

Regional Policy Statement  
Proposed Change 1 Hearing

Officer Report  
22 April 2009

## Proposed Change 1

- Land use distribution plan for the Greater Christchurch sub-region, for the next 35 years
- Provides for: urban development areas and household densities
- Requires that some land is to remain rural for resource protection and enhancement, and other reasons (e.g. airport protection)
- Ensures consolidated and integrated urban development of Greater Christchurch takes place
- Implements part of the Greater Christchurch Urban Development Strategy (“UDS”)
- UDS: joint collaborative effort under LGA
- UDS: between the Canterbury Regional Council, territorial authorities, NZTA, in consultation with affected and interested parties.

## Officers’ Report Presentation

1. Laurie McCallum, ECan: Background, UDS, and Overall Rationale for PC1
2. James Winchester and Margo Perpick: Legislative Framework and other Legal Issues
3. David Cohny, Airbiz: Airport Noise
4. Steve Higgs, NZTA: NZTA Perspective on PC1
5. Robert Woods, ECan - Transport Planning
6. Mike Theelen, CCC - Rationale for Urban Limits and their Location Within Christchurch City and Intensification in the Central City
7. Paul Anderson, CCC - Financial Sustainability Analysis for PC1 and Location of Urban Limits Within Christchurch City

## Officers' Report Presentation (cont.)

8. Tim Harris, SDC - Rationale for Urban Limits and their Location Within Selwyn District
9. Tony Oliver, ECan - Flooding Issues at Kaiapoi
10. Bruce Thompson, WDC - Rationale for Urban Limits and their Location Within Waimakariri District
11. Ken Tremaine: Legislative Environment and Intent, Regional Councils and Growth Management, Urban Limits and Sequencing Technique
12. Laurie McCallum, ECan: Major Issues for Resolution in PC1

## Introduction to Greater Christchurch; Background, Overall Planning Rationale and Major Issues

Laurie McCallum  
Programme Manager – Urban Development Strategy  
Environment Canterbury

## Wall Maps at Hearing

**Map A** – PC1 (July 2007) and Variations 1-4 (2008) as notified.

**Map B** – PC1 and Variations 1-4 showing notified urban limits, location of submissions seeking alterations to urban limits and recommendations in Officer Report for accept or decline.

**Map C** – PC1, including Variations 1-4, showing tracked changes i.e. both additions and deletions if recommendations on submissions in Officer Report were accepted.

**Map D** – PC1, including Variations 1-4, showing what PC1 would look like if the recommendations on submissions in the Officer Report were accepted.

## Background

- The need for a UDS – why have one?
- Lack of restraints to urban development across the Canterbury Plains
- Post RMA – Managing Urban Development
  - site by site v long term planning
  - uncertainty of outcome
  - lack of integration
  - no planning for the future

## Significant Resource Management Issues

- Growth Trends
- Accommodating Growth
- Environmental Challenges
- Growth Impacts
- Transport Effectiveness
- Amenities
- Rural Residential Impacts

## Consequential Issues

An urban land use pattern has major implications for:

- Climate Change – adaption and mitigation
- Public Health – combating the obesity epidemic
- Energy – adapting to a higher cost energy environment
- Economic and social development – providing for employment and housing affordability.

## Urban Development Strategy

- voluntary, collaborative, non-statutory
- technical, political and community based
- process for providing ECan with information and commitment for PC1
- supported by Government
- UDS does not pre-determine PC1
- PC1 implements land use component of UDS

## Overall Rationale for PC1 (1)

- Considers all of Greater Christchurch
- Provides for anticipated residential and business growth over next 35 years
- Consolidated urban form v Business as Usual (BAU)
- Compared to BAU, less growth in Selwyn and Waimakariri and more in Christchurch. Over time, less in greenfields and more intensification areas.

## Overall Rationale for PC1 (2)

- Locates development areas where urban infrastructure to be provided
- Provides for 75, 000 households – high migration and medium births and deaths
- Confirmed appropriate post 2006 census
- Moves to allocative regime re numbers and location of development.
- Smaller urban footprint compared to BAU

## Overall Rationale for PC1 (3)

- Underpinned by conservative assumptions
- Not particularly radical or futuristic
- Specific and directive with Urban Limits to avoid future uncertainty and litigation.
- Chapter 12A sits within existing RPS – not an RPS for Greater Christchurch

## RELEVANT LEGAL AND POLICY FRAMEWORK FOR PC1

**James Winchester**  
Simpson Grierson, Legal Counsel

**Margo Perpick**  
Wynn Williams and Co, Legal Counsel

## Legislative Framework for PC1

- Themes: integration of statutory powers and processes, long term approach to strategic planning, and regional leadership on strategic land use decision-making
- Not solely an RMA focus, although RMA is a key “delivery mechanism” in this instance – RMA should not be seen in a vacuum
- PC1 an integrated package – it is the total package that should be considered for section 32 purposes
- Other legislation highly relevant to UDS and PC1: Local Government Act 2002 and Land Transport Management Act 2003
- Legislative and policy directions of recent years (e.g. energy, transport, health, urban design) strongly supportive of integrated decision making and concept of longer term strategic planning, reinforced by RM (Simplifying and Streamlining) Amendment Bill proposed section 80
- 2005 RMA amendments align with overall policy thrust - sections 30(1)(gb) and 75(3) of RMA signal integrated planning and important role of RPS

## RMA Framework

- Section 59 outlines role of RPS in achieving RMA's purpose
- Regional councils functions set out in section 30, expressly includes policy making function to achieve integrated management of resources and land use functions for regionally significant issues
- Effects associated with urban growth are significant and well known in Canterbury region
- Section 30(1)(gb) is critical – PC1 is a real life example of this function in action
- Section 30(1)(gb) introduced in tandem with RMA definition of “infrastructure” and section 75(3) of RMA elevates role of RPS – district plans must follow lead of PC1 by giving effect to it

## RMA Relevance of Other Legislation

- Section 61(2)(a) – mandatory to have regard to plans and strategies prepared under other Acts, but not explicit which Acts are to be considered (cf LGA and LTMA)
- Power is broadly expressed, key issue is relevance
- UDS is highly relevant as forerunner to subsequent action under various statutes by the UDS partners – contains clear and shared goals, increasing judicial recognition of these exercises
- UDS a collaborative approach mandated by sections 14 and 15 LGA
- LGA decision making now more closely aligned with RMA and sustainable management concepts (e.g. section 3 LGA)

## Local Government Act Issues

- Must have regard to all LTCCPs – a longer term view
- LTCCPs provide important information on community outcomes and preferences
- All envisaged economic, environmental, social and cultural activities outlined
- Important financial information relating to services and assets, particularly in relation to areas of growth
- Priorities, funding and community preferences transparent and aligned
- LTCCPs a critical aspect of the UDS – will need to be progressively updated as UDS vision unfolds

## Funding of Growth

- Needs to take into account RMA planning in terms of provision for growth and development contributions
- Understanding growth and its costs critical for LTCCPs (section 106(2)(a) of LGA)
- DCs explicitly a funding source for growth
- LTCCPs designed to integrate financial decision making with RMA “planning”
- Section 103 of LGA refers to financial contributions obtained under RMA, and section 106 requires policy relating to DCs and FCs as alternative funding sources for growth – LGA therefore directly acknowledges relationship with RMA

## Land Transport and Planning

- LTMA requires a 30 year RLTS – a long term planning approach, sustainability a focus
- LTMA explicitly recognises RMA planning: consistent with RPS and have regard to section 30(1)(gb) functions
- RLTPs will identify transport projects, funding, a 10 year forecast, and priorities
- RPS therefore influential for RLTS and RLTP
- These inter-relationships and linkages part of and acknowledged in UDS/PC1

## Legislative and Policy Themes

- Integration of different statutes and processes
- Sustainability
- Long term strategic planning
- Regionally-led growth/infrastructure planning initiatives
- Collaboration
- *All* of these factors present and integral to PC1

## The Operative RPS Previous Application

- *Scott, McFarlane, and Shaw*: Current RPS contains "non-mandatory requirements", and "general guides"
- Result: RPS was ineffective to prevent rural-residential developments in the Waimakariri and Selwyn Districts
- *Pegasus Bay*: Current RPS "toothless" and "almost totally lacking in meaningful directives to District Councils in respect of the location and expansion of settlements"
- The Court directed:  
*"the RPS should have contained firm, realistic directions as to the acceptable extent of development beyond Christchurch City boundaries and the approximate location of such developments"*

## Urban Limits in Regional Policy Statements

- Those firm guidelines and policies for the location of urban growth are in PC1
- Urban limits are marked as lines on maps, with policy directing that urban activities shall only occur within those limits
- To be achieved by territorial authorities in District Plans providing for
  - urban growth within the urban limits
  - prevention of urban activities outside the urban limits

## Urban Limits in Regional Policy Statements

- Imposing urban limits in a regional planning document is not a novel approach under the RMA
- PT in *Stark* confirmed the appropriateness of urban limits in regional planning documents to achieve the purpose of the Act
- Court of Appeal in *North Shore City Council* confirmed regional councils have the power to include urban limits in a regional policy statement
- High Court in *Ballantyne* acknowledged the inherent significance of the metropolitan urban limit - *the key to sustainable management*

## Urban Limits in Regional Policy Statements

- Recent decisions to establish urban activities outside of the Auckland urban limits, by resource consent
- Demonstrate that: RPS provisions to control urban growth must be clear and directive
- So that: when they are "given effect to" through District Plans, the aims of the RPS are achieved
- Watered-down provisions, non-directive language in RPS - result in District Plans which enable activities contrary to the intentions of the RPS

## Airport Noise – Legal Issues

- PC1 Urban Limits locate new noise sensitive activities outside of the Ldn 50 dBA noise contour for the Airport, to:
  - Protect the operational capacity of the Airport - avoid curfews
  - Protect the health and amenity of residents from aircraft noise
- And because sufficient land outside of the Ldn 50 dBA contour is available for the growth and development of Christchurch
- Some submitters seek that Ldn 55 dBA contour is used, or that no noise contours be included in PC1
- That would not be consistent with previous approaches in planning documents, confirmed by Court decisions

## Planning Documents

- From 1958, Regional and District Planning Schemes under T&CPAct protected the Airport from encroachment by urban development, to safeguard its development potential
- Under RMA
  - Regional Policy Statement (operative 1998) policies continued protection
  - Christchurch City Plan, Waimakariri District Plan and Selwyn District Plan have used Ldn 50 dBA as outer control boundary - the point at which noise sensitive uses should be discouraged

## Case Law

- 1958 (*Jewell*) and 1972 (*Broadlands*) a buffer zone around the Airport was needed to protect it from residential encroachment, the line broadly comparable to the Ldn 50 dBA line (proposed City Plan)
- *Gargiulo* – Env Ct (2000): application to subdivide within Ldn 50 dBA contour rejected because
  - adverse effects on people of exposure to noise within the Ldn 50 dBA
  - noise insulation not an effective mitigation measure
  - precedent-setting effect
  - reverse sensitivity issues
  - inconsistent with City Plan and RPS

## Case Law

- *Robinsons Bay Trust* (2004): Env Court upheld Ldn 50 dBA as appropriate point of control and protection, contrary to appellants' assertion of Ldn 55 dBA
- *National Investment Trust* (2005): land within the Ldn 50 dBA noise contour should be zoned Rural 5 (4 ha minimum), not Living 1A (2000m<sup>2</sup> minimum)

## Summary – Airport Noise

- PC1 approach: preventing further development of noise sensitive activities within the Ldn 50 dBA
- Approach taken over many years in regional and district planning documents
- Has been tested and approved by Environment Court and High Court
- In accordance with RMA purpose and principles
- Appropriate that PC1 take this approach