will take a leadership role in bringing landowners together and to assist this process by using their powers to designate, acquire land and carry out key works, the cost of which would be recovered from development contributions.
- b) It is acknowledged that this an area for New Zealand where there are limited legislative tools beyond Councils facilitating and negotiating with landowners through the vehicle of an ODP at the time of the District Plan zoning of the land. But that is not a reason why improved standards of urban design and integration of land use and services (particularly public transport, stormwater and active transport networks) should not be sought. Otherwise the full potential of having Urban Limits and increased household densities will not be achieved.

23. If that is accepted, even in part, then how can flexibility be provided to allow the TAs to administer some sub-areas, (contained by physical

features or other barriers including roads, drains, rivers or streams or common ownership), in a more flexible way – and again particularly in south west Christchurch?

- a) Firstly, the ODP areas are already defined (or can be further) according to the matters in the question and secondly where there is a comprehensive plan such as a Structure or Area Plan prepared, then Policy 8(a) allows such flexibility.

24. Is the apparent requirement in Policy 14.2 intended to require that district plan changes incorporating ODPs are complete before development can commence, adding a significant time delay and cost barrier to development, or is it intended to only require that an ODP is available for inclusion in the district plan by way of plan change? Is that the reason for the recommended deletion of the final words of Method 7.2 to Policy Seven?

- a) See answer to Question 22.

25. Is it intended that the ODP provisions apply to intensification within the CCC area and if so how are the areas to be the subject of an ODP for intensification supposed to be identified or delineated?

- a) An Outline Development Plan is not required for intensification areas. For areas selected by the Council for intensification, and methods utilised such as encouragement/ incentives/neighbourhood improvements/brownfields conversion for more comprehensive redevelopment, Intensification Plans will be prepared as set out in Method 2.4.

Noise Contour Issues

Laurie McCallum

26. Was there any consideration by the report writers of a compromise solution suggested by many submitters of fixing on a 52 or 53 dBA line to mitigate some of the effects of the original position fixed by the Environment Court for the 50 dBA line being moved out to the remodelled new position, and if not, what are the report writers' views as to that compromise suggestion advanced by many submitters.

- a) Intermediate levels were not considered in the light of the existing Environment Court decisions which determined 50 Ldn as being an appropriate response in the Christchurch situation to deal with health and amenity effects.
- b) The Ldn calculation has a number of parameters all of which use "round" numbers e.g. 10 dBA day/night weighting (not an 8, 9 or 11dBA weighting); the hours for night time are 10pm to 7am (not 9.30pm or 10.30pm to 6.30am).
- c) Health effects from aircraft noise occur down to and below the 50 Ldn contour/exposure limit, Christchurch has a plentiful supply of residential land (see below) and nothing has really changed since the Environment Court found that the 50 Ldn was the appropriate limit for noise sensitive activities within proximity of Christchurch International Airport.

Laurie McCallum

27. Please provide a further contour map showing the effect of either 52 or 53 dBA contours in relation to the ULs in PC1 and the Variations as compared to the remodelled 50 and 55 dBA contours.

- a) See attached. This has already been provided to Commissioners.

Laurie McCallum

28. What are the views of the report writers as to any suggestion of an alternative wording in various parts of the Change and Variation 4 which could retain the 50dBA Ldn contour as an advisory line, but leave decisions on the intensity/density of residential or noise-sensitive development within identified greenfield areas and other areas within the UL up to the TA's?

- a) An advisory line would be just that, advisory, and landowners would pressure the City and District Councils site by site to zone land for noise sensitive activities up to the Ldn 55 dBA. Over time it would be inevitable that the line for noise sensitive activities around Christchurch International Airport would be the Ldn 55 dBA as any landowner could say, I have considered the advice but still wish to proceed.
- b) When buying a property many people do not look at or see the provisions in a District Plan or RPS or look at the LIM. It would not form any bar to people complaining about aircraft noise as all they would have to do was to say the noise occurring now was not as they understood it when they purchased the property.
- c) Nevertheless there is no harm and perhaps some good in producing material for prospective property purchasers about the ultimate extent of aircraft noise surrounding Christchurch International Airport, but it is not a substitute for not having more people living within the contours in the first place. It is not the existing landowners who will live in the proposed new Greenfield Residential areas within the Ldn 50 dBA but people from elsewhere and the public generally that expect the Councils to provide for the protection of their health and amenity.

Laurie McCallum

29. What is the intended effect of extension of 50 dBA contour lines into presently zoned Residential areas, or areas approved by Env Ct order but still under development, e.g Clearwater, the s293 area at Belfast, and at SW Christchurch and others?

- a) Neither the existing nor the Revised Ldn 50dBA Noise Contour has any impact within existing zoned Residential areas. There are no prohibitions or requirements due to the contour within such zones.
- b) In relation to the developments mentioned, Yaldhurst – Masham is an existing residential zone; the s293 Belfast per the 2008 decision of the Environment Court, is also effectively an existing urban zone; urban development at Clearwater is provided in the Christchurch District Plan

(City Plan) as an exception, implemented by an Open Space Zone. Clearwater has recently been expanded by Variation 93 which creates the Isaac Wildlife Conservation Park and through the transfer of development rights and an environmental compensation package, increases the number of houses to 111. None of the above is impeded by the existing or Revised Ldn 50dBA noise contours.

Laurie McCallum

- 30. In respect of Clearwater, if the response is that it is an existing exception, (much the same as for Kaiapoi, the s.293 land at Belfast, and the land at SW Christchurch the subject of a recent Env. Ct consent order), and did not therefore need to be in the ULs, is it proposed by the report writers that those exceptions should apply only to the existing level of consents, e.g. what is the attitude of the report writers to the balance of the undeveloped originally proposed units at Clearwater?**
- a) Clearwater currently has approval for 111 houses as part of its resort development. While further numbers have at times been mentioned there are no approvals for further numbers and any further houses would be need to be beyond the Ldn 50 dBA noise contour.

Laurie McCallum

- 31. What is the response of the report writers to the suggestion of a possible exception in business and mixed use areas for living quarters for business efficiency purposes or security purposes within the 50 dBA area?**
- a) This activity should be able to be provided for but needs to be carefully controlled so as not to create loopholes that allow the creation of cheap, low quality housing in industrial areas as has occurred within Christchurch City. Residential activity can also compromise the function and development of business (industrial areas) and that there is adequate opportunity to provide mixed business and living areas outside the 50dbA and within identified ODP areas.

Laurie McCallum

- 32. What mitigation methods or practices do CCC, SDC and WDC respectively require within the 50 and/or 55 dBA contour areas when additions or redevelopment occurs, and what are the relevant Plan references?**
- a) There are no special provisions within the three District Plans for built development occurring between the Ldn 50 and 55 dBA noise contours within existing urban zones as the insulation required by the Building Act results in a sufficient attenuation of aircraft noise levels.

Laurie McCallum

- 33. How is it intended in practical terms that 'remodelled or newly developed' contour lines are given practical effect in the Plan and RPS hierarchy? e.g. by Proposed Changes to the RPS and/or the District plans, and if so proposed by whom? (see related legal issue under Part C no.5.)**

- a) Refer to the answer for Question 5 of the legal issues.

B. Specific issues

Mike Theelen

1. Is it accepted as argued that the Vacant Land Register at Hornby fails to indicate that there is less than 10 years supply there of industrial land and an imbalance in rate of take-up of Industrial land at Hornby?

- a) The VLR does not in itself provide predictions of future vacant land take up or identify the need for additional land in particular geographic areas of the City.
- b) The Industrial VLR at June 2008 for the area units identified in the Gary Sellars evidence for Calder Stewart industries, which are a reasonable approximation for the Hornby Area (Hornby South, Hornby North, Wigram and Islington area units) shows that there is 138ha of vacant industrial land in the Hornby area. Using the 2008 Vacant Land Register take up figures, the take up rate for the period June 2001 to June 2008 was just under 11ha per annum.
- c) If we take into account the 15 hectares identified by Gary Sellar as being difficult to develop in the Hornby area (point 4.19) there is 123 hectares of vacant industrial land available in the Hornby area and with an average annual take up rate of 11 hectares per annum there is enough land for the next 11.2 years.
- d) In addition to this PC1 is proposing an additional 110 hectares to be released in the first 10 year period in the Hornby, Islington, Wigram and Awatea areas (CB2, CB3 and CB4) this will provide an additional 10 years of vacant land supply by 2016 (a total of 21 years worth of land).

Bruce Thompson

2. Why was there a proposed solution at Woodend that separates two business areas at north and south of town?

- a) Between 2006 and 2008 the Waimakariri District Council undertook a non-statutory strategic planning exercise (Woodend Futures) to develop a plan with the Woodend community for the future of Woodend that provides for growth, linkages with Pegasus Town, the future development of the state highway, servicing and protection of community character. Following three separate rounds of consultation and detailed analysis of growth options with advantages and disadvantages of each identified option, reports on choices for future growth and state highway alignment were reported to the Council at its meetings on 25 March and 6 May 2008.
- b) With regard to future business development the Council considered possible business areas to either the north or south of Woodend. The report included the following discussion: *“The location of the business area to either the north or south creates opportunities. Location to the north would provide a more direct link with Pegasus and possibly Rangiora, and provide more directly for transfer of goods during the*

construction of houses in Pegasus. It also has land owner support and could be designed to complement nearby development. Location to the south would provide closer links with Kaiapoi and Christchurch and could reduce goods supply traffic movements through Woodend. However, this situation will remain only while the state highway remains in its current location...”

- c) The Council opted to support both north and south in view of their potentially different markets and from a desire to support balanced growth and to have business zone opportunities controlled by more than just one land owner.

Bruce Thompson

3. At Kaiapoi what was the purpose and reasoning behind the provision for the mixed activity area to the north of the town and how was the land area settled upon which was delineated for that purpose?

- a) The identification of a mixed activity area was the result of discussions between ECan, Waimakariri Council and CIAL officers over how the Revised Ldn 50 dBA aircraft noise contour and the urban development of Kaiapoi might be accommodated. It was acknowledged that Waimakariri District Council did not support the restriction of noise sensitive activities on the northern edge of Kaiapoi, but in the event that that view did not prevail it was considered necessary to provide urban continuity between the residential area at the north of Kaiapoi and the new Residential 2 Zone further north and outside the Revised Ldn 50 dBA (as established by Waimakariri Plan Change 17).
- b) The area was based on an analysis of business and employment needs which Waimakariri had commissioned as part of its long term future planning for Kaiapoi, and also the areas of business zoning identified through the UDS and RPS PC1 process. The area identified was rather more than either of those two investigations recommended, but that was to provide opportunity for locating land uses which could provide a degree of urban form and continuity.

Mike Theelen supported by Steve Higgs on the transport

4. What is the response of the report writers to the challenge that the lack of sequencing at all for Belfast/Upper Styx until 2017 is not warranted given the evidence of heavy demand for growth in that area in the last decade?

- a) The reasons for this sequencing include sewer and roading capacity.
- b) Belfast is split between two major trunk sewer systems. Old Belfast, CN1 and CN4 are connected to a trunk sewer system with capacity for these areas. The former CN2 area deleted by Variation 4 was to have been connected to this system but subsequent investigations showed that it would be extremely difficult to achieve this. There will be no available capacity in the sewer system to service the CN3 Upper Styx block until the completion of the North-Western Relief Sewer Project by about 2016.
- c) There are specific roading capacity constraints for Belfast/Upper Styx which defer development until post 2017. The completion of the Northern

Arterial, Western Bypass and associated downstream roading upgrades/improvements will increase capacity in the roading network allowing development to proceed. This package of roading improvements will not be in place until 2017 (though components of it are likely to be completed earlier). The Environment Court decision on the Belfast 293 block limited development of the block to 600 households until the Western Bypass and Northern Arterial are completed. The impacts on the roading network closer to the city were considered too significant to allow development of all the block prior to the improvements being completed.

- d) Earlier development of these areas would result in unacceptable loss of service on roads, but the more serious issue is with the sewers. Development of the CN3 Upper Styx block could not be achieved without routine resort to sewage overflows into the Styx River system, in breach of Christchurch City Council's resource consents and the RMA. Therefore, despite the apparent level of demand in this area, it is simply unachievable until the major sewer upgrade has been completed.

Mike Theelen

5. What is the response to the criticism in the evidence that 387 h/hs in 19 years time in such a large area of h/hs cannot be a regional infrastructure issue of sufficient importance to have those 387 h/hs sequenced in 19 years time rather than available in the earlier sequence when infrastructure enables them?

- a) The issue in this context is not one of capacity, but one of spreading the projected growth over all the growth areas over the whole period of the UDS. Development of the CN3 block will commence with the availability of servicing in the 2017-2026 period. It is unlikely that in this 9 year window development will be highly paced enough to enable all development to be completed (particular given the other large greenfields areas commencing growth in the same period). The effects of releasing all the sites as soon as infrastructure is available were set out in the evidence of Mr Mountfort for the CCC. The 387 households in the 2026-2041 period represents a realistic expectation of the pace of growth, rather than an infrastructure capacity limitation. If the rate of development does prove faster than expected, then there may be reason for review provision, as allowed for under Policy 15.
- b) As to whether it constitutes a regional infrastructure issue, it is not appropriate to select one part of PC1 and examine it on this basis when it is part of an integrated whole.

Laurie McCallum

6. Was any consideration given to making provision for what might be regarded as future special 'one-off' developments, e.g Clearwater and Kaiapoi Waterways, to be advanced as private Plan Changes outside the Urban Limits if numbers of h/hs were unlikely to be replicated, or were not too large as to be of regional significance, as asserted in each of those examples, and if not, what are the report writers' views of such a 'special treatment' provision?

- a) The term 'one-off' development could apply more or less to any development given enough scope within a broad definition. There is a real risk of bogging down the RPS in repeated arguments over whether a development constitutes a 'one-off' or not.
- b) PC1 is written to achieve its objectives and policies with some certainty, not provide for a series of exceptions. These can be the subject of future PC1/District Plan Changes, especially for developments where there is significant environmental compensation and where this has been clearly documented in prior agreements. This is preferable to making a series of exceptions from the start which entails a significant risk of undermining PC1: "the effects of my development are just the same as those of the 'special treatment' provision so why shouldn't mine be allowed"?

C. Legal Issues

Margo Perpick

1. **Was personal notification required to all landowners affected or was public notice sufficient? (see issue raised by Castle Rock sub 1150153 on Vol 1 Ev. Disk) Provide details of the notification processes for Proposed Plan Change One and the Variations (particularly of the expanded noise contours but also of greenfields areas and KAC's) and provide legal comment on the adequacy of such processes.**

Public Notification

Schedule 1 Part 1 Clause 5(1) of the RMA provides that a local authority that has prepared a proposed policy statement or plan shall publicly notify it.

A media statement was released by Environment Canterbury on 26 July 2007. This appeared on Environment Canterbury's website. A copy of the media statement is in the accompanying bundle and marked "A".

PC1 was publicly notified in the Press on Saturday, 28 July 2007. A copy of the public notice that appeared in the Press and the advertising proof is in the bundle and marked "B".

A copy of Proposed Change No.1 and the associated Map Volume was available for inspection at the offices of ECan and on the ECan website, the head offices and service centres of City and District Councils within the Canterbury Region and the main public libraries in the Canterbury Region.

Notice to Persons Directly Affected

Clause 5(1C) provides that:

a regional council shall, not earlier than 60 working days before public notification or later than 10 working days after public notification, send a copy of the public notice and such further information as the regional council thinks fit relating to the proposed policy statement or plan to any person who, in the regional council's opinion, is likely to be directly affected by the proposed policy statement or plan.

Between 31 July 2007 and 1 August 2007, 125,373 double sided A4 pages with a copy of the public notice on one side, and a briefing meeting schedule on the other, were delivered to every urban and rural letterbox (including those with 'no junk mail/no circulars' signs) within the red and light green shaded areas on the

distribution map in the bundle marked "C". (This delivery did not include PO Boxes.) A copy of the public notice and briefing meeting schedule that was delivered to each letterbox is in the bundle and marked "D". The delivery contract with Letterbox Channel (now Reach Media) and spreadsheet showing the numbers of each document delivered in each area is in the bundle and marked "E".

Content of Public Notice

Clause 5(2) provides that public notice under subclause (1) shall state -

- (a) *Where the proposed policy statement or plan may be inspected; and*
- (b) *That any person may make a submission on the proposed policy statement or plan; and*
- (c) *The process for public participation in the consideration of the proposed policy statement or plan; and*
- (d) *The closing date for submissions; and*
- (e) *The address for service of the local authority.*

The public notice stated that a copy of Proposed Change No.1, Map Volume and the Section 32 Report, may be inspected at:

The offices of Environment Canterbury at: 58 Kilmore Street, Christchurch; 75 Church Street, Timaru; or Beach Road, Kaikoura.

At the head offices and service centres of City and District Councils within the Canterbury Region.

At the main public libraries in the Canterbury Region.

The Environment Canterbury website: www.ecan.govt.nz.

The public notice stated that "any person may make a submission on Proposed Change No.1 to the Canterbury Regional Policy Statement" and that the process for public participation in consideration of Proposed Change No.1 is as follows:

After the closing of submissions, the Canterbury Regional Council will publicly notify the availability of a summary of all decisions requested in submissions, and will allow a period for further submissions in support or, or in opposition to, those submissions already made. The Canterbury Regional Council will then hold a hearing into submissions. All submitters who gave notice of their wish to be heard will be advised of the hearing. Following decisions by the Canterbury Regional Council, including its reasons for accepting or rejecting submissions, any person who made a submission has a right of appeal to the Environment Court.

The closing date for submissions was stated as 5.00pm, Wednesday 31 October 2007 and an address to post these submissions to was provided. In accordance with Clause 5(3) the closing date for submissions was at least 20 working days after public notification.

Provision of Copies of PC1

Clause 5(4) requires a local authority to provide one copy of its proposed policy statement or plan without charge to -

- (a) *The Minister for the Environment; and*

...

(e) *In the case of a policy statement or regional plan, constituent territorial authorities, and adjacent regional councils; and*

(f) *The tangata whenua of the area, through iwi authorities ... [;and]*

(g) *The board of any foreshore and seabed reserve in the area.*

Environment Canterbury provided the covering letter in the bundle and marked "F" and a copy of the public notice and briefing meeting schedule, as well as a copy of PC1 and the associated map volume to the following parties:

1. Minister for the Environment, along with a number of other relevant Ministers and Government Departments set out in the table in the bundle marked "G";
2. Chief Executive Officers of Ashburton, Hurunui, Waimakariri, and Selwyn District Councils and Christchurch City Council (see table "G");
3. Te Runanga o Ngai Tahu, Te Hapu o Ngati Wheke Inc, Te Runanga o Taumutu and Te Runanga o Ngai Tuahuriri (see tables in the bundle marked "G" and "H").

The letter attached and marked "F" was also provided to those other iwi authorities listed in the table attached and marked "H".

ECan also provided copies of PC1 and the associated map volume to the local authorities listed in the table in the bundle marked "I" to publicly display and make available for public view.

Public Libraries

Clause 5(5) provides that a local authority shall make any proposed policy statement or plan prepared by it available in every public library in its area and in every other place in its area that it considers appropriate.

Environment Canterbury provided copies of PC1 and the associated map volume to the libraries listed in the table in the bundle marked "J". ECan requested that these libraries have copies of PC1 and the associated map volume publicly displayed and made available for the public to view from 28 July 2007, or as soon as possible thereafter, until Wednesday 31 October 2007 (see letter in the bundle marked "K").

This letter and a copy of PC1 and the associated map volume was also provided to the Council service centres listed in the table in the bundle marked "J" as well as the local authorities listed in the table marked "I".

Briefing Meetings

Information Briefing Meetings were held at:

1. Kaiapoi Community Centre on 13 August 2007 (advertised in North Canterbury News on Tuesday, 7 August 2007);
2. Rolleston Community Centre on 14 August 2007 (advertised in the Central Canterbury News on Wednesday, 8 August 2007);
3. Waimakariri District Council Chambers on 15 August 2007 (advertised in North Canterbury News on Tuesday, 7 August 2007); and

4. Our City O-Tautahi on 16 August 2007 (advertised in the Christchurch Star on Wednesday, 8 August 2007).

All of these meetings were also advertised in the Press on Saturday, 11 August 2009. A copy of all of the advertisements and advertising proof from adcorp is in the bundle marked "L". A briefing meeting schedule was also provided with the public notice as part of the mail box drop.

The question of who may require personal service under clause 5(1C) as a person likely to be directly affected was discussed in *Milne v Northland RC* EnvC A086/04. The Court declined to set firm guidelines, and referred to the five factors in *Feltex Carpets Ltd v Canterbury RC* (2000) 6 ELRNZ 275 (EnvC), which may assist the Court on enforcement proceedings as to how to exercise its discretion, but are not determinative of whether a procedural breach has occurred.

It is submitted that the public and direct notification procedures undertaken by the Regional Council in relation to PC1 were appropriate and in accordance with the requirements of the Act. But even if that were not the case, that is not a matter which should be dealt with by the Commissioners. If there was evidence of any person who should have notified, but was not, and consequently missed the opportunity to become a submitter, then that would be a matter for declaration or enforcement in the Environment Court. No such application has been made. The submitter who has raised concerns about notification procedures has made a submission.

In *Petersen v Napier City Council* (C124/02), the Environment Court found that the Council had breached the notice provisions of the First Schedule in a number of ways, but declined to make an enforcement order against the Council. The defects in the public notices were waived by the Court, having regard to the fact that many submissions had been lodged, that the circular in which the defective public notice was published had a wide circulation, that none of the persons whose affidavits Mr Petersen had relied upon had in fact missed the opportunity to make submissions, and that there was no evidence that anyone had, in fact, not been given the opportunity to make a submission.

Margo Perpik

2. **Can UL extensions be granted as sought by some submitters when no s.32 assessment appears to relate to the extension sought, or to have been made of alternatives in some outlying areas, e.g in south Lyttleton Harbour(Purau Props sub at 1150153 Vol 1 Ev. Disk), i.e do the report writers view this type of submission as being 'on' PC1 or the Variations?**

At law, to be valid, a submission must stay within the ambit of the change (*IHG Queenstown Ltd v Queenstown Lakes DC*, EnvC C78/08). A submission is "on" a variation if it addresses the extent to which the variation changes the pre-existing status quo; but only if the effect of the submission allows a real opportunity to potentially affected persons to participate in the plan review process. If this opportunity is denied, this indicates the submission goes beyond the variation and is not on it: *Clearwater Resort Ltd v Christchurch CC* 14/3/03, William Young J, HC Christchurch AP34/02.

It is submitted that requests for inclusion of growth areas beyond the Greater Christchurch boundary are clearly beyond the scope of PC1. Particular submissions will raise issues along different parts of a continuum, from "left field" submissions at one extreme, to matters which are clearly "on" PC1. Because

they relate to the substance of the issues being addressed by PC1 (rather than addressing novel issues), submissions seeking inclusion of entire new growth areas within the Greater Christchurch boundary are still likely to be "on" PC1, even if those areas were not contemplated or identified by PC1 as notified.

The absence of a section 32 assessment by a submitter seeking an extension of the Urban Limits is a separate issue to the question of whether or not the submission is "on" the proposed change. The Environment Court in *Thacker v Christchurch City Council* (C026/2009) determined that a submitter seeking provisions other than those which are notified as a proposed plan change is required to carry out the section 32 analysis to support the provisions being sought in the submission. If that substantial evidential basis is not provided by the submitter, the decision-maker is not in a position to grant the relief sought

James Winchester

3. **What is the report writers' response to the assertion that it is contrary to that important part of the whole scheme of the RMA enabling private plan change requests as to land use issues, to have an RPS of a mandatory nature in effect removing the ability to utilise the plan change request provisions to achieve changes to rules and maps governing land use activities in significant areas (especially when the ULs are so detailed)?**
 - a) As outlined in opening legal submissions, the RMA was consciously amended in 2005 to give the RPS a more important status in strategic land use planning, in that district plans are required to give effect to the RPS. Parliament has made this decision as a matter of policy to reduce the incidence of ad hoc planning and achieve greater integration of infrastructure with land use. The bodies that are best placed to be able to give effect to this policy intention are regional councils and territorial authorities, rather than private developers.
 - b) It is not for RMA decision makers to look behind this deliberate legislative change. In any event, the private plan change provisions have not been repealed and still remain in force. The private plan change is therefore still a mechanism which is available under the RMA. If a suitable case is made for a new or extended growth area, then there is nothing to prevent a private plan change request and a change to the RPS from being pursued in tandem. If a proposal has merit the territorial authority would make a request to the Canterbury Regional Council for a change to the Regional Policy Statement. This has been done in Auckland where simultaneous RPS and District Plan changes are undertaken and put through the First Schedule of the RMA processes together or in parallel (e.g. Hingaia Peninsula). Private Plan Changes must give effect to an operative RPS, and may be rejected by the territorial Council for failure to do so under the Part 2 of First Schedule to the RMA 1991.
 - c) Urban Limits are a legitimate technique under the RMA, and have been upheld by the Court of Appeal in Auckland, and recognised and applied by the Environment Court for the western Bay of Plenty. The Urban Limits must be justifiable in their own right, but where they are it is therefore an inevitable consequence of the RMA that this will be a constraint on the ability to apply for private plan changes.

- d) The Regional Council has included maps of Urban Limits and other provisions within PC1 in order that there is a high level of certainty that its objectives and policies will be achieved. This is different to many planning documents where the objectives are often virtually aspirational and there is little likelihood or significant uncertainty due to the methods set out as to whether they will be achieved. PC1 sets out methods so as to provide for greater certainty in the achievement of objectives and policies.

James Winchester

4. Are the asserted differences between the Auckland and Tauranga MULs and the PC 1 ULs valid or not in respect of the issue in the preceding paragraph, or any other respect, e.g as to the level of detailed prescription of precise h/h numbers, and/or sequencing?

- a) The asserted differences between the Auckland and Tauranga ULs, and the Change 1 ULs, relate to factual differences, rather than being distinguishable as a matter of law. Simply because the MULs may be less sophisticated or another RPS addresses issues with less detail, does not make Change 1 and its policies invalid. We refer to our opening legal submissions regarding the ability to validly include policies and methods in a RPS which are mandatory and directive. It is submitted that the issue for the Commissioners is about the *merits* of the policies and the amount of detail in Change 1, not about the *vires* of this material.

Margo Perpick

5. What is the authority for the RPS to require a corporation such as CIAL to carry out the monitoring activities required of it in Section 12A.7 Monitoring and Review Processes of the Officers' recommendations ?

- a) While there is in theory the power to delegate monitoring functions to CIAL under section 34A(2) of the RMA, this would require an express delegation and it is doubtful that a policy in the RPS would be a valid way of achieving this. In addition, in *Re an Application by North Shore CC [1995] NZRMA 74* (PT), it was held that a regional council does not have power under the RMA to include a provision in its regional policy statement or regional plan requiring territorial authorities to monitor or report on the extent to which their policies give effect to regional objectives. That is a regional council responsibility, which cannot be delegated.
- b) It is therefore more consistent with the statutory duty in section 35 of the RMA that this monitoring function resides with ECan, with the assistance of bodies such as CIAL and territorial authorities.
- c) We propose to further clarify this statement by amending 12A.7 Monitoring and Review Procedure (second paragraph) in the annotated version of PC1 (see Volume 4 of the Officer Report). It is proposed that this should now read as:

The Canterbury Regional Council will prior to any review, change or variation to the RPS, request CIAL to:

- b) *undertake a remodelling of the air noise contours for Christchurch International Airport based on an assessment of its projected future*

business growth and operation. Input criteria for such remodelling shall include, but not be limited to: aircraft movements, flight tracks, fleet mix, runway utilisation

- c) *commission an independent panel of airport noise experts to peer review the inputs, assumptions and outcomes of such a modelling exercise,*
- d) *notify a summary report of the updated modelling outcomes for consultation with interested parties.*

Margo Perpick

6. If it is conceded that such provisions as presently framed are either invalid or questionable as to their validity then how is it proposed that that type of monitoring is validly required either in the RPS or in TA District plans?

- a) See answer to Question 5 above.

James Winchester

7. Is there any authority known to the report writers on the interpretation of the phrase "give effect to" in terms of s75(3), and what is required in District Plans to meet that obligation. In particular, is absolute adherence required with no flexibility at all, or is there room for flexibility within the intent and purpose of the RPS.

- a) There is no authority on the interpretation of the words "give effect" to in the context of section 75(3) of the RMA. The definition of "give effect to" has only been judicially commented on twice, but not in relation to section 75(3) RMA. "Give effect to" is considered in case law discussing the lapse of resource consents. The phrase is also defined in the Commerce Act 1986 in relation to giving effect to a provision of a contract, arrangement, or understanding. Neither of these definitions are relevant.
- b) Legal dictionaries do not provide any further assistance. "Give effect to" is defined in an Australian legal dictionary but the definition given is similar to the New Zealand Commerce Act 1986 definition previously mentioned.
- c) Of some assistance is the explanatory note to the Resource Management and Electricity Legislation Amendment Bill 2005 which, once enacted (Resource Management Amendment Act 2005), brought in the change to section 75(3) of the RMA changing the threshold from "not inconsistent with" to "give effect to". The explanatory note outlines that an objective of the Bill was to remedy the perceived problems with regional policy statements failing to provide direction to those using them. Because there was no onus on local authority plans to implement regional policies as the plans were only required to be "not inconsistent" with the regional policy statement, the regional policy statements lacked strength in achieving their purpose of integrating the management of natural and physical resources.
- d) The Select Committee considering the Bill supported the change of the wording to "give effect to" in s75(3) of the RMA as it supported the Bill's intention to give more weight to regional policy statements in order to

achieve more integrated management of a region's resources. There is not, as yet, any judicial guidance on whether "give effect to" requires strict adherence to the regional policy statement or whether a flexible approach focusing on the overall intention and purpose of the regional policy statements will be sufficient.

- e) The cases of *Auckland Regional Council v North Shore City Council* [1995] 3 NZLR 18, and *Minister of Conservation v Otago Regional Council*, EnvC C71/2002 were both decided before the legislative change to "give effect to". Both decisions stated that district plans needed to give effect to (or implement) regional policy statements if those policy statements were framed in a directive way. In *Minister of Conservation v Otago Regional Council* the Environment Court held that for the plan in question to not be inconsistent with the regional policy statement the mandatory provisions of the regional policy statement would have to be implemented. The legislative change to "give effect to" could therefore be considered to be a codification of these decisions.
- f) Overall, it is submitted that the requirement to "give effect to" a regional policy statement requires district plans to implement their provisions in relatively strict adherence, particularly where the regional policy statement contains mandatory and directive provisions. Where a regional policy statement contains a measure of flexibility, there will as a natural consequence be a similar measure of flexibility for territorial authorities in giving effect to the RPS through their district plans.

Twelfth Minute (14/08/09)

Twelfth Minute of Commissioners as to Further Questions

The following further questions are posed to the respective parties identified by sub-headings A and B:

A. Section 42A Report Writers:

Bruce Thompson

1. **Are there any identifiable physical restraints to the immediate west of Woodend in the Maori Reserve land which led to the recommendation by the officers' report of there being no extension of the urban limits in that area while recommending extensions in the areas to the north, east and south east of Woodend?**
 - a) Following the non-statutory strategic planning exercise "Woodend Futures", which has already been referred to, the Waimakariri District Council considered reports on future growth options and state highway alignments at its meetings on 25 March and 6 May 2008. These considerations were informed by the provisions of PC1 which had been notified in July 2007 (i.e. prior to Variation 3 Urban Limits for Woodend) showing an allocation of 990 households for Woodend but without identified urban limits.
 - b) The reports considered the advantages and disadvantages of growth within the core, to the north, south-east and west of Woodend, as well as a mixed growth option. The Council did identify its preferred urban limits and chose a mixed growth option with growth both north, core and south-east. In its discussion of the west growth option the report included the following considerations:

“This option would direct growth to the south-west side of Rangiora-Woodend Road.

Advantages:

- Would enable residential opportunities within MR873.
- Could support an upgrade of services to a wider area of MR873, and Tuahiwi.

Disadvantages:

- Large number of titles (34), some of which are Maori land.
 - Separated from Woodend by Rangiora-Woodend Road.
 - Not supported by consultation.
 - Development would be very difficult to coordinate because of the size and shape of the land holdings (long and narrow with the narrow end facing Rangiora-Woodend Road) Council involvement in servicing would be needed.
 - Would reinforce separation between Woodend and Pegasus.”
- c) The Council was of the view that the advantages of a western growth option were clearly outweighed by the disadvantages, having regard to the other growth options available.

Laurie McCallum

2. With the exception of the noise contour lines what are the other differences between the Clearwater request for inclusion in the Urban Limits and the Christchurch Golf Resort request for inclusion which led the officers to recommend inclusion for the latter but not the former?

- a) There is no difference in policy terms between the two developments. Clearwater is existing while Christchurch Golf Resort is still a proposal but both are a form of urban development in the rural area and either have or need to be justified because of the other benefits which they provide. Clearwater has been approved on that basis and now forms an exception with its own Open Space Zone in the Christchurch District Plan. For that reason it does not need to be within the Urban Limits.
- b) Christchurch Golf Resort has emerged along a different planning path to Clearwater, namely firstly as a proposed private plan change, this then going into abeyance with the proposal being reactivated through submissions on PC1 and Variation 4. It is now also a notified private plan change but Christchurch City is yet to determine its policy position in relation to it. If it is to remain within the PC1 Urban Limits it should only do so if there is a binding agreement with Christchurch City covering the proposed environmental compensation and the number of households is capped within PC1.

Paul Anderson

3. These questions relate to the Table of Capital Expenditure provided by Mr Paul Anderson at para 28 of his Supplementary Statement. The answers should be based on the proposition, not yet decided by the Commissioners, that the site

specific findings of the Aurecon Report, Attachment C to the Mr Dasler's supplementary evidence, is accepted and the generalised Opus Report of 7 November, 2008, is not accepted as the need for fill on the Prestons Road site.

With reference to Attachment C, the Opus report assessment area covers a larger area than the proposed Prestons Rd site extending to the west and north where the ground level is lower. The report was never intended to be exclusive to Prestons Rd land but to give an indication of the costs associated with the three areas in north east Christchurch, being CG5a, CG5b and CG6.

- (i) Could Mr Anderson please define by map the boundaries of the three land parcels referred to in para 27 of his supplementary statement and the basis on which the calculation of 10400 households was made as between each of those three parcels?**

The map is attached. The three parcels of land are CG5a, CG5b and CG6, all growth pockets examined and then rejected for different but very clear reasons during the Inquiry by Design process in 2006. These parcels of land were used as a potential scenario to be tested because they were areas likely to be challenged.

CG5a, CG5b and CG6 were developed through the IBD process as three of 15 potential growth areas. Each was audited and adjusted to a realistic developable land area to identify the household capacity. Analyses and modelling of the sewer and transport capacity, capital works and potential options for transport, particularly proposed sewer upgrade programmes were examined. They were also assessed against identified and agreed constraints such as the airport noise contours, stormwater management potential, protecting the aquifer, hazard and flooding, and landscape to provide an evaluation of suitability.

For the Economic Sustainability Model Scenario the household capacity of CG5a, CG5b and CG6 were adjusted down from 13,000 households on 872 hectares (as in the IBD Report) following more accurate parcel boundary drawings and excluding areas for stormwater management:

CG5a	4113 households	304.6 ha
CG5b	1124 households	83.3 ha
<u>CG6</u>	<u>5124 households</u>	<u>380.8 ha</u>
Total	10,361 households	768.7 ha

Also refer to the Opus Report attachments including the Lidar Map showing low lying land in these areas.

- (ii) Given the evidence of Phillip Donnelly and Martin Dasler for Prestons Road Limited stressing the developer funded aspects of the Prestons Road proposed development, and similar evidence by the Mills Road and Hills Road submitters of developer funded development in those localities, what if any changes would Mr Anderson make to his Table?**

There are no changes required to the table. A footnote is provided noting the developer costs associated with providing fill.

The table is based on the assumptions of providing infrastructure for the three theoretical growth areas, CG5a, CG5b and CG6, using the Economic Sustainability Model.

Anderson Lloyd was given the opportunity to supply CCC with a set of comparable assumptions so that the model may be run, at their cost, to generate a Prestons Rd Plan Change specific output. This was not taken up. They concentrated on asking questions about the assumptions that went into the model.

The model was developed by a group of well-established New Zealand economic consultancies; Covec, Opus, SPM, Beca and PriceWaterhouseCoopers (Auckland). It was positively peer reviewed by the leading Australian economic consultancy, SGS Economics and Planning (Melbourne). An external auditor from PriceWaterhouseCoopers (Christchurch) was part of the steering group who oversaw the development of the model.

The model draws on the expertise many Council staff. It uses the growth model that underpins the of the Development Contributions Policy, the preparation of asset management plans, capital project prioritisation, delivery of levels of service through the LTCCP and subsequent consultative processes.

Even though the LTCCP was not finalised until June this year, and there are small changes to costs attributed to the capital programme following the Special Consultative Procedure, the overall quantum of expenditure is unchanged.

Furthermore, the capital programme approved for the LTCCP is underpinned by detailed city-wide asset management planning as well as analysis of the levels of service resolved upon by Council and consulted with the community. Council has an obligation to provide and maintain agreed levels of service to all residents. Developer-provided infrastructure and its operation and maintenance will still require Council involvement to ensure the agreed levels of service meet the standards Council has agreed to provide the Community. Council cannot lower the levels of service without going into special consultative procedures. It is also unrealistic to expect a developer to maintain and operate infrastructure even if willing to do so, particularly where that infrastructure connects to council-owned and operated works.

In the evidence provided by some submitters, there is a fundamental misunderstanding both of the key drivers of the costs outside the boundary of a specific development as well as how those costs are funded over time.

Developers contribute to the cost of growth in two fundamental ways. Firstly, they contribute assets, typically within the boundaries of their development. There is no immediate direct cost incurred by the Council for these assets, as acknowledged in my original evidence regarding the geo-technical fill required in the example land parcels. However, Council and ratepayers face ongoing operational costs in operating and maintaining these assets as well as increased capital costs through renewals, replacements and improvements required in the ensuing years. The capital costs may be initially partly funded directly by borrowing, but ultimately (over thirty years for CCC) ratepayers fund 100% of these increased capital costs.

Secondly, developers contribute cash development contributions, which represent an estimation of the incremental costs borne by the city as a result of a specific development. These costs are usually funded directly by increased borrowing incurred by the Council to fund either metropolitan or trunk infrastructure enhancements driven by the growth of the development. Typically, the development contributions are used to service the debt incurred by the growth for these projects, however ultimately the ratepayer (including new ratepayers) pay for the renewals, replacements and ongoing operating costs.

One of the principles underpinning the UDS and PC1 is that as more development pockets are opened, the total city growth is spread more thinly. Opening more development pockets does not increase growth. Rather, it slows the ultimate completion of each development while demanding that Council provide the infrastructure and amenities needed by each of those pockets. In essence, it reduces the ability to phase development projects efficiently.

The unavoidable result is that assets constructed in anticipation of growth are not used to capacity. For some assets, like wastewater infrastructure, this actually reduces the useful life because optimal flows are not maintained. For the purchasers of new dwellings the implication is that they will pay more in development contributions. This is because growth within the growth pocket takes place over a longer period, and therefore Council must borrow to pay for the infrastructure over a longer time, increasing the interest cost component of development contributions.

For existing and new ratepayers the implication is that the number of infrastructural assets throughout the city, which must be operated and maintained, is greater than otherwise necessary to provide for the growth community. Therefore operational and maintenance costs are higher and the cost which must be collected from each individual ratepayer, both existing and new ratepayers, is increased.

Despite the argument that developers pay for development costs, increasing the number of development pockets increases costs and is inflationary. Higher development contributions increase the cost of each section, and the operational and maintenance costs of 'unnecessary' infrastructure increases rates.

These arguments are also relevant to one of the key assumptions in our modelling, which is that the proposed urban limits will not restrict overall growth, but will enable that growth in a more efficient manner. One of the submitters has produced a simple elasticity of demand schedule in an attempt to show that phasing the overall land supply will increase the per household land price. While this analysis is correct at its most simple level, it fails to recognise that the additional infrastructure required would increase the development contributions and hence the price of the household units. It also ignores the longer-term cost impacts of additional growth pockets on overall rates and the considerable social and environmental benefits outlined in the UDS and reflected in PC1. Finally, the urban limits already proposed in PC1 provide a greenfields land supply, in terms of area, which provides for the projected households over the next 35 years at densities required by PC1 (Policy 11) and leaves a significant area (approximately 20%) for activities such as stormwater retention and treatment, esplanade reserves, schools etc which are excluded per the definition of net density in PC1. The assertions of

market distortions as a consequence of the PC1 growth pattern are therefore considered to be inaccurate and overstated.

None of the evidence presented in response to my original or supplementary evidence changes the key principles contained in that evidence:

- Well-planned and staged growth gives the best opportunity to provide cost-effective infrastructure in the long-term
- The North and South-West are the most efficient fit for growth taking into account the broader objectives of the UDS. This means they present the best opportunity to balance the social, environmental and cultural well-being of the city's people and communities
- Alternative growth scenarios are detrimental to ratepayers, the city's fiscal position and community well-beings
- PC1 would provide certainty not only for infrastructure and financial planning, but also certainty for the community and developers alike.

Mike Theelen

4. What are the drainage patterns for stormwater on the land owned by the submitters numbered, 1122, 38, 1124, 37 and 1156 (J&R Crooks, W&A Smith and J Eden) and adjacent land included in the Smith submission and describe the purpose and capacity proposed for the new drainage proposed by CCC in that area.

- a) Crooks, Smith and Eden are neighbours located south of Prestons development between Mairehau Road and Clare Park, QEII Drive. The public drains that serve their land are Snellings Drain that flows south along Smith and Crooks' eastern boundary and No 2 Drain diversion that flows through the south-west corner of Eden's land to meet Snellings Drain at QEII Drive. Smith and Eden's land is very low-lying and depends on the Horseshoe Lake stormwater pumping station to lower flood levels and reduce inundation of their bottom paddocks. Crooks' land has been filled to a depth of at least one metre so that their house is above extreme flood levels.
- b) CCC has been implementing the Snellings Drain Cost-sharing Scheme over the last 5 or 6 years. The purpose of the scheme is to provide stormwater quality treatment and improve flood capacity for 35ha of land zoned residential and vacant prior to 2000. The scheme is approximately 50% complete. Part of the scheme that involved a designation for a flood overflow swale through Smith and Eden's land was appealed. The parties have been in Environment Court mediation for about 2 years. The appeals may be resolved at the Court callover next week.
- c) The scheme does not include any capacity for the Prestons Road development.

Thirteenth Minute (21/08/09)

Thirteenth Minute of Commissioners as to Further Questions
The following further questions are posed:

Laurie McCallum

(a) Is it accepted by the report writers that both Map versions are still 'alive' at Ohoka in jurisdictional terms?

a) Yes

Laurie McCallum

(b) Are there any other such examples of Urban Limit line changes between the two notified versions, i.e in PC1 and in any of the subsequent Variations, where the fact and nature of the changes in the Urban Limit lines in the Maps has not been referred to in the text of the Variations? If so please list them.

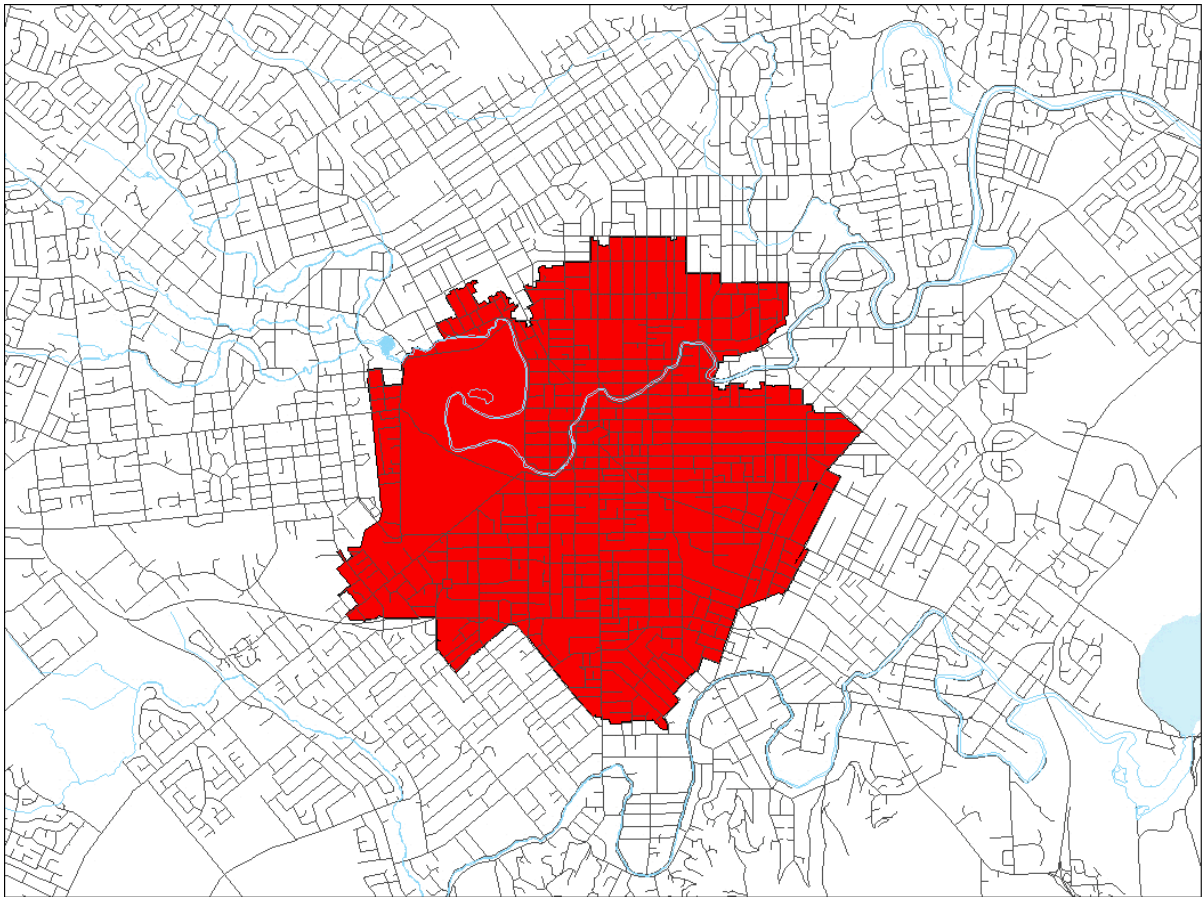
a) Not aware of any other such circumstances.

Laurie McCallum/Bruce Thompson

(c) In respect of Ohoka, and for any other such situations, provide an explanation of the reasons for such changes.

a) When PC1 was notified in July 2007, some areas of Rural Residential zoning were inadvertently included within the Urban Limits. This was the reason for modifying the boundary.

Appendix 1



Map showing the geographical extent of the city centre area (shown in red) of Table 2, Policy 6, PC1. This area includes the Central City, the surrounding L3 zone (with the exception of L3 zoned land in Riccarton) and also industrial land in Sydenham. All land outside the red area falls within the rest of city classification. These are areas of L3, L2 and L1 zoned residential land, including that around Key Activity Centres.

Appendix 2 – Maps of Individual Airport Noise Contours.