

Before The Canterbury Regional
 Council

In the Matter

Of: Proposed Change No. 1 to the
 Canterbury Regional Policy
 Statement Chapter 12A
 (Development of Greater
 Christchurch) including
 Variations 1, 2, 3 and 4

Sixth Minute of Commissioners dated 3 July 2009 as to Questions for S.42A Report Writers

1. We have already on a number of occasions indicated an intent to seek further information under s.41(4) from the s42A Report Writers, and time has been allotted after the completion of evidence from submitters for that to occur in the first week of September.
2. It has been raised with us at the hearings by the Report Writers through Mr. McCallum that it would be helpful if areas of interest or relevant issues could be identified as soon as possible so that they can commence the process of researching and preparing information on those matters in a timely informative manner.
3. Whilst we are still only half way through the hearing process, we have reviewed the submissions and pre-read evidence, and have now heard from sufficient submitters in further detail to be able to usefully identify some areas where the original reports in our view need supplementing to address issues raised in the evidence and presentations we have read or heard so far.
4. Accordingly, a set of questions upon which further information is sought is attached.
5. We stress that no decisions have been made by us on any of those issues which remain completely open and at large for any party yet to be heard to address. The issues canvassed in those questions are intended to particularly highlight areas where either the original reports did not address the issue in sufficient detail or where challenges have been raised by submitters to which it is not clear to us that responses are available from the original reports.
6. We record that we anticipate having to issue a further set, or possibly sets, of such questions before the end of the hearing. If we do so, we will again endeavour to ensure that is done in a manner which provides time for appropriate research and response.
7. Finally we wish to stress to the Report Writers that this process of our seeking further information must not be treated as an opportunity to repeat or re-stress arguments already advanced in the original reports. It is only to enable us to be informed of the report writers' views on the issues raised where we currently are of the view that gaps in their presentation exist as outlined in para 5 above.

Dated the 3rd day of July 2009



R.D.Crosby
Chairman of Commissioners

Questions for s42A Report Writers (as at 3/7/09)

A. Generic Issues

Validity of S.32 Assessment

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:
 - How was the boundary of Greater Christchurch determined for the RPS and was it subject to a s.32 analysis?
 - Specific Urban Limit areas – what if any detailed consideration occurred of alternatives, costs/benefits for each area affected?
 - 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 Change 1, in the following Variations 1-4, and as a result of the recommended additions in the Officers' Report.
 - 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?
 - (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?
 - 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?
 - 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)
 - Predicted business growth in different areas – what detailed consideration of growth needs was made before PC 1 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?

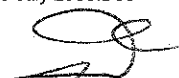
- Exclusion of certain areas from greenfields - has any assessment been made of the total number of extra h/hs that would arise from granting relief in the greenfields areas sought to be included in the ULs and if so please provide figures for the different areas?
- Lack of flexibility for 'non-standard' 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?

Reality or likelihood of intensification take-up.

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.
3. Given a range of professional opinion evidence and other factual in 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?
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.
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?

Urban Limits Mechanism

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?



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?

Sequencing issues

8. What method was used to settle upon the percentages of 36%, 42% and 56% for intensification – please refer to any documentation relied upon?
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?

Monitoring

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 ?
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?
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?
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?
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?

Rural/residential and Business/Industrial and KAC provision

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?
16. How was the 5% figure for Rural/resid h/h growth settled upon and how is it justified?
17. Please identify the documents and relevant pages or paragraphs showing the s.32 processes followed in providing for all these activities.



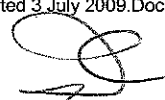
18. Who is it proposed is to carry out the rural/residential review in 2010 referred to in the discussion at the end of the Explanation following Objective 2 in the Officers' report annotated version of recommendations, and against what criteria is such review to occur?
19. Is it intended by the report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

ODPs

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).
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?
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?
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?
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?

Noise Contour Issues

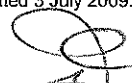
26. Was there any consideration by the report writers of a compromise solution suggested by many submitters of fixing on a 52 or 53 dBA line to mitigate some of the effects of the original position fixed by the Environment Court for the 50 dBA line being moved out to the remodelled new position, and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



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.
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?
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?
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?
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?
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?
33. How is it intended in practical terms that 'remodelled or newly developed' contour lines are given practical effect in the Plan and RPS heirachy? 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.)

B. Specific issues

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



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?
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?
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?

C. Legal Issues

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.
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?
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)?
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?
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 ?
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?



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.

