

Appendix 7: Technical peer review of draft Recommendations Report

Technical peer review of draft Recommendations Report

Under the Minister's Direction, Environment Canterbury is required to engage an appropriately skilled independent commissioner to undertake a technical peer review of the Recommendations Report referred to in Step 4 of the Streamlined Planning Process. The independent commissioner is required to produce a formal technical peer review report, and Environment Canterbury is required to demonstrate how the commissioner's comments have been addressed or incorporated into the final Recommendations Report.

Table 1 below sets out how Environment Canterbury has incorporated or addressed specific suggestions or comments set out in the technical peer review of the draft Recommendations Report. The full Technical Peer Review Report is attached.

Table 1: Responses to peer review comments

Paragraph	Comment by peer reviewer	Response	Reference in Recommendations Report to subsequent changes
[138] See also [164],[187], [303], and [353].	<i>Change 1 introduced FDAs via Map A and it is at least arguable that changes to their shape (but not the addition of new ones) is within scope. In the end result, however, I agree that this streamlined process is not the right time to consider altering the FDAs. When the CRPS is reviewed in the near future the full implications of adding land can be properly assessed with the benefit of updated information and a full hearing.</i>	Council Officers maintain the view that the relief sought by submitters regarding the inclusion of additional land within the FDAs is outside the scope of the Proposed Change. Nevertheless, for completeness, when considered on its merits our view is that any changes to the FDAs are best considered as part of a comprehensive strategic planning exercise. We agree with the peer reviewer that this is not the right time to consider altering the FDAs and that the full implications of adding land can be properly assessed through the forthcoming review of the CRPS.	No changes made to the Report in this regard.

Paragraph	Comment by peer reviewer	Response	Reference in Recommendations Report to subsequent changes
[159]	[With reference to the relief sought by CIAL to amend Policy 6.3.7(1) such that it is subject to Policy 6.3.5.] <i>[...] I believe that in the context of this streamlined process it is safest to assume that it is in fact within scope. On this basis it becomes necessary to consider the proposed amendment on its merits. While the additional reference sought might be technically unnecessary, I do not see any harm in emphasising that residential greenfield development will need to comply with Policy 6.3.5.</i>	Council Officers accept the comments of the peer reviewer with regards to scope to amend Policy 6.3.7(1). We recommend a further amendment to Policy 6.3.7 (shown in red double underline): <i>1. Subject to Policy 5.3.4, <u>Policy 6.3.5</u>, and Policy 6.3.12, residential greenfield priority area development shall occur in accordance with Map A. These areas are sufficient for both growth and residential relocation through to 2028.</i>	[58(b)] – the reference to changes sought in this regard as being out of scope has been deleted. [158] – Recommendations amended to include change to Policy 6.3.5(1). These changes have also been reflected in the Summary report of written submissions (Appendix 2) in response to the relevant submission point by CIAL.
[202]	[With reference to the relief sought by Eliot Sinclair and Partners to amend Policy 6.3.7(1).] <i>For the reasons already given [at paragraph 138], I am doubtful that CRC is entitled to conclude that the requested addition to Policy 6.3.7(1) is out of scope. Having said that, I agree with the Council's point that the proposed amendment would produce a much broader policy statement than currently exists under Change 1. Under those circumstances the implications of such a significant change are</i>	Council Officers accept the position of the peer reviewer regarding scope to amend Policy 6.3.7(1). We re-emphasise our reasons for rejecting the relief sought by the submitter, on its merits.	[186] – a new paragraph has been inserted under Theme 6. This has also been reflected in the Summary report of written submissions (Appendix 2) in response to the relevant submission points by Eliot Sinclair.

Paragraph	Comment by peer reviewer	Response	Reference in Recommendations Report to subsequent changes
	<i>better considered in the context of a full review. ... It follows that I do not see any reason for CRC to alter its recommendation to the Minister in relation to this submission.</i>		
[261]	[With reference to the relief sought by Lyttelton Port Company to amend Policy 6.3.7(1) such that it is subject to Policy 6.3.5.] <i>While for the reasons already given [paragraphs 157-159] I am doubtful that the change proposed for Policy 6.3.7(1) can be properly rejected on the basis that it is out of scope, that is not critical to the outcome. I accept that the Council is right when it concludes that the additional words are unnecessary.</i>	As set out above, we accept the position of the peer reviewer regarding scope to amend Policy 6.3.7(1). We recommend a further amendment to Policy 6.3.7 (shown in red double underline): <i>1. Subject to Policy 5.3.4, <u>Policy 6.3.5</u>, and Policy 6.3.12, residential greenfield priority area development shall occur in accordance with Map A. These areas are sufficient for both growth and residential relocation through to 2028.</i>	[58(b)] – the reference to changes sought in this regard as being out of scope has been deleted. [158] – Recommendations amended to include change to Policy 6.3.5(1). These changes have also been reflected in the Summary report of written submissions (Appendix 2) in response to the relevant submission point by Lyttelton Port Company.
[297]	[With reference to the relief sought by Orion to amend Policy 6.3.7(1) such that it is subject to Policy 6.3.5.] <i>Although my earlier concerns about the scope conclusion [paragraph 158] are repeated, I agree with the recommendation.</i>	As set out above. We recommend a further amendment to Policy 6.3.7 (shown in red double underline): <i>1. Subject to Policy 5.3.4, <u>Policy 6.3.5</u>, and Policy 6.3.12, residential greenfield priority area development shall occur in accordance with Map A. These areas are sufficient for both growth and</i>	[58(b)] – the reference to changes sought in this regard as being out of scope has been deleted. [158] – Recommendations amended to include change to Policy 6.3.5(1). These changes have also been reflected in the Summary report of written submissions (Appendix 2) in

Paragraph	Comment by peer reviewer	Response	Reference in Recommendations Report to subsequent changes
		residential relocation through to 2028.	response to the relevant submission point by Orion.
[325]	<i>The CRC spreadsheet duplicates reference to the Pinedale submission on Policy 6.3.6(5) and the first entry needs to be deleted.</i>	This has now been corrected in the Summary of written submissions (Appendix 2).	N/A

**Technical Peer Review of the Draft Report to the Minister for the
Environment on Proposed Change 1 to Chapter 6 of the Canterbury
Regional Policy Statement**

Prepared for Environment Canterbury by Hon. Lester Chisholm

March 2021

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PART I

BACKGROUND

Introduction

[1] When directing the Canterbury Regional Council (**CRC**) to use the streamlined planning process¹ for a proposed change (**Change 1**) to its Regional Policy Statement (**CRPS**), Hon. David Parker, Minister for the Environment, specified:

... that Canterbury Regional Council engages an appropriately skilled independent commissioner to undertake a technical peer review of the recommendations report referred to in step 4. The independent commissioner is required to produce a formal technical peer review report for Canterbury Regional Council²

In broad terms Step 4 requires the Regional Council to submit a recommendations report to the Minister showing how submissions in relation to Change 1 have been considered and the changes (if any) that are recommended.

[2] This review responds to that direction. As far as possible I have tried to make this a stand-alone report to avoid the need for constant cross referencing to other reports.

Streamlined Planning Process

[3] This statutory process is designed to achieve an expeditious planning process that is proportionate to the complexity and significance of the planning issues being considered³. If a local authority is satisfied that at least one of the entry criteria is satisfied, it can apply to the Minister for a direction to utilise the streamlined planning process.

[4] In this case Change 1 concerns urban development within discrete parts of the Selwyn and Waimakariri districts. The Change is required to enable a development strategy adopted by the Greater Christchurch Partnership⁴ to be implemented and also to give effect to the National Policy Statement on Urban Development 2020 (**NPS-UD**). Without Change 1 Selwyn and Waimakariri District Councils will not be able to rezone land in accordance with the development strategy. Hence the urgency prompting the streamlined process.

[5] The process directed by the Minister requires the Regional Council to take four initial steps:

¹ Under Subpart 5 of the Resource Management Act 1991 and Part 5 of the First Schedule to the Act.

² Gazette in April 2020.

³ Section 80B(1) of the Resource Management Act

⁴ Which comprises CRC, Christchurch City Council, Selwyn District Council, Waimakariri District Council, Canterbury District Health Board, Te Runanga o Ngai Tahu, Waka Kotahi New Zealand Transport Agency, and the Department of the Prime Minister and Cabinet.

1. Undertake specified pre-notification consultation in accordance with clause 4A of the Resource Management Act 1991 (**RMA**) Schedule 1;
2. Publicly notify Change 1 for written submissions in accordance with clause 5 of the Schedule;
3. Provide an opportunity for submissions in accordance with clause 6 of the Schedule; and
4. Provide for a written recommendations report to the Minister showing how submissions have been considered and the changes if any recommended, including:
 - the evaluation report under sections 32 and 32AA;
 - a report summarising how the persons making the recommendation have had regard the evaluation report; and
 - the reports and documents required by clause 83(1) of the Schedule.

As already mentioned, this review is confined to step 4. CRC is required to demonstrate to the Minister how the comments contained in this review have been addressed or incorporated into the Council's final report to him.

[6] It will be seen that this streamlined process does not involve any hearings. Presumably this is one of the factors behind the requirement for this review to be undertaken.

[7] A statement of the Minister's expectations referred to several matters of which the following is relevant in the present context;

... include in the proposed change policy direction for the Future Development Areas to provide higher density living environments, including mixed use developments and a greater range of housing types, and enables the efficient provision and use of network infrastructure.

Evolution of Change 1

[8] This has been relatively unusual and at least to some extent explains the urgency that has arisen. Given the matters raised in some the submissions, an outline of events leading to Change 1 will provide context.

The Greater Christchurch Partnership

[9] This partnership (**GCP**) evolved more than a decade ago. As already stated ⁵, it comprises a wide range of interests including CRC as well as the Selwyn and Waimakariri District Councils. Over the years the Partnership has worked collaboratively on planning and managing urban growth and development within the Greater Christchurch area, which includes the Selwyn and Waimakariri districts⁶.

[10] In 2007 an Urban Development Strategy developed by the Partnership was adopted by CRC, Christchurch City Council, and the Selwyn and Waimakariri District Councils. Amongst other things, the

⁵ See footnote 4

⁶ See attached map.

strategy identified particular locations at Rolleston, Rangiora and Kaiapoi as growth areas, and these now lie at the heart of Change 1.

[11] Following adoption of the Urban Development Strategy, a proposed change to CRPS (**PC1**) was notified. PC1 introduced Chapter 12A into the Policy Statement for the purpose of guiding urban growth in Greater Christchurch through to 2041. An accompanying map identified 'Urban Limits' which defined the extent of any greenfields development.

[12] The PC1 hearing process resulted in a number of appeals to the Environment Court. By the time the Canterbury earthquakes occurred in 2010 and 2011 some appeals still remained unresolved.

Events following Canterbury earthquakes and the insertion of Chapter 6 into CRPS

[13] After the Canterbury Earthquake Recovery Act 2011 came into force the GCP asked the Minister for Canterbury Earthquake Recovery to use that Act for the purpose of revoking PC1 and inserting a modified version of Chapter 12A into the CRPS. He did so. This had the effect of making Chapter 12A operative and bringing the unresolved Environment Court appeals to an end.

[14] However, the High Court held that the Minister's actions were unlawful⁷, and reinstated both PC1 and the appeals to the Environment Court. While an appeal to the Court of Appeal failed⁸, that Court explained that Chapter 12A could have been inserted into the CRPS via the 'Land Use Recovery Plan' process described in the Recovery Act.

[15] With the benefit of that guidance the Minister for Earthquake Recovery directed CRC to prepare a Recovery Plan under the Act. This plan, which was published in 2013, identified 'Greenfield Priority Areas' (**GPAs**) for new residential development through to 2028. Although additional greenfield areas had been earlier identified for development through to 2041 (in the short-lived Chapter 12A), these areas were not included in the Recovery Plan.

[16] Chapter 6 and Map A were inserted into the CRPS as part of the Land Use Recovery process.

National Policy Statement on Urban Development Capacity 2016

[17] This National Policy Statement (**NPS-UDC**) required all councils that have part, or all, of a medium or high growth area within their district or region⁹ to produce a Future Development Strategy. This strategy needed to demonstrate that sufficient feasible development capacity is available to support future housing and business growth over the medium (10 years) and long term (10 to 30 years).

[18] In response to this directive the GCP collaboratively initiated a review of the whole Greater Christchurch settlement pattern. This review culminated in a report - Our Space 2018-2048 (**Our Space**) – which was published in 2019. That report underpins Change 1.

Our Space

[19] Whereas Chapter 6 of the CRPS only provided for growth to 2028, the Our Space analysis provided for growth over the next 30 years to 2048 (in accordance with NPS-UDC). When the margins required by

⁷ *Independent Fisheries Ltd v Minister for Canterbury Earthquake Recovery* [2012] NZHC 1810

⁸ *Canterbury Regional Council & Others v Independent Fisheries Ltd & Others* [2012] NZCA 601

⁹ Which included Selwyn and Waimakariri.

the Policy Statement were added to the projected housing demand, it was anticipated that almost 87,000 new dwellings would be needed in Greater Christchurch. While most of the growth was expected to occur within existing urban zones, further capacity was needed in Selwyn and Waimakariri.

[20] To help address this problem Our Space proposed new 'Future Development Areas' (**FDAs**) at Rolleston, Rangiora and Kaiapoi. Although these areas were all within the existing Proposed Infrastructure boundary on Map A (**PIB**), they were outside the existing urban areas and the Greenfield Priority Areas (**GPAs**) identified on Map A. If the strategy in Our Space was to be implemented a change to CRPS was required. Change 1 followed.

NPS-UD

[21] In August 2020 (after the streamlined planning process had commenced) the NPS-UDC was replaced by this new Policy Statement. Apart from a six month adjustment to the timetable¹⁰, the streamlined process proceeded as originally directed by the Minister.

[22] Under this new Policy Statement CRC and the two District Councils are required to provide at least sufficient development capacity to meet expected demand for housing and business land over the short term (within the next 3 years), medium term (between 3 and 10 years), and long term (between 10 and 30 years). While as a general proposition CRC is required to give effect to the provisions of the NPS-UD as 'soon as practicable', a timetable has been specified for some policies¹¹.

[23] Compared with its predecessor one of the most significant changes introduced by NPS-UD is Policy 8 which directs:

Local Authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

(a) unanticipated by RMA planning documents; or

(b) out-of-sequence with planned land release.

Subpart 2 of NPS-UD applies to these unanticipated or out of sequence developments. It requires Regional Councils to include criteria in their Regional Policy Statements for determining what plan changes will be treated (for the purpose of implementing Policy 8) as adding significantly to development capacity¹².

[24] In its section 32 evaluation¹³, CRC describes a central feature of NPS-UD as:

.... A new broader focus on the achievement of 'well-functioning urban environments' (Objective 1 and Policy 1). Policy 1 articulates a set of outcomes for local authorities to use when preparing plans and making decisions, and sets direction for the intended outcomes of the NPS-UD ...

¹⁰ See amended Gazette Notice of August 2020

¹¹ These include: a Future Development Strategy in time to inform the 2024 long term plan; a Housing and Business Development Assessment by 31 July 2021

¹² Later this year CRC intends to notify a change to CRPS (Change 2) to meet this requirement.

¹³ Page 19.

To my mind this accurately captures one of the central features of the new National Policy Statement.

Change 1

[25] According to the Council's section 32 evaluation¹⁴, Change 1 is a 'targeted' change to enable the Greater Christchurch councils to give effect to NPS-UD and to implement the growth strategy set out in Our Space. The evaluation report also draws attention to a more comprehensive review of Chapter 6 that is due to commence later this year as part of a scheduled full review of CRPS.

[26] A two-fold purpose is described later in the evaluation report¹⁵ : first, to enable sufficient land to be rezoned for the medium term (10 years) and identified for the long term (30 years); secondly, where a housing sufficiency shortfall is identified, to provide flexibility for Selwyn and Waimakariri District Councils to consider rezoning land within the PIB to meet medium term demands as part of their District Plan processes.

[27] In simple terms the change:

- a) Amends Map A to identify the FDAs at Rolleston, Rangiora and Kaiapoi¹⁶ ;
- b) Inserts a new policy (6.3.12) to enable land within those areas to be rezoned if required;
- c) Makes consequential changes to the objectives, policies, text and definitions.

Some of those matters require further explanation at this stage. Others will be addressed later.

The New Policy to enable rezoning in FDAs

[28] Under the new Policy 6.3.12 urban development in the FDAs identified on Map A will be enabled in the following circumstances;

1. *It is demonstrated, through monitoring of housing and business development capacity and sufficiently carried out collaboratively by the Greater Christchurch Partnership, that there is a need to provide further feasible development capacity through the zoning of additional land in a district plan to address a shortfall in the sufficiency of feasible residential development capacity to meet the medium term targets set out in Table 6.1, Objective 6.2.1a; and*
2. *The development will promote the efficient use of urban land and support the pattern of settlement and principles for future urban growth set out in Objectives 6.2.1 and 6.2.2 and related policies including by:*
 - a. *Providing opportunities for higher density living environments, including mixed use development, and housing choices that meet the needs of people and communities for a range of dwelling types; and*

¹⁴ Page 6

¹⁵ Page 8

¹⁶ See attached map.

- b. *Supporting the efficient provision and use of network infrastructure; and*
- 3. *The timing and sequence of development is appropriately aligned with the provision of infrastructure, in accordance with Objective 6.2.4 and Policies 6.3.4 and 6.3.5; and*
- 4. *The development would occur in accordance with an outline development plan and the requirements of Policy 6.3.3; and*
- 5. *The circumstances set out in Policy 6.3.11(5) are met; and*
- 6. *The effects of natural hazards are avoided or appropriately mitigated in accordance with the objectives and policies set out in Chapter 11.*

It will be noted that the requirement in Clause 2 responds directly to the Minister's statement of expectation mentioned earlier¹⁷.

[29] To obtain a complete picture of this new policy, which lies at the core of Change 1, it is necessary to briefly explain the objectives and policies specifically mentioned in it.

Objectives and policies mentioned in Policy 6.3.12¹⁸

[30] Objective 6.2.1a and Table 6.1 indicate the number of dwellings that will be required in Selwyn and Waimakariri over the medium term (2018 to 2028) and long term (2028 to 2048)¹⁹. This objective and the table were inserted into Chapter 6 as a result of the 2016 National Policy Statement and no alteration to them is contemplated by Change 1.

[31] Where urban development is enabled, Objective 6.2.1 sets out the framework that is to be applied. Amongst other things, priority areas for urban development are to be identified and urban development outside existing urban areas or GPAs is to be avoided unless expressly provided for in the CRPS. Apart from the addition of Policy 6.3.12 to the list of policies implementing the objective, no alteration to this objective is contemplated.

[32] A related Objective 6.2.2 requires the urban form and settlement pattern to provide sufficient land for rebuilding and recovery needs. It also requires a foundation for future growth to be set, with an urban form that achieves consolidation and intensification of urban areas, and avoids unplanned expansion of such areas. Stated methods of achieving this objective include:

- ...
- 2. *providing higher density living environments including mixed use developments and a greater range of housing types...in greenfield priority areas, **Future Development Areas***
- ...
- ...

¹⁷ At paragraph [7]

¹⁸ These are mentioned in the same order as they are referred to in Policy 6.3.12

¹⁹ 8,600 medium term and 8,690 long term making a total of 17,290 in Selwyn; 6,300 medium term and 7,060 long term making a total of 13,360 in Waimakariri.

4. *providing for the development of greenfield priority areas, **and of land within Future Development Areas where the circumstances set out in Policy 6.3.12 are met**, on the periphery of Christchurch's urban area, and surrounding towns at a rate and in locations that meet anticipated demand and enables the efficient provision and use of network infrastructure;*

...

The highlighting shows the additions contemplated by Change 1. Policy 6.3.12 is also added to the list of policies implementing this objective.

[33] Objective 6.2.4 and Policy 6.3.4 concern transport. Transport infrastructure and land use are to be integrated so that the transport network maintains and improves the movement of people and goods around Greater Christchurch. Again Change 1 does not contemplate any alterations, except that Policy 6.3.12 is added to the list of policies to be implemented by the objective.

[34] Land use development and infrastructure are to be integrated under Policy 6.3.5 by (amongst other things):

1. *Identifying priority areas for development **and Future Development Areas** to enable reliable forward planning for infrastructure development and delivery;*

...

Again the amendments proposed by Change 1 have been highlighted.

[35] Under the existing Policy 6.3.3 development of GPAs and rural-residential development must be in accordance with an Outline Development Plan. Change 1 extends this requirement to FDAs.

[36] Monitoring and review are addressed by Policy 6.3.11. Change 1 introduces three changes to this policy: first, whereas monitoring as to the available supply of residential and business land is currently only directed to the short and long term, Change 1 now specifically includes the *medium* term; secondly, a specific requirement for the monitoring to meet the requirements of the NPS-UD is now included.

[37] The third change to Policy 6.3.11 involves the addition of the following situation where CRC is to initiate a review of the extent and location of land for development:

...

- c. *Housing and Business Development Capacity Assessment undertaken to meet the requirements of the National Policy Statement on Urban Development 2020 indicate insufficient feasible development capacity to meet demand in the short to medium term*

....

Principal reasons for and explanation of Policy 6.3.12

[38] Having discussed Our Space and NPS-UD, Change 1 provides the following principal reasons and explanation for Policy 6.3.12:

...

Policy 6.3.12 provides for the rezoning of land within the Future Development Areas, through the district planning process, in response to projected shortfalls in feasible residential development over the medium term. Addressing longer term needs will be further considered as part of a comprehensive review of the Canterbury Regional Policy Statement scheduled to commence in 2021.

It is anticipated that, as required by the NPS-UD, the Greater Christchurch councils will collaboratively prepare a joint housing and business development capacity assessment at least every three years and monitor market indicators on a frequent basis. This will ensure that an up to date base of information is available and enable spatial planning decisions to be responsive to changing population and household projections as well as changes in market conditions and other relevant factors. The housing and business development capacity assessments will provide a clear evidence base for understanding the amount of feasible development capacity that has been enabled and what additional capacity is required.

Both Selwyn District Council and Waimakariri District Council are investigating, through their district plan reviews, the extent to which any development capacity shortfalls can be met through promoting higher densities in greenfield locations. In addition, the Greater Christchurch Partnership is working collaboratively to review the appropriateness of existing minimum densities ...

It is essential that development takes place in a coordinated way and the staging and timing of future development is managed to ensure transport and other infrastructure planning is integrated with the provision of additional housing. More detailed planning to determine the specific staging of development within the Future Development Areas will be required before land is re-zoned through district planning processes. Outline development planning is one of the main methods ...to ensure the required detailed planning is undertaken within identified growth area.

Outcome of submission process

[39] Consideration of the submissions resulted in CRC recommending only relatively minor amendments in its report to the Minister (subject to this review).

[40] It is recommended that Policy 6.3.11, which relates to monitoring and review, be amended by including the words in bold:

...

*5. Any change resulting from a review of the extent, and location of land for development, any alteration to the Greenfield Priority Areas, **Future Development Areas**, or new greenfield priority areas, shall commence only under the following circumstances ...*

[41] The following amendments to the principal reasons and explanation for Policy 6.3.11 are also recommended :

...Policy 6.3.11 is intended to ensure enough land is available and in the right locations to facilitate recovery through to 2028 **and ensure sufficient development capacity is identified...** Anticipating the number of ~~relocated or~~ new households and the business activity to be accommodated, as well as the form these are likely to take, indicates the land areas required for successful recovery **and longer term growth.**

Policy 6.3.11 also provides that the circumstances for altering the **areas identified for urban development on Map A** ~~priority area provisions of this chapter~~ are:

a) There is deemed to be insufficient land within the Priority Areas **and Future Development Areas to meet anticipated demand** ~~over the recovery period.~~

The additions are shown in bold and the deletions in bold with a line through them.

[42] Finally, some amendments to Policy 6.3.12 are also recommended in the report to the Minister:

...

1. It is demonstrated, through monitoring of housing and business development capacity and sufficiently carried out collaboratively by the Greater Christchurch Partnership **or relevant local authorities**, that there is a need to provide further feasible development capacity through the zoning of additional land in a district plan to address a shortfall in the sufficiency of feasible residential development capacity to meet the medium term targets set out in Table 6.1, Objective 6.2.1a; and
2. The development will promote the efficient use of urban land and support the pattern of settlement and principles for future urban growth set out in Objectives 6.2.1 and 6.2.2 and related policies including by:
 - a. Providing opportunities for higher density living environments, including mixed use development, and housing choices that meet the needs of people and communities for a range of dwelling types; and
 - b. ~~Enabling~~**Supporting** the efficient provision and use of network infrastructure;
3. The timing and sequence of development is appropriately aligned with the provision **and protection** of infrastructure, in accordance with Objective 6.2.4 and Policies 6.3.4 and 6.3.5; and

...

PART 2

THE SECTION 32 AND 32AA EVALUATIONS

Introduction

[43] As might be expected the section 32 evaluation is lengthy. Given the Minister's direction I will focus on aspects of the section 32 evaluation that I perceive are within the 'technical' review role that I have been asked to perform. Before doing so I will briefly mention some earlier parts of the evaluation.

[44] Under the heading 'Planning and Strategic Context'²⁰ there is discussion about the regulatory framework provided by the RMA, and I consider that this discussion accurately covers all relevant matters. There is also discussion about the NPS-UDC which has now been replaced by NPS-UD. While I appreciate that the earlier Policy Statement was in force when the Change 1 process began, now that it has been replaced I do not see any need to discuss it further. The NPS-UD will be addressed, as necessary, in Parts 3 and 4. And the remaining topics in this part of the evaluation do not require any further comment.

[45] To the extent necessary for this report, the matters under the heading 'Background to Development of the Proposed Change'²¹ have already been discussed or will be covered later. The same can be said of matters under the heading 'Summary of the Issue'²². The final topic 'Consultation'²³ is not within my brief.

[46] Now I turn to the parts of the report that are more critical to this review.

Method of Evaluation

[47] Under this heading the steps taken by CRC to satisfy the requirements of section 32 are summarised²⁴ and it is noted that the evidence supporting Our Space assisted in the analysis. No comment is required on my part about that. Then the report explains the Council's approach to each of the following.

The 'efficiency' and 'effectiveness' assessments

[48] This topic arises because these two words, which are used in section 32(2)(b)(ii), are not defined in the RMA. 'Efficiency' is broadly interpreted by CRC to mean 'provisions that will achieve the CRPS objectives and the purpose of the Proposed Change at the lowest overall cost to the regional community'. And 'effectiveness' is interpreted as 'how successfully the provisions will achieve the CRPS objectives and the purpose of the Proposed Change'. I do not have any problems with either of these interpretations.

²⁰ Page 13

²¹ Page 23

²² Page 29.

²³ Page 29

²⁴ Page 37

Scale and significance

[49] Section 32(1)(c) requires a level of detail that corresponds to ‘the scale and significance’ of stated matters. The evaluation report addresses a number of factors: Change 1 is a targeted change within a narrow scope; a more comprehensive review will follow later this year; and the quantum of land is well defined and aligns with established growth strategies. CRC concluded that overall, the scale and significance of Change 1 is low-medium. In my view that was a fair assessment.

The evaluation

Section 32(1)(a)

[50] This provision requires an examination of the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. Given that Change 1 does not have any objectives, *its purpose* had to be evaluated²⁵. The evaluation report explains, in my view accurately, the purpose of Change 1 and the ways in which its purpose will promote sustainable management under the Act.

Section 32(1)(b) and 32(3)

[51] Under these provisions the evaluation must examine whether Change 1 is the most appropriate way to achieve the objectives of the CRPS and the purpose of the Change. As part of this examination it was necessary for the Council to identify other reasonably practicable options and assess the efficiency and effectiveness of the Change 1 provisions. The Council’s approach to that task is now outlined.

Reasonably practicable options

[52] Seven initial options were narrowed down to two: status quo or Change 1. To my mind compelling reasons are given in the section 32 evaluation for eliminating the other five options, and no further comment is required on my part.

[53] Having narrowed the options down to two the Council compared those options.

[54] Under the status quo option Chapter 6 and Map A would remain unchanged until the CRPS is reviewed (with notification of that review currently scheduled for 2023). In the meantime Selwyn and Waimakariri District Councils would be handicapped in their ability to rezone land within the proposed FDAs and also in conducting their current district plan reviews.

[55] On the other hand, Change 1 would align with the strategy and direction set out in Our Space ahead of the scheduled review of the CRPS. The FDAs would provide sufficient additional residential development capacity to accommodate growth in Selwyn and Waimakariri over both the medium and long term. And Change 1 would sit comfortably within the existing objective and policy framework of the CRPS. Moreover, the Minister’s expectation²⁶ would be addressed and effect would be given to NPS-UD.

²⁵ Section 32(6).

²⁶ See paragraph [7].

[56] Even at this early stage of the evaluation process the decision to prefer Change 1 was pretty much inevitable. Nevertheless section 32 required CRC to evaluate other matters.

Efficiency and effectiveness

[57] A detailed comparative assessment of the benefits and costs associated with the two preferred options was undertaken by the Council. This demonstrated that Change 1 would be 'highly efficient' in giving effect to NPS-UD, ensuring that there was sufficient housing development capacity, and enabling the District Councils to rezone within the PIB. By comparison the status quo option was of 'medium-low' efficiency.

[58] The issue of effectiveness was then assessed in detail. CRC concluded that Change 1 would be effective in the sense described earlier and that the status quo option would be less effective.

[59] Given the careful and detailed analysis that had been undertaken, these conclusions were clearly open to the Council, and probably inevitable.

Overall evaluation of appropriateness

[60] Returning to this consideration CRC concluded that Change 1 will be appropriate. The Change reflects that the most effective and efficient way to accommodate the housing capacity shortfalls is to direct them into areas on Map A that are within the PIB. It noted that for some time the Councils have been factoring these areas into their long-term infrastructure strategies and that there has already been extensive community input. Unquestionably these are robust conclusions.

Section 32(2)(c) - risk of acting or not acting

[61] CRC reasoned that the provisions in Change 1 had been developed on the basis of the evidence provided by Our Space. It believed there is little uncertainty about the provisions in the Change and that the risk of acting is low. While the Council accepted that there is always an element of uncertainty in accurately determining demand, it drew comfort from the fact that this is recognised by the NPS-UD monitoring and review regime which is reflected in Policy 6.3.12. Conversely the Council concluded that the risk of not acting was potentially significant.

[62] I do not have any difficulty with this analysis.

Conclusions in CRC evaluation

[63] The report concludes that the provisions proposed in Change 1 are the most appropriate option because their environmental, economic, social and cultural benefits out-weigh the costs, and they are more effective and efficient than the status quo provisions. In my view that neatly sums up what ended up being a relatively inevitable outcome.

Criticism of section 32 evaluation in the submissions

[64] Although these are discussed in the CRC report to the Minister²⁷ and not in the section 32 evaluation, it is convenient to touch on them here, at least in a preliminary way.

[65] Five submitters alleged that the section 32 evaluation did not assess the identified options against the NPS-UD and that the evaluation was inadequate and incomplete. This criticism was rejected by the Council on the basis that its assessment had the appropriate level of detail. While I will be returning to this matter in Part 4 in the context of the submissions, my review of the section 32 evaluation does not support these criticisms. To the contrary, it was probably at a level of detail that exceeded legal requirements.

The section 32AA evaluation

[66] Under section 32AA a further evaluation is required for any changes to Change 1 that CRC is recommending to the Minister. It had to be undertaken in accordance with section 32(1) to (4) and to a level of detail that corresponded to the scale and significance of the changes.

[67] Needless to say the section 32AA evaluation is relatively brief because the amendments being recommended are reasonably narrow. In my view it properly covers the statutory requirements.

²⁷ From page 20

PART 3

THE RECOMMENDATIONS REPORT

Introduction

[68] In terms of the Minister's direction I am required to technically review the CRC Recommendations Report to him (**Report**). This is also a comprehensive document, and while I have reviewed the whole Report it is only necessary to specifically mention the following matters at this stage, using the headings and subheadings contained in the Report.

Jurisdiction issues

[69] As the Report observes, some submissions give rise to jurisdiction issues²⁸. Over time the legal tests to be applied have been developed, and these have been traversed in the Report

[70] It is fundamental that a submission must be 'on' Change 1. This means that it must reasonably fall within the ambit of the Change. Whether there is a real risk that persons affected by the changes sought in a submission have been denied an effective opportunity to participate must also be considered.

[71] Furthermore, any amendments recommended to the Minister must be within the scope of the submissions. In other words, the amendment must be fairly and reasonably within the general scope of an original submission or Change 1, or somewhere between. This needs to be approached in a 'realistic workable fashion' rather than from the perspective of 'legal nicety'.

[72] Having described those tests the Report addresses particular jurisdictional issues that it considers have been triggered by the submissions.

The 'blue box' issue

[73] With reference to the 'blue box' issue²⁹, CRC notes that a number of submissions have sought changes to text that is surrounded by the 'blue box'. Examples are given. Then the Report concludes: the changes sought in those examples do not relate to the proposed changes that form part of Change 1; the scope of Change 1 is determined by *the actual amendments notified*, not the existence of the blue box; and the submissions that it had identified were not 'on' Change 1, and the relief requested in them is outside the scope of Change 1.

[74] While I have no problem with the legal tests described by CRC, it is much more difficult to apply those tests to particular submissions. Whether or not a submission is within jurisdiction will hinge on the actual submission and relief sought, so I will reserve any further comment until individual submissions are reviewed in Part 4.

²⁸ See paragraphs 38 to 75 of the Recommendations Report

²⁹ Change 1 includes a blue box around the Chapter 6 provisions in which the text has changed, no matter how minor.

Submissions seeking the inclusion of additional land for urban development or as a FDA

[75] A number of submissions seek the inclusion of additional land for urban development or as a FDA. The Report provides examples of submissions in this category, explains the legal test to be applied, and signals that it will be recommending rejection of specified submissions (at least to the extent that they are seeking to add land) on the basis that they are not within the scope of Change 1.

[76] On this topic it is helpful to keep in mind the guidance provided by the High Court in *Palmerston North City Council v Motor Machinists Limited*³⁰, which is one of the cases referred to in the Report:

[80] For a submission to be on a plan change...it must address the plan change itself. That is the alteration of the status quo brought about by the change. The first limb in Clearwater³¹ serves as a filter, based on direct connection between the submission and the degree of notified change proposed to the extant plan. It is the dominant consideration. It involves itself two aspects: the breadth of alteration to the status quo entailed in the proposed plan change, and whether the submission then addresses that alteration.

[81] In other words, the submission must reasonably be said to fall within the ambit of the plan change. One way of analysing that is to ask whether the submission raises matters that should have been addressed in the s 32 evaluation...If so, the submission is unlikely to fall within the ambit of the plan change...Yet the Clearwater approach does not exclude altogether zoning extension by submission. Incidental or consequential extensions of zoning changes proposed in a plan change are permissible, provided no substantial further s 32 analysis is required to inform affected persons of the comparative merits of the change....

[82] But that is subject to the second limb of the Clearwater test: whether there is a real risk that persons directly or potentially affected by the changes proposed in the submission have been denied an effective response to those additional changes in the plan change process...

As the Report points out³², when considering those matters the decision-maker is entitled to look at the policy behind the proposed change and its purpose.

[77] That is the legal position. But it is worth repeating that applying the test to particular submissions can be difficult and needs to be considered with reference to individual submissions That exercise will be undertaken in Part 4.

³⁰ [2013] NZHC 1290

³¹ *Clearwater Resort Ltd v Christchurch City Council* was an earlier High Court decision in which a bipartite test was applied. First, a submission could only be regarded as 'on' a variation 'if it is addressed to the extent to which the variation changes the status quo'. The second limb was that if the effect of regarding a submission 'on' a variation would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, that would be a powerful consideration against finding the submission was truly 'on' the variation. (This footnote has been added for the purpose of this review and was not in the judgment).

³² Paragraph 64

Submissions seeking changes outside scope of CRC functions

[78] The Report notes that several submissions seek changes to zoning of land under the Selwyn and Waimakariri District Plans. It explains that in those situations the relief goes beyond the functions of CRC under section 30 of the RMA and that it is simply not possible for the Council to make a recommendation accommodating that type of relief. Plainly that is correct.

Principal issues raised by the submissions

[79] The Report helpfully identifies, and addresses, seven key matters raised by the submissions³³, and discussed below. Most of these matters will be revisited in Part 4 when the outcome on individual submissions is reviewed. At this stage I will only address them in broad terms.

1. Urban form and approach to accommodate growth

[80] CRC's approach to these matters is explained in the Report in the following way.

[81] Change 1 responds to identified housing capacity shortfalls by enabling urban development at locations identified as far back as 2007, and a significant proportion of that capacity is already enabled by CRPS. Our Space encouraged a balance between intensification within existing urban areas and opening up new greenfield locations. New subdivisions in greenfield locations (across all three council areas) are anticipated to account for about 55 per cent of the required capacity. Intensification, primarily in Christchurch, will account for the remaining 45 per cent. Greenfield areas in Rolleston, Rangiora and Kaiapoi are one element of the wider strategy.

[82] The settlement pattern incorporated into the CRPS under Chapter 6 has been largely implemented. Our Space sets out the strategic planning direction through to 2048. Via Greater Christchurch 2050 the GCP is now developing a longer-term strategy for Greater Christchurch. This is in parallel with the development of a mass rapid transit business case, a comprehensive review of the settlement pattern, and a full review of CRPS over the next three years.

[83] Given those matters, CRC is not recommending any amendment in response to a submission that a significant portion of the expected population growth could be achieved by higher densities in central Christchurch. While the Report acknowledges that the central city can make a significant contribution, it notes that Table 1 in Chapter 6 illustrates that 65 per cent of the growth is likely to be supported in Christchurch City, with the remaining 20 per cent in Selwyn and 15 per cent in Selwyn.

2. Sufficiency and flexibilities with Change 1

[84] Several submitters consider that the FDAs do not enable enough developable land to become available and are not sufficient to satisfy demand. Other reasons advanced by submitters to support the release of more land are also recorded.

[85] In response CRC makes several points: no new evidence has been produced; it accepted the capacity assessment that informed Our Space; that assessment withstood challenge through the Our Space hearing process; the next capacity assessment under NPS-UD is scheduled to be completed later

³³ Pages 24-42

this year when all relevant considerations (including the impact of Covid-19) can be assessed; and the Council's approach is consistent with NPS-UD and the functions of Regional Councils under section 30 of the RMA.

[86] I might add that submissions opposing Change 1 on the basis that more land should be made available have to be considered within the constraints of the streamlined planning process (this is not a criticism of the process or its utilisation on this occasion). There has been no opportunity to present evidence and, when making recommendations to the Minister, CRC can only assess the information concerning capacity and demand that is before it. As it was entitled to do, CRC accepted and relied on the Our Space material.

[87] The Council did not accept that what some submitters described as the 'fixed non contestable boundary' on Map A is contrary to the NPS-UD 'responsive planning' approach. It reasoned that in fact Chapter 6 provides *certainty* and the merits of including land outside the FDAs would be best considered as part of a strategic planning exercise rather than by way of individual and ad-hoc assessments. And with reference to the 'responsive' policy in the NPS-UD Policy 8³⁴ it comments that CRC is currently formulating criteria in response to Clause 3.8(3) of the Policy Statement.

[88] In my opinion the 'fixed non contestable boundaries' on Map A are not, of themselves, contrary to NPS-UD. They are a fundamental component of a strategy that has been evolving over time, and Change 1 cannot be divorced from its history and context. It is part of an on-going process, with the implementation of Policy 8 still to come. To the extent that submitters are seeking a 'responsive' and 'flexible' approach by virtue of Policy 8, a touch of reality is required. NPS-UD only came into force after the streamlined planning process for Change 1 had commenced and CRC is working on that issue.

[89] As the Council has noted in response to a number of submissions on this topic, NPS-UD is a higher order document under the RMA and decision makers assessing plan changes will need to consider the implications of the national direction alongside the policies contained in Chapter 6. It is unrealistic to expect these matters to be resolved overnight.

3. Effects on greenhouse emissions and climate change

[90] Three submissions seek changes to the effect that:

- a) there would be no net change in total private vehicle use in Rolleston, Rangiora and Kaiapoi;
- b) there would be no additional development before carbon neutral transport is available; and
- c) development that contributes to emissions, climate change and sea level rise, or result in significant private car dependency would be avoided.

Other submissions raised related issues as well as the Climate Change Emergency declared by CRC and others.

[91] While the Report accepts that the potential effect on greenhouse gas emissions and climate change are essential considerations, it notes that this must be balanced with other considerations, including the need to meet future demand for housing and business. CRC considers that the settlement

³⁴ Quoted at paragraph [23]

pattern promoted through Change 1 will produce a compact urban form that will in fact support reductions in emissions.

[92] In my view the Council's reasoning is robust.

4. Impacts on strategic infrastructure

[93] This component of the Report discusses submissions that concern strategic infrastructure, for example, submissions from Orion New Zealand Limited, Christchurch International Airport Limited, and Lyttleton Port Company, just to mention a few. These matters are submission specific and, to the extent necessary, I will comment on them in Part 4.

5. New Policy 6.3.12 – FDAs

[94] Again it is appropriate to defer comment until Part 4.

6. Changes sought to other provisions, definitions, and Map A

[95] These are also more appropriately considered in Part 4.

7. Other Matters raised

[96] Three matters are mentioned in the Report: information provided by Waimakariri District Council via its submission; why the proposed provisions do not specify a minimum density requirement for the FDAs; and affordable housing³⁵. None of these matters require comment at this stage, and to the extent that comment is required, it will be included in Part 4.

³⁵ Not reasonably practicable primarily because the evidence base is not yet sufficiently advanced.

PART 4

THE SUBMISSIONS

Introduction

[97] There were 54 submissions. Of those some support Change 1 in its entirety, while others supported parts and opposed other parts. This review will focus on the points in opposition to the Change, not those in support. Submissions supporting the Change in its entirety will not be mentioned.

[98] As part of its Report CRC has provided an elaborate spreadsheet which includes a comprehensive summary of the submissions divided into nine categories (based on the provision/issue involved), the response that CRC is recommending to the Minister, and its reasons. This review will simply outline the essential features of the submission and relief sought (as I have interpreted them), and the response of CRC (again as I have interpreted it). Where submissions raise similar issues and seek similar relief, I have grouped them.

Elene Anderson

Submission

[99] There is no mention of the requirement to assess the impact of any proposed development on designated land within the West Melton Observatory zone. Nor is there any recognition of Selwyn District Council's desire to reduce light pollution and create dark sky zones in particular areas. Avoiding or minimising light pollution is supported by central government and is something that all councils should take seriously when planning future development.

Outcome sought

[100] Amend Change 1 to include specific mention of: current and proposed future requirements for protection of the night sky; procedures by which any proposed development would seek to mitigate the impact of night glow and night pollution; and provision for district councils to reject any proposed development on the basis of night sky degradation.

[101] Map A should show areas that are within the West Melton Observatory zone.

CRC response

[102] Reject.

[103] The submission is outside the scope of Change 1 which does not cover the issue of light pollution and the night sky. Although some of the points raised are more appropriate to district plans, the matter could be considered as part of future strategic planning processes or the full review of CRPS. None of the FDAs are located near the West Melton observatory.

Review

[103] Those conclusions were open to CRC.

B A Freeman Family Trust

Submission

[104] Lot 1000 on DP 545059, which has been recently subdivided, is dissected by the PIB with the result that a triangular parcel is excluded from future development. This land is suitable for residential development and services can be extended to it.

Outcome sought

[105] Amend Map A so that the whole of the lot is included in the GPA.

CRC response

[105] Reject.

[106] Given that the changes to Map A are confined to the FDAs, the relief sought is out of scope. However, the issue could be revisited as part of the future strategic planning/ full review processes.

Review

[106] Again conclusions that were open to CRC.

Don Babe

Submission

[107] Three primary submissions are advanced.

[108] First, a significant proportion of the 150,000 people predicted by Our Space to be living in the Greater Christchurch area by 2048 can be accommodated within metropolitan Christchurch. This reflects that resettlement following the earthquakes has now all but finished and the density in Christchurch is low by comparison with other metropolitan areas.

[109] Secondly, the outlying centres are not where development should be. New developments can overwhelm existing facilities leading to further developments being required and cost to society (including travel to work). Therefore, further housing should be provided in areas where people are more likely to use 'active' transport for their journey to work and be discouraged in areas where there are few alternatives to the private motor car.

[110] Thirdly, CRC declared a Climate Emergency in 2019 and the proposal to provide more housing in Rangiora and Rolleston is completely at odds with that statement. Transport produces a large proportion of our emissions which are increasing rapidly. Healthy agricultural practices have more hope of 'locking up' carbon than low density housing.

Outcome sought

[111] Make it more attractive for housing development to be in Christchurch rather than in surrounding settlements, and 'throw the proposed changes out so further development can happen in places that benefit society the most'.

CRC response

[112] Reject.

[113] The FDAs are only one element in the strategy to meet capacity needs and it is anticipated that 45 per cent of those needs will be met by redeveloping Christchurch City. Nevertheless, there is demand for housing in greenfield locations and a wide range of options, including developing greenfields, is consistent with Objective 6.2.2. The matters raised by the submitter could be raised again as part of strategic planning/review processes.

[114] Consolidated urban form promoted through Chapter 6 can support the objective of reducing greenhouse emissions. But that objective needs to be balanced against the other functions and requirements that are placed on Regional Councils to ensure that there is sufficient development capacity.

[115] To the extent that the relief sought has been interpreted by the Council as seeking to amend Objective 6.2.2 and Policy 6.3.3, the Council believes it is out of scope.

Review

[116] While it is true that the submission is unclear about the relief sought, on my reading it is seeking to put an end to FDAs in greenfield areas rather than wanting to amend particular objectives or policies. Given that the whole thrust of Change 1 is to introduce the FDAs I am doubtful that a submission challenging the very core of the Change could be said to be out of scope.

[117] But in the end result the scope issue is not pivotal. CRC concluded that the submission should be rejected on its merits. I am satisfied that conclusion was open to it and, as the Council said, the submitter's issues can be raised again in the near future.

Beachvale Farm Partnership

Submission

[118] Raises issues relating to: land required for stormwater treatment, retention, and drainage paths; the Waimakariri engineers' proposed solution for McIntosh drain and ongoing stormwater management plans with particular reference to 'one off' adverse events; and the minimum lot size (250 m2) for medium density housing close to their farm work areas.

Outcome sought

[119] Wants to be reassured that its farmland at Clifford Road, Pines Beach, would not become landlocked in the event of rezoning and subsequent urban development of its title at Williams Street, Kaiapoi;

[120] Would be averse to any of its remaining Clifford Road land being taken for retention ponds to service any proposed future development

[121] Requires confidence that the upgraded stormwater system would involve better drainage through pipes rather than via the current McIntosh stream.

[122] Prefers any minimum lot sizes to be classified as 'over 60s' housing units as opposed to lower socio-economic housing.

CRC response

[123] Reject.

[124] As to the 'landlocked' issue, CRC believes that it relates to land within the proposed FDA and is best considered by the territorial authority as part of a plan change seeking rezoning. The remaining issues are considered to be outside the scope of Change 1, and in any event are matters that would be best dealt with by the territorial authority at rezoning time.

Review

[125] I do not have any issues with the CRC response.

Bellgrove Rangiora Limited

Submission

[126] The title to Map A should include both GPAs *and* FDAs, and Policy 6.3.11(5) should include reference to FDAs. While the use of the word 'will' in the first two methods of implementing Policy 6.3.12 are supported, the 'watering down' of the third method by use of the word 'should' is questioned.

Outcome sought

[127] Amend the title to Map A to read 'Greenfield Priority Areas and Future Development Areas', include reference to FDAs in Policy 6.3. 11(5)³⁶, and use the word 'Will' in relation to Method 3.

CRC response

[128] Accept in part.

[129] As suggested by the submitter the heading on Map should be amended and reference to FDAs included in Policy 6.3.11(5). On the other hand, the point about watering down the third method is rejected on the basis that this method is 'slightly' different from the other two methods and it is not appropriate for the CRPS to require actions to be undertaken in relation to instruments and strategies made under other statutes.

³⁶ Which relates to monitoring and review.

Review

[130] In my view the Council's reasoning is sound.

Carter Group Limited

Submission

[131] To the extent that Change 1 does not go far enough in identifying land required to enable future development, it fails to give effect to NPS-UD. More land needs to be identified as FDAs. Increasing the housing supply will be crucial in tackling the issues facing New Zealand around housing availability and affordability.

[132] A number of areas at Rolleston and Lincoln identified by the submitter are suitable for residential development. Some land which the submitter considers would be suitable for business /commercial activities is also identified.

Outcome sought

[133] Amend Map A to include the identified areas as FDAs.

CRC response

[134] Reject.

[135] While CRC acknowledges that Change 1 does not give *full* effect to NPS-UD, it contends that the Change does give effect to the extent that is reasonably practicable at this time. As required by Clause 3.7 of NPS-UD the Change responds to an identified shortfall in development capacity so that the councils can give effect to Policy 2 of that Statement. The council is satisfied that the current capacity assessment is sufficiently robust and that the FDAs will provide the necessary capacity at this stage. Any changes necessary to implement other aspects of NPS-UD will be addressed through future processes.

[136] To the extent that the submitter is seeking to add further land, CRC considers the relief sought is outside the scope of Change 1. It also notes that Change 1 does not cover *business* land and for that reason inclusion of such land would be out of scope, but in any event these are issues that can be revisited as part of future strategic planning/ full review processes.

Review

[137] In my view the Councils reasoning about giving effect to NPS-UD is sound. Indeed, Clause 3.7(1)(b) of the Policy Statement expressly recognises that where there is insufficient development capacity wholly or partly as a result of planning documents (which is the situation here), any changes to those documents to address the issue only need to be addressed 'as soon as practicable'.

[138] On the other hand, I am not sure that, except with reference to business land, the scope issue is necessarily as clear cut as the Council might have seen it. Change 1 introduced FDAs via Map A and it is at least arguable that changes to *their shape* (but not the addition of new ones) is within scope. In the end result, however, I agree that this streamlined process is not the right time to consider altering the

FDAs. When the CRPS is reviewed in the near future the full implications of adding land can be properly assessed with the benefit of updated information and a full hearing.

Xiaojiang Chen

Submission

[139] With reference to Policy 6.3.7³⁷ density in rural-residential developments should be up to 5 households per hectare (average 2000 m² per lot) which is a sought after size in the housing market. It is to fill the gap between urban and rural density.

[140] In relation to Policy 6.3.9³⁸ an Outline Development Plan (**ODP**) should only include GPAs and FDAs that can be well defined in the district plan. It should not include the rural-residential development area. Rural-residential development should only be restricted by the relevant policies and rules, thereby providing flexibility and reducing the work associated with updating the ODP or plan changes.

Outcome sought

[141] Modify Policy 6.3.7 to provide for a density up to 5 households per hectare for rural-residential development.

[142] Delete or modify Policy 6.3.9(6) which requires an ODP for rural-residential developments.

CRC response

[143] Reject.

[144] Apart from minor consequential amendments, neither policy is amended by Change 1 and the requested changes are outside the scope of Change 1. The issues raised by the submitter can be raised as part of the future strategy/review processes.

Review

[145] I agree.

Christchurch International Airport Limited

Submission

[146] FDAs should not be within the 50dB Ldn air noise contour at Kaiapoi. Alternatively, if FDAs are approved in those areas, they should only allow commercial development. To better provide for the protection of strategic infrastructure and ensure that reverse sensitivity effects are avoided, the submitter seeks amendments to Policies 6.3.7 and 6.3.12.

³⁷ Residential location, yield and intensification.

³⁸ Rural-residential development.

[147] The airport company also seeks recognition of the airport as a 'Key Transport and Economic Node' to recognise the unique characteristics of the airport as a major employment, tourism and transport activity centre, in the Canterbury region and South Island.

Outcome sought

[148] FDAs on land falling within the 50dB Ldn air noise contour should be limited to development for non-sensitive activities only. No further residential development within the contour that would be inconsistent with Policy 6.3.5(4) should be allowed. Alternatively, Kaiapoi land within the contour should not be identified as a FDA.

[149] Amend Policy 6.3.7(1)³⁹ so that it is subject to Policy 6.3.5⁴⁰.

[150] Amend Policy 6.3.12(3) to ensure that the timing and sequence of development is appropriately aligned with the protection of infrastructure and with the provision and protection of the strategic transport network

[151] Identify the airport as a Key Employment and Transport Node on Map A.

CRC response

[152] Accept in part.

[153] No amendment to reflect noise contours is necessary because any development underneath the 50dB Ldn noise contour will need to comply with Policy 6.3.5 and will thereby be limited to non-noise sensitive activities. Given that FDAs have been identified as appropriate for urban growth and any development will need to comply with Policy 6.3.5, CRC does not support the alternative of deleting them where the contour applies. It also notes that remodelling of noise contours is being undertaken and that this could inform future changes to CRPS.

[154] The request to amend clause 6.3.7(1) is beyond the scope of Change 1 because, apart from minor consequential amendments, Change 1 does not change that provision.

[155] For the reasons advanced by the submitter it is appropriate to amend Policy 6.3.12(3).

[156] The 'node' proposal is outside the scope of Change 1 because the Change does not identify any 'activity centres' or contain any associated policy provisions. That matter can be considered as part of future planning strategy/review processes.

Review

[157] The only part of the CRC response that concerns me is the conclusion that the request to amend 6.3.7(1) is out of scope on the basis that the Change 1 amendments to it are of a 'minor consequential' nature.

³⁹ Which concerns residential greenfield development.

⁴⁰ Integration of land use and infrastructure.

[158] My impression is that the Change 1 amendments to that provision are much more significant. With reference to residential opportunities in Greater Christchurch, Change 1 alters Policy 6.3.7(1) as shown in bold:

*1. Subject to Policy 5.3.4 **and Policy 6.3.12** residential greenfield ~~priority area~~ development shall occur in accordance with Map A. ~~These areas are sufficient for both growth and residential relocation through to 2028.~~*

In other words, these alterations expand the operation of the policy to accommodate Policy 6.3.12 which is really the engine room of Change 1. Whereas the original message was that GPA development was to occur in accordance with Map A and that this would be sufficient through to 2028, that is no longer the situation under Change 1.

[159] Although this does not necessarily mean that the amendment sought is within scope, I believe that in the context of this streamlined process it is safest to assume that it is in fact within scope. On this basis it becomes necessary to consider the proposed amendment on its merits. While the additional reference sought might be technically unnecessary, I do not see any harm in emphasising that residential greenfield development will need to comply with Policy 6.3.5 (especially in relation to subclause (4) which is the concern of the Airport Company).

[160] Ultimately, however, it will be for CRC decide whether it wishes to change its recommendation to the Minister on this point.

Glenn Colensco

Submission

[160] GPAs have not been updated and significant areas have already been utilised. FDAs still leave gaps, especially given that no areas are identified for Christchurch. Residential development has effectively surrounded Part Rural Section 1705 and adjoining properties, compromising the ability of that land to be used for rural purposes.

Outcome sought

[161] Update GPAs and identify FDAs for Christchurch, particularly as they relate to part Rural Section 1705.

CRC response

[162] Reject.

[163] CRC is satisfied that sufficient development capacity is enabled through the FDAs and that in any event the inclusion of additional land as proposed by the submitter is outside the scope of Change 1. Inclusion of additional land could, however, be considered as part of the strategic planning / full review process.

Review

[164] I am satisfied that the conclusion reached by CRC that sufficient capacity is enabled by the Change was open to the Council. While I agree that any suggestion additional FDAs in Christchurch would be out of scope, my earlier observations with reference to the Carter Group submission apply⁴¹.

Voyna Crofts

Submission

[165] Would like to see the Selwyn District Plan amended so that suitable land, particularly around Rolleston, is rezoned into rural-residential or smaller. This would instantly free hundreds of larger sections for housing.

[166] Also concerned about the impact of industrial growth, especially on the Weedons area. The submitter believes 'Selwyn District Council and private developers seem hellbent on wiping it (Weedons) out with their industrial growth rezoning and quarrying applications'.

Outcome sought

[167] None mentioned with reference to Change 1.

CRC response

[168] Reject.

[169] Amendments are sought in relation to the Selwyn District Plan, not the CRPS. Change 1 does not cover rural-residential matters and is not making any changes to the policies on that subject. The relief sought is out of scope. Issues raised could be considered as part of the strategic planning/full review process.

Review

[170] I agree.

Doncaster Development Limited/ Goulds Development Limited and Four Star Developments Limited.

[171] These are two separate submissions but they raise similar issues and seek similar relief. One submission concerns land at Rangiora and the other land at Rolleston.

Submission

[172] Change 1 does not give effect to the NPS-UD in a number of fundamental ways, and the approach taken does not constitute sound planning in the Greater Christchurch context. Since the NPS-UD was

⁴¹ At paragraph [138]

gazetted there have been a ‘flood’ of private plan change applications, and there is clearly a ‘pent up’ demand for further housing and business land.

[173] A number of matters are advanced to demonstrate that Change 1 does not give effect to the NPS-UD.

[174] First, Change 1 only enables councils to rezone *enough* land (and no more) to meet the medium term targets specified in Table 6.2.1a. Combined with the fixed urban/rural boundary, these targets represent a very restricted urban growth management approach which is completely at odds with the intent of NPS-UD. This approach will fail to deliver if the targets underestimate demand, and in any event the Our Space targets are already out of date.

[175] Secondly, the fixed non contestable rural /urban boundary is contrary to the NPS-UD ‘responsive’ planning approach and Objective 6.2.1. The development sector is in a much better position to identify and respond quickly to changing market needs than local government. Whereas a fixed rural/urban boundary can have a negative effect on affordability, a contestable boundary sends an important signal not to ‘land bank’. And the CRC proposal to shortly notify a second change to CRPS for the purpose of implementing Policy 8 of the NPS-UD is not workable if the fixed boundary line remains.

[176] Thirdly, the NPS-UD seeks to achieve well-functioning environments and growth in locations close to employment that are well serviced by public transport and where there is high demand for housing and business lands relative to other areas. The proposed FDAs have not been assessed against these criteria.

[177] The submitters discuss land that they have been unable to develop because the land is outside the urban limits set out in Map A. Doncaster believes the urban boundary is in the wrong place.

[178] It is also submitted that when Our Space identified the FDAs on Map A, it specifically stated that they were only *indicative*, and this intended flexibility has not been recognised by Change 1.

[179] Having noted that the proposed FDAs follow boundaries that were identified 13 years ago (and before the earthquakes), the submitters suggest that these boundaries have not been subject to ‘rigorous testing’ because of the processes that followed the earthquakes. They want their lands to be included in the FDAs.

[180] Finally, it is submitted that the section 32 assessment is inadequate and does not assess the identified options against the NPS-UD objectives and policies.

Outcome sought

[181] Amend Change 1 to provide a ‘more flexible and responsive urban growth management approach’. A variety of ways that this could be achieved are described, including: allowing consideration of development proposals or private plan change requests that are outside existing urban areas, GPAs and FDAs and /or exceed the Table 6.2.1a minimum targets, but give effect to NPS-UD; amending policies; changing the status of FDAs to Greenfield areas with no restriction on the timing or quantum.

[182] If Map A is retained in its current form, amend it by showing the submitters’ lands within the FDAs.

CRC response

[183] Reject.

[184] In response to the 'minimum targets' issue. As required by Clause 3.7 of NPS-UD, Change 1 responds to insufficient development capacity by enabling the territorial authorities to give effect to Policy 2 of that Statement. The new FDAs will provide the Councils with the ability to provide sufficient development capacity by rezoning land.

[185] As to the request for a more responsive and flexible approach and deletion of the fixed boundary. Section 30(1)(ba) and (gb) of the RMA require a balance to be struck between the need to provide development capacity and the need to ensure that it is appropriately integrated with the provision of infrastructure. Chapter 6 provides important certainty regarding future growth of Greater Christchurch. It also remains a key aspect of strategic planning in sub-regions, and enables efficient and effective infrastructure investment. Any changes necessary to address 'responsive' planning policies in NPS-UD, and the need for any additional flexibility to the framework, will be addressed through future processes, including the full review of CRPS.

[186] The request to amend Map A to include the submitters' lands is considered to be out of scope, and the section 32 assessment is believed to be appropriate to the level of detail required.

Review

[187] Subject to my earlier comments about scope⁴², I am satisfied that CRC's reasoning is sound. It will be possible for any adjustment or additions that might be needed in relation to the FDAs to be considered within the relatively near future.

[188] Before leaving this submission I should mention one other matter. The submitter (and some other submitters) suggests that the 'responsive' approach required by Policy 8 is not workable if the fixed boundary line remains. I do not share that view, which perhaps reflects a different interpretation of what a 'fixed boundary' actually means.

[189] The submitter seems to base its proposition on the Ministry for the Environment Guidelines concerning responsive planning which state:

...Councils will need to review their policies relating to unplanned and out of sequence development and in some cases, their policies will need to change to implement NPS-UD. For example, a hard rural urban boundary without the ability to consider change or movement of the boundary would not meet the requirements of the responsive planning process.

What this advice is driving at is a situation where there are *no exceptions* to the boundary and the Policy 8 requirements cannot be accommodated. For present purposes I believe that a fixed boundary, in the sense that I have interpreted it, and the responsive planning approach directed by Policy 8 can live together.

⁴² See paragraph [138]

Eliot Sinclair and Partners

Submission

[190] Change 1 does not allow enough development land to become available. The PIB needs to be flexible to enable more developable land to become available for residential rezoning and development. Further flexibility is also needed to allow for rural-residential development.

[191] In the last few years demand for land has increased rapidly, seemingly at a rate where there is not enough land to meet it. Amendments to policies and strategies can be a long and expensive process and involve delays. The intended repeal of the RMA should also influence amendments to CRPS now.

[192] The PIB has not been reassessed, meaning that only a small area of land has been able to be identified as FDAs. Greater flexibility or a staged approach for the infrastructure boundary and development should be considered.

[193] Change 1 is restrictive and does not provide the flexibility contemplated by Policy 2 of NPS-UD which requires sufficient development capacity over the short, medium and long term. Clause 3.4 of the National Policy Statement explains that development capacity should be 'plan-enabled'. The proposed changes to Chapter 6 do not alleviate the issue of supplying developable land and a more flexible approach is needed. Some of the lands identified as GPAs or FDAs have significant hazard restraints and expected densities might not be readily achieved. CRPS does not allow for rural-residential development that is not within a rural-residential strategy, which reinforces the need for rural-residential strategies to be flexible.

Outcome sought

[194] Allow greater flexibility in the objectives and policies of Chapter 6 in relation to the PIB and priority areas.

[195] Policy 6.3.7(1) should allow residential greenfield development to occur in *general* accordance with Map A and the following provision should be added:

Any residential greenfield development that occurs outside the projected infrastructure boundary or outside of a greenfield priority or future development area must:

(a) Be adjacent to the infrastructure boundary or greenfield priority or future development area; and

(b) Demonstrate the economic demand and need for the development over other development areas;

(c) Have service connections reasonably available to the site.

[196] In relation to rural-residential, amend Policy 6.3.9 so that such development may be provided for by territorial authorities in *general* accordance with an adopted rural-residential strategy, subject to the following:

Each rural residential development proposal and ODP shall be considered on its merits. Every rural residential development proposal shall be assessed on:

- (d) *Demand for rural residential; and*
- (e) *Reasonable connections for servicing and utilities; and*
- (f) *Effects on rural growth and production.*

CRC response

[197] Reject.

[198] In relation to the 'flexibility' issue the Council's response is the same as its response to similar issues raised in the previous submission.

[199] Given that, apart from minor consequential amendments, Change 1 does not alter Policy 6.3.7 (1), the proposed change is out of scope. In any event Policy 6.3.7 specifically relates to residential location, yield and intensification and that the requested relief seeks a 'much broader' policy provision. Currently CRC is formulating criteria in relation to NPS-UD Policy 8. Any changes necessary to address that Policy, or any additional flexibility that might be required to the planning framework, will be addressed through future processes.

[200] The request to amend Policy 6.3.9 is also considered to be out of scope on the basis that Change 1 does not cover rural-residential matters and the policies associated with it are not being altered.

Review

[201] On the flexibility issue I have no problem with the Council's response.

[202] For reasons already given⁴³, I am doubtful that CRC is entitled to conclude that the requested addition to Policy 6.3.7(1) is out of scope. Having said that, I agree with the Council's point that the proposed amendment would produce a much broader policy statement than currently exists under Change 1. Under those circumstance the implications of such a significant change are better considered in the context of a full review.

[203] Unlike the proposed amendment just discussed, I am satisfied the Council is entitled to find that the proposed amendment to Policy 6.3.9 is out of scope, for the reasons it gave.

[204] It follows that I do not see any reason for CRC to alter its recommendation to the Minister in relation to this submission.

Jenny Fisher

Submission

[205] Rigid compliance with the 'hard lines' on Map A is not consistent with NPS-UD and does not allow for flexibility that would open the door for sensible realignment of urban boundaries, as well as providing adequate land to meet housing needs.

⁴³ At paragraph [138]

[206] While Policy 6.3.12 is generally appropriate, it should not be restricted to FDAs. It would be more appropriate if the policy contemplated urban growth outside the overlay where it meets the requirements of the policy. As it stands the policy is giving effect to land needs identified in 2007, only provides a minimum of land which might be inconsistent with NPS-UD, and councils should be able to consider the ‘practicality’ of particular land continuing as rural when it is already surrounded by development.

Outcome sought

[207] Allow for development beyond the lines on Map A, remove reference to FDAs in Policy 6.3.12 and on Map A, and create ‘sensible’ boundaries by allowing for urban development where the land use has changed since the introduction of Map A.

CRC response

[208] Reject.

[209] CRC gave much the same reasons for recommending rejection this submission as it gave for rejecting similar arguments in the Doncaster Development submission⁴⁴.

Review

[210] I do not have any problems with the recommendation.

John Grigg

Submission

[211] Seeks to show that with the Climate Emergency declaration and the National Policy Statement for Freshwater Management it will be ‘extremely difficult and cost prohibitive’ to grant rezoning for the purpose of adding more houses. Building more and more houses is unsustainable and under the Emergency Declaration and NPS-UD there is no room for ‘ethically’ rezoning land for residential use.

Outcome sought

[212] None has been specifically stated.

CRC response

[213] Reject.

[214] Land use planning such as the consolidated urban form promoted through Chapter 6 can support the objective of reducing greenhouse emissions. This objective must be balanced with other functions and requirements placed on regional councils, including section 30(1)(ba) which requires CRC to ensure that there is sufficient development capacity in relation to housing and business.

⁴⁴ See paragraph [185]

Review

[215] I have no problem with this.

David Hawke

Submission

[216] Policy 6.3.12 does not presently meet the anticipated environmental result in 6.4(16)⁴⁵. Focusing on Rolleston, the new greenfield areas are even further from the town centre than existing developments and there is no formal provision for either active transport (for example, separate cycleways) or public transport.

Outcome sought

[217] Insert a phrase in 6.3.12 that requires no net change in total private vehicle use across Rolleston, Kaiapoi and Rangiora.

CRC response

[218] Reject.

[219] After repeating the reasons for rejecting the previous submission the Council comments that it is not 'practicable or appropriate' to grant the relief sought.

Review

[220] I agree.

Mary Herrick

Submission

[221] Rolleston requires more greenfield development areas. It is likely that the FDAs around Rolleston will be developed and sold out within the next 5 years or so, and further areas should be identified now.

[222] Selwyn District Council should be able to identify its FDAs on its own. Yet last year Christchurch City Council opposed a proposed development in Rolleston, which raises questions about the role of the GCP.

Outcome sought

[223] Allow Selwyn District Council to identify further FDAs around Rolleston and add them to Map A.

⁴⁵ Transport infrastructure appropriately manages congestion, dependency on private vehicles is reduced, emissions and energy use from vehicles is reduced, and transport safety is enhanced.

CRC response

[224] Reject.

[225] Under Clause 3.19(3) of NPS-UD 'Tier 1' local authorities (which includes CRC and the Selwyn and Waimakariri District Councils) are *jointly responsible* for preparing the required Housing and Business Development Capacity Assessment.

Review

[226] I agree.

Adrianna Hess

Submission

[227] The possibility that we will not have affordable transportation to increasingly disparate suburbs needs to be considered. Rezoning should be for medium density residential apartments rather than sprawling single dwellings. If this is not possible, bike lanes that are separate from traffic should be incorporated.

Outcome sought

[228] None specifically stated.

CRC response

[229] Reject.

[230] Policy 6.3.12(2) already requires any development within FDAs to promote the efficient use of urban land. It also requires opportunities for housing choices and a range of dwelling types to be provided. A minimum density of 12 households per hectare within FDAs has already been agreed by the GCP when adopting Our Space and will be given effect through subsequent district planning processes. However, constraining development to medium density residential apartments alone is not supported, and bicycle lanes are a District Council matter.

Review

[231] I do not have any problem with this.

Hughes Developments Ltd

Submission

[232] NPS-UD requires *at least* sufficient feasible development capacity to meet expected demand. Despite an acknowledged *urgent* need to meet an identified capacity shortfall, Policy 6.3.12(1) does not respond to that need; it simply establishes a process by which capacity shortfall may be demonstrated, and that defeats the purpose of fast tracking the change.

[233] There is significant scope for the GPC to 'relitigate' the sufficiency or otherwise of development capacity, which will result in further delays and other problems. In the context of the current national housing shortage this is unacceptable and potentially unlawful in terms of NPS-UD.

[234] Potentially the actual capacity is lower than described in Our Space, let alone what has actually transpired since the last assessment in 2018. According to the official guidance documents for NPS-UD, housing capacity assessments should include capacity that is 'feasible and reasonably expected to be realised' and the intent is to 'err on the higher side of realistic supply, to avoid an under supply of development capacity'. A lack of agreement within GCP on this issue is noted.

[235] Targets in Table 6.1 are also of concern. The drafting allows these targets to be treated as limits or maximums on available capacity, rather than bottom lines as required under NPS-UD. This interpretation is supported by the guidance documents.

[236] An analysis commissioned by the submitter illustrates that the shortfall in feasible residential development capacity in Selwyn (particularly Rolleston) is significantly more acute than the Our Space assessments reveal. The Our Space data is close to 4 years old.

Outcome sought

[237] Delete Policy 6.3.12(1).

CRC response

[238] Reject.

[239] Policy 6.3.12 enables additional development capacity to be brought forward through urban zoning within identified FDAs. Clause 6.3.12(1) is an important trigger that would initiate such a response to a capacity shortfall. A balance is required between enabling development capacity and the provision of infrastructure. Bringing forward capacity beyond that required is less likely to achieve the wider NPS-UD purpose of establishing a well-functioning urban environment, or the overarching purpose of the RMA.

[240] Nevertheless, in addressing a capacity shortfall territorial authorities can consider the capacity that should be enabled. The identified FDAs are considered sufficient to cater for anticipated housing demand over the medium to long term. On completion of three-yearly capacity assessments Policy 6.3.12 will provide an important trigger for addressing any shortfalls.

Review

[240] Subject to the remarks that follows, I am comfortable with this response.

[241] The submission raises the possibility that given the current housing shortage the Change 1 approach is potentially unlawful. I find it difficult to accept that proposition. Policy 8 is one of the new tools that NPS-UD has provided to address this issue, but it is clearly contemplated that implementing that Policy will take time (no timeframe has been set by the Policy Statement). Change 1 had been notified before NPS-UD became operative and GCP will need time to formulate its policy. In my view any suggestion of unlawfulness is wide of the mark.

Kainga Ora – Homes and Communities

Submission

[242] Rather than the monitoring of housing and business capacity having to be undertaken by GCP (as currently required by Policy 6.3.12(1)), it should be possible for it to be undertaken by the relevant local authority.

[243] Also remove the unnecessary cross-references in Policy 6.3.12(2)-(6) to Objectives 6.2.1 and 6.2.2 and related policies. When Chapter 6 is read as a whole the objectives and policies cross-referenced will apply anyway.

Outcome sought

[244] Insert 'or the relevant local authority' in 6.3.12(1).

[245] Delete the cross-references in Policy 6.3.12(2) to various objectives and related policies and substitute the word "Enabling" for the word "Supporting" at the beginning of Subparagraph (b) of Clause 2.

[246] Delete the remaining clauses, or if they remain, refer to FDAs in 6.3.12 (5).

CRC response

[247] Accept in part.

[248] With reference to Policy 6.3.12(1) the Council accepted the proposed addition which it considers will not offend the requirement to act collaboratively.

[249] It declined to delete the cross-references in subclause (2) on the basis that they will assist CRPS users by drawing attention to key related policies and are consistent with the cross-referencing used in the rest of Chapter 6. The Council accepts that the word 'Enabling' will better align with the Minister's direction⁴⁶. And the proposal to delete subclause (3) was declined on the basis that the cross-references would draw attention to key related policies.

Review

[250] In my opinion the conclusions reached by CRC are sensible.

Lyttleton Port Company

Submission

[251] At present the largest development in the port's history is underway, with a major focus being to move a significant part of the operations east to allow for growth. These developments are enabled by the Lyttleton Port Recovery Plan.

⁴⁶ See paragraph [7]

[252] Expansion of the port area involves land reclamation and regional resource and land use consents have been obtained. Currently around 10ha has been reclaimed and around 20ha is to be reclaimed over the next 30 years. This area is not presently shown as 'land' on Map A. Identifying it on Map A and extending the PIB to include this area is an essential first step to updating the district planning maps.

[253] When the company sought this relief in its submission on Our Space, the officer's report stated that the appropriate process would be a review of Chapter 6.

[254] It is essential that the Port Company's facilities are not adversely affected by reverse sensitivity effects. The company processes cargo day and night. The CRPS framework should ensure that sensitive activities are not located in close proximity to this strategic infrastructure.

[255] Change 1 should recognise the importance of the strategic transport network and ensure that any future development will not give rise to constraints or adverse effects on that network.

Outcome sought

[256] Amend Map A to include the reclamation project within the PIB and existing urban area.

[257] Amend Policy 6.3.7(1) so that it is also subject to Policy 6.3.5.

[258] Amend Policy 6.3.12(3) to by adding the words 'and protection' (of infrastructure) 'and is appropriately aligned with the provision and protection of the strategic transport network'.

CRC response

[259] Accept in part.

[260] Changes to Map A are confined to the FDAs and the proposal to amend the PIB is out of scope, but it could be considered as part of the full review. The changes proposed for Policy 6.3.7(1) are also out of scope. In any event, Policy 6.3.12 makes reference to Policy 6.3.5 and when Chapter 6 is read as a whole this policy will apply regardless. While it is appropriate to add the words 'and protection' to Policy 6.3.12(3) the other proposed addition is unnecessary.

Review

[261] Clearly the Council was right when it concluded that the proposed changes to the PIB are out of scope. While for reasons already given⁴⁷ I am doubtful that the change proposed for Policy 6.3.7(1) can be properly rejected on the basis that it is out of scope, that is not critical to the outcome. I accept that the Council is right when it concludes that the additional words are unnecessary. I also agree that it is unnecessary to add the other words proposed by the submitter.

⁴⁷ See paragraphs [157] –[159].

Gary Skerten, Susanna Michell, Glen Morgan, and David Madeley

[262] These submitters ask for their lifestyle blocks, which are currently zoned rural, to be rezoned residential. As the Council rightly concluded, there is no jurisdiction for this submission to be considered or granted.

Marama Te Wai Limited

Submission

[263] This company has lodged a private plan change request and wants to ensure that Change 1 will provide an appropriate framework for proposals such as theirs. It submits that such proposals will give effect to NPS-UD and will assist in addressing the current housing crisis by releasing more appropriately located land for a variety of housing types in response to demand. This will produce greater competition.

Outcome sought

[264] Amend Change 1 to provide a more flexible and responsive urban growth management approach. This could include enabling full consideration of plan changes (including the submitter's rezoning submission) which are consistent with NPS-UD but fall outside the FDAs, GPAs and existing urban areas.

CRC response

[265] Reject.

[266] In broad terms this submission raises matters that have already been traversed with reference to earlier submissions, and the reasons given by the Council for rejecting it follow similar lines.

Review

[267] The conclusions reached by the Council were open to it.

Markham Trust

Submission

[268] Although the Trust's land at Rolleston is within the proposed FDA, lands on either side are shown as rural on Map A despite the fact that they have been consented as Special Housing Areas. This 'miscommunicates' urban development at Rolleston. The majority of the greenfield areas shown on Map A have likewise been physically developed or have subdivision consents in place. Showing what is in reality an existing urban environment as greenfields overstates the current capacity at Rolleston.

[269] Rolleston has experienced high rates of growth over the last decade. All the processes from identifying a capacity need to building on the sections takes a long time. Policy 6.3.12(1), which only

enables development after monitoring by GCP, places an unnecessary barrier to the timely delivery of growth in Map A locations that have long been identified as suitable for urbanisation. It would be better framed as a method of implementing the 6.3.12 policy.

[270] NPS-UD sets *minimum* capacity requirements and is not a direction to prevent more than the minimum occurring. There is no reason to prevent district plans from providing more capacity than is required, provided such areas are able to be appropriately serviced and integrated.

[271] There is very limited 'development-ready' capacity in Rolleston, certainly within the medium term. Given the time lag in getting land rezoned and serviced, the FDA block covered by the submission should be GPA⁴⁸ rather than FDA.

[272] Map A does not recognise existing urban areas that have already been consented or are in the process of being developed for residential activities under the former Housing Accord and Special Housing Areas legislation. Instead these areas are shown as if they are rural land. For Map A to be a genuine representation of development capacity, already developed or subdivision consented greenfield areas should be identified.

Outcome sought

[273] Delete clause (1) and transfer it to be a method of implementing Policy 6.3.12.

[274] Amend Map A to identify the FDAs within Rolleston as GPAs.

[275] Update Map A to show existing or consented urban areas (including those on either side of the Markham block) as either 'existing urban' or 'greenfield'⁴⁹.

CRC response

[276] Reject.

[277] To a large extent the reasons for rejecting most of the points raised by the submitter have already been covered. With reference to the suggestion that 6.2.12(1) should become a method, the Council reasons that Method 2 of implementing Policy 6.3.12 already requires local authorities to undertake regular monitoring of housing and business development capacity and this provides the evidence base to inform an assessment under 6.3.12(1). Thus, rather than being a method, Policy 6.3.12(1) is the result of existing Method 2.

[278] Amending Map A to show FDAs as GPAs is rejected on the basis that the approach for GPAs differs from the approach for FDAs. GPAs and the supporting policies were part of a recovery strategy following the earthquakes. At least to some extent the 'time lag' concerns expressed by the submitter would apply in both cases.

[279] While the Council understood the submitter's request for Map A to be updated, it decided that this could be addressed as part of the full CRPS review.

⁴⁸ In the body of its submission the Trust says the land should be shown as "Greenfield" and in the relief sought refers to "Greenfield development areas. My interpretation is that the reference was intended to be to FDAs

⁴⁹ See previous footnote

Review

[280] All of these conclusions were open to the Council. I might add that given to proximity of the full review it would probably have been unwise for CRC to have attempted to address the last point within the constraints of this streamlined process.

Yvonne McDonald

Submission

[281] Climate change requires a reduction in the use of personal motor vehicles. Allowing additional low density residential development that is well separated from Christchurch city without providing for carbon neutral transport or requiring higher density to foster walking or cycling to work, does not support the Government's Climate Emergency Statement. Nor does it follow the recommendations of the Climate Change Commission.

Outcome sought

[282] No additional development before carbon neutral transport is available.

CRC response

[283] Reject.

[284] The Council concluded that the relief sought is not practicable or appropriate.

Review

[285] I agree.

New Zealand Defence Force

Submission

[286] While Policy 6.3.9(5)(e) specifies that rural-residential development is not to compromise the Burnham Military Camp or the West Melton Military Training Area, it should include other military establishments.

Outcome sought

[287] Include RNZAF Weedons depot and communications site, Glentunnel ammunitions storage depot, and the Rangiora airfield in the policy mentioned above.

CRC response

[288] Rejected because it is not within the scope of Change 1 and it can be considered as part of the future strategy/full review processes.

Review

[289] I agree.

Orion New Zealand

Submission

[290] Its primary concern is to ensure that there will be effective integration and protection of infrastructure in the FDAs. The company will play a central role in developing and integrating the necessary electricity network in these areas.

[291] In order to effectively operate the electricity distribution network Orion has numerous sub-transmission and distribution lines, substations, and other network assets near residential areas. Over time residential developments are likely to encroach on the infrastructure which can give rise to reverse sensitivity effects on the infrastructure.

[292] Policy 6.3.12 should make specific reference to the protection of infrastructure.

Outcome sought

[293] Policy 6.3.7(1)⁵⁰ should be made subject to 6.3.5⁵¹.

[294] Add the following words (in italics) to 6.3.12(3) ‘ The timing and sequence of development is appropriately aligned with the provision *and protection* of infrastructure ...”

CRC response

[295] Accepted in part.

[296] The proposed amendment to 6.3.7(1) is out of scope, but when Chapter 6 is read as a whole it is unnecessary anyway. However, inclusion of the additional words in Policy 6.3.12(3) is appropriate.

Review

[297] Although my earlier concerns about the scope conclusion⁵² are repeated, I agree with the recommendation.

⁵⁰ Which requires residential greenfield development to be in accordance with Map A

⁵¹ Which concerns the integration of land use and infrastructure

⁵² Paragraph [158].

Submission X⁵³

Submission

[298] Development of good farm land in Selwyn for housing should stop. Food production is needed and once housing is established on good rural land the situation cannot be reversed. Only land at Rolleston that is on poor soils should be used.

[299] Any extension should be on the south-western boundary of Rolleston to include the triangular area from Dunns Crossing Road, Brookside Road and Ellesmere Junction Road. This could accommodate hundreds of houses and there is already a reticulated water supply in the vicinity.

Outcome sought

[300] Amend the boundaries proposed for housing development at Rolleston to include the area described above.

CRC response

[301] Reject.

[302] Change 1 implements Policy 2 of NPS-UD and sufficient development capacity is enabled by the FDAs. Addition of further land is out of scope and in any case a significant area of land is involved. This is best considered as part of future strategic planning/full review processes.

Review

[303] Apart from possible issues concerning scope⁵⁴, I am comfortable with the Council's reasons for recommending rejection of this submission.

Pinedale Enterprises Limited and Kintyre Pacific Holdings Limited/Kevin and Bonnie Williams

Submission

[304] These two separate submissions are being considered together because they both focus on land for *business* purposes. Apart from the fact that they are seeking relief in relation to their own blocks, both submissions seek a similar outcome.

[305] The two companies own a block of land north of Rolleston and Mr and Mrs Williams own land adjoining the southern boundary of the Christchurch Industrial Heavy zone. In each case the submitters say that a full assessment of their proposal against NPS-UD and other documents demonstrates that rezoning of their land for business purposes would be entirely consistent with all planning documents.

⁵³ The name of the submitter has been redacted by CRC

⁵⁴ Paragraph [138].

[306] According to the submitters Change 1 does not give effect to NPS-UD in a number of ways.

[307] First, the Selwyn and Waimakariri district plans are under review now and are to be notified shortly. Changes to CRPS are required *now* to enable these reviews to respond to and implement the NPS-UD.

[308] Secondly, the existing supply of business land is treated as sufficient even though Our Space accepted that there are inadequacies in the business capacity assessment, and other evidence confirms an inadequacy in supply.

[309] Thirdly, the 'fixed non contestable rural/urban boundary' is contrary to the 'responsive planning' approach required by NPS-UD. The development sector is in a much better position to identify and respond to quickly changing market needs than local government. Consequences of a fixed boundary can lead to excessive land price inflation and 'land banking'. A proposed future change to CRPS to respond to Policy 8 of NPS-UD will not work if the fixed boundary remains.

[310] Fourthly, NPS-UD seeks to achieve well-functioning environments and growth in locations that are close to employment, that are well serviced with public transport, and where there is high demand relative to other areas. The section 32 assessment is silent on these matters.

[311] Fifthly, NPS-UD requires consideration of the advantages and disadvantages of different spatial scenarios for achieving the purpose of the Future Development Strategy. This analysis has not been undertaken. Instead Change 1 has simply relies on work done 13 years ago.

[312] Sixthly, Change 1 implements FDAs identified in Our Space. But those locations are stated in that document to be 'indicative only'. Despite this Change 1 restricts urban development to the FDAs and there is no ability for land outside the FDAs to be considered, even though NPS-UD is very clear that a fixed 'immoveable' rural/urban boundary is contrary to it.

[313] The submissions develop the proposition that there should be FDAs for business at north Rolleston and adjacent to the existing Christchurch industrial zone without the need to insert into the CRPS a Table equivalent to the existing Table 6.1. In support of that proposition the submitters note: the proposed FDAs follow the PIB identified 13 years ago and have not been subject to rigorous testing (because of events following the earthquakes); there evidence of need; there are acknowledged inadequacies in the Our Space business capacity assessment; and the section 32 evaluation fails to assess the identified options against the NPS-UD objectives and policies.

Outcome sought

[314] Amend Change 1 by showing the land outlined on a plan attached to the submission as 'Future Development Area-Business'

[315] Amend the Map A legend by identifying the existing FDAs as 'Future Development Areas-Residential' and adding 'Future Development Areas-Business' with a different colour.

[316] Delete Policy 6.2.1(3) which prevents urban development outside existing urban areas or GPAs unless expressly provided for in the CRPS.

[317] Amend 6.3.6, which concerns business land, to include reference to the FDA-Business.

[318] Delete reference in Policy 6.3.12 to ‘business’ so that that policy is confined to residential.

[319] Amend Change 1 to provide a more flexible and responsive urban growth management approach, including enabling consideration of plan changes which are outside the FDAs, GPAs and existing urban areas, but are consistent with NPS-UD.

CRC response

[320] Reject.

[321] In relation to the proposed amendments to Map A CRC’s response is that sufficient land for future development has already been included in the FDAs and consideration of the land identified by the submitters could be considered as part of the strategic planning/review process. The Council also believes that the addition of land is outside the scope of the Change.

[322] The request to delete 6.2.3(1) is also considered to be out of scope. The Council added that it is currently formulating criteria in response to Policy 8 and that the implications of NPS-UD direction will need to be considered alongside the policies contained in Chapter 6. Any additional flexibilities that might be required will be addressed through future processes, including the full review.

[323] It is the Council’s view that scope issues also arise in relation to the request to amend Policies 6.3.6 and 6.3.12 because no FDAs with regard to *business* are identified in Change 1. The council also observes that identification of any additional business lands can be considered as part of strategic planning/full review.

[324] In response to the request for more flexibility the Council acknowledges that Change 1 has not given full effect to NPS-UD but contends that it has done so to the extent that is ‘reasonably practicable’. Other reasons already covered with reference to other submissions are also given for rejecting the ‘flexibility’ submission.

Review

[325] Just a small point here which has probably been picked up by CRC already. The CRC spreadsheet duplicates reference to the Pinedale submission on Policy 6.3.6(5) and the first entry needs to be deleted.

Trices Road Rezoning Group

Submission

[326] These landowners are working together on a rezoning proposal for their land at Prebbleton. They have lodged a private plan change request seeking residential zoning.

[327] They contend that Change 1 fails to give effect to NPS-UD for essentially the same six reasons mention in the previous submission. The submitters then trace the FDAs back to the PIB identified when Chapter 6 was first prepared 13 years ago. They believe there is now only one year of growth land available.

[328] Given enhanced accessibility by virtue of the extension to the southern motorway, they contend that failure to include any FDAs at Prebbleton is contrary to NPS-UD. They point out that the directive requires, as a minimum, provision of a variety of homes to meet the needs, in terms of type, price, *and location*, of different households. Moreover, the section 32 assessment is inadequate and incomplete.

Outcome sought

[329] Amend Change 1 to provide a more flexible and responsive urban growth management approach. The same matters advanced by the Doncaster Development submission about how this might be achieved⁵⁵ are mentioned.

[330] If Map A is retained in its current form, amend it by showing the submitter's site as a FDA-Residential.

[331] Delete Objective 6.2.1.3 which prevents developments outside existing urban areas or GPAs unless expressly provided for in the CRPS.

[332] If FDAs are retained, amend 6.3.1(3) and (4) by including reference to FDAs, and delete the qualification in 6.3.1(3) 'where it supports the recovery of Greater Christchurch'.

CRC response

[333] Reject.

[334] In substance the Council's reasons for rejecting this submission were the same as the previous submission. In response to the criticism of the section 32 report the Council considers that its responsibilities have been discharged to 'an appropriate level of detail'.

Review

[335] I have no problem with this recommendation.

Manmeet Singh/ Lynn and Malcolm Stewart, Lynn and Carol Townsend, and Rick and Diane Fraser

Submission

[336] This is another situation where separate submissions have been considered together because they raise similar issues and seek similar relief. Both submitters own separate blocks of land at Lincoln. In each case they have lodged a submission on the Proposed Selwyn District Plan seeking Residential General rezoning for their land.

[337] The submitters want to ensure that Change 1 provides an appropriate planning framework for proposals such as theirs. They consider inclusion of their lands would give effect to NPS-UD, assist in

⁵⁵ See paragraph [181]

addressing the current housing crisis by releasing more appropriately located land for a variety of housing types, and add greater competition.

Outcome sought

[338] Amend Change 1 to provide a more flexible and responsive urban growth management approach. This includes enabling full consideration of plan changes (including the submitter's) which are outside FDAs, GPAs, and existing urban areas, but are consistent with NPS-UD or its 2016 predecessor.

CRC response

[339] Reject for reasons have already been traversed.

Review

[340] No comment is required.

Waimakariri District Council

[341] The purpose of this submission is to elaborate on work being done by the District Council and no comment is required on my part.

G W Wilfield Ltd

Submission

[342] Map A does not provide for FDAs around West Melton where the availability of vacant lots for new residential development is extremely limited. Proposed Plan Change 67 of the Selwyn District Plan provides for new growth areas adjoining the existing township, but this is not reflected in Map A.

Outcome sought

[343] Amend Map A to include the land shown on the Outline Development Plan attached to the submission.

CRC response

[344] Reject for reasons have already been covered.

Review

[345] No comment is required.

Urban Estates Limited

Submission

[346] This company is actively involved in land development in Rolleston and Prebbleton. It has made two zone change applications to Selwyn District Council.

[347] Change 1 does not give effect to NPS-UD because it will not satisfy market demands. The National Policy Statement calls for all zone changes to be given the opportunity to be heard so that each specific application can be considered 'on its merits'. There should be no 'mechanism' to hold back zone change applications from being heard.

[348] Throughout the country the current market is 'out of control' and the market should set the speed of development. Christchurch stayed steady for many years after the earthquakes because there was good forward planning which kept ahead of the selling rates. It is clear that the numbers predicted in the CRPS will be used up well in advance and NPS-UD requires the CRPS to be better prepared for the future.

[349] Change 1 is producing 'more of the same'. Eventually the time will come when the Christchurch market is stretched again and CRPS should follow the lead of NPS-UD and 'open it up'. This will lead to better market conditions for home owners.

Outcome sought⁵⁶

[350] Change 1 should be amended to allow all 'logical' zone change applications to be considered on their merits and go through the democratic hearing process. The company would like additional land to be added to the FDAs.

CRC response

[351] Rejected for essentially the reasons discussed earlier where the same issues had arisen.

[352] The suggestion that Change 1 does not give effect to NPS-UD is also rejected for similar reasons to those previously described.

Review

[353] Although my earlier comments about whether a request to add further land is in scope apply⁵⁷, I am satisfied that the recommendation is sound.

⁵⁶ While the submission did not expressly seek the outcome that I have described, I think it can be safely inferred.

⁵⁷ Paragraph [138]

Andrew Long

Submission

[354] A key concern is that Objective 6.2.1a and Map A, which provide for a further 30,650 households out of Christchurch, will generate additional vehicle trips each day.

[355] Policy 6.3.12 fails to achieve three requirements in Part 2 of the RMA: first, the additional vehicle trips that will be generated are in no way avoided, remedied or mitigated by Change 1; secondly, the management of significant risks from natural hazards has not been addressed; thirdly, CRC is required to have particular regard to the maintenance and enhancement of the quality of the environment and climate change, and this has not been addressed.

[356] Several other matters are also unclear: in what ways Policy 6.3.12 gives effect to Policy 25 of the New Zealand Coastal Policy Statement, which directs that changes in land use that would increase the risk of coastal hazards are to be avoided; how a number of objectives and policies in CRPS⁵⁸ that reflect the requirements of Part 2 of the Act could be overridden by Policy 6.3.12; and how territorial authorities would be able to prepare/amend district plans that give effect to both those matters.

[357] Notwithstanding that CRC and its partners should be 'strong' in planning for climate change, Policy 6.3.12 can have no other outcome than 'increase emissions and exacerbate climate change and sea level rise'.

Outcome sought

[358] Amend Policy 6.3.12(6), which requires the effects of natural hazards to be avoided or appropriately mitigated, by adding:

... including by:

a Avoid[ing] residential activities that cannot be supported by existing business and/or existing or demonstrable future employment opportunities.

b Avoiding residential development that contributes to emissions, climate change and sea level rise.

c Avoiding residential development in areas that result in significant private car dependency, that result in greater travelling distances to employment and education in particular, where there are few opportunities for active or public transport, including to access employment and education, and which would result in greater overall energy consumption.

CRC response

[359] Reject.

[360] Although the reasons for rejecting this submission have already been discussed with reference to earlier submissions, one additional matter is mentioned by the Council: arguably it would not be

⁵⁸ Including in particular, Objective 5.2.1, Objective 11.2.1, Objective 11.2.3, Policy 11.3.5, Objective 14.2.1 Policy 14.3.2 and Objective 16.2.1

possible for a developer to meet any of the proposed additional conditions which would therefore be contrary to CRC's obligations to appropriately balance the section 30 functions of the Regional Council and its responsibilities under NPS-UD.

Review

[361] I agree, and would add that this streamlined planning process is probably not the appropriate environment to resolve what could be quite far reaching amendments to Change 1.

199 Johns Road Ltd/Allan Downs Ltd/Carolina Homes Ltd

Submission

[362] Although these are three separate submissions, they all submit that Map A is produced at such a scale that edge details are difficult to confirm. They cannot tell whether the change to the GPA in the vicinity of Southbrook, Rangiora, is intentional (as a result of flood modelling), or an error.

Outcome sought

[363] Confirm the correct PIB, FDAs and GPAs boundaries and update Map A accordingly.

CRC response

[364] Reject.

[365] Alteration of the PIB boundary is outside the scope of Change 1. Whilst the proposed change to Map A identifies the FDAs to the full extent of the PIB, there are flood risk constraints in a number of locations that will impact on the actual developable area within the FDAs. These constraints will necessarily be considered through the development of detailed structure plans and at the time of rezoning/subdivision.

Review

[366] I do not have any problem with this explanation and recommendation.

Alison Smith, David Boyd, John Blanchard

[367] Although this was a late submission it was understandably received by the Council.

Submission

[368] The submitters own land at Rolleston and they have lodged a submission on the Proposed Selwyn District Plan seeking General Residential zoning. Like a number of the submissions already considered, they want to ensure that Change 1 provides an appropriate planning framework for proposals such as theirs to be considered.

Outcome sought

[369] Amend Change 1 to provide a more flexible and responsive urban growth management approach including enabling full consideration of plan changes which are outside existing urban areas/GPAs/FDAs but are otherwise consistent with NPS-UD.

CRC response

[370] Rejected on the same basis as earlier submissions that raise the same point.

Review.

[371] No comment is required.

A final matter

[372] Earlier in this report⁵⁹ I mentioned that CRC is recommending to the Minister that some changes should be made to the principal reasons and explanation for Policy 6.3.11. The question arises whether it is within the Council's power to recommend those amendments.

[373] The Council has explained that both the Bellgrove and Kainga Ora submissions sought changes to Policy 6.3.11(5) so that reference to FDAs was included. Other submissions (Doncaster, Goulds, Pinedale, and the Trices Road group) also sought to have the Policy amended without explicitly indicating how they wanted it to be changed. The Council decided to recommend the changes to the principal reasons and explanation to make it clear that Policy 6.3.11 applies to both the recovery period and the longer-term time frames set out in NPS-UD.

[374] While the recommended changes might be close to the margin, I am satisfied that it is within the power of CRC to recommend them for the sake of clarity. Given the streamlined context I do not believe other submitters or the wider public will be prejudiced.

⁵⁹ Paragraph [41].

PART 5

CONCLUSIONS

[376] Having reviewed the section 32 evaluation I am satisfied that it contains a level of detail that corresponds to the scale and significance of the effects mentioned in section 32(1)(c) of the Act and otherwise meets the statutory requirements for such evaluations. If anything, it contains detail that probably exceeds those requirements. In the end result the amendments to Change 1 that CRC is recommending to the Minister are quite narrow and that is reflected in the section 32AA evaluation which I consider also meets the statutory requirements.

[377] I have also reviewed the CRC Recommendations Report to the Minister which shows how the submissions have been considered, the changes the Council is recommending, and how those recommendations have had regard to the evaluation reports and other reports required by Clause 83(1) of the first schedule to the RMA. In my view the Council's report is comprehensive and, subject to the relatively minor matters mentioned below, accurate.

[378] As part of this review I have individually considered the submissions challenging Change 1 and the Council's response to those submissions. While in some cases I have reservations about the Council's conclusion that the relief sought by some submitters is out of scope, I am nevertheless satisfied that the recommendations to the Minister in those cases is sound. The only exception is the Christchurch Airport submission where I have suggested that CRC should look again at its recommendation, but even in that instance I have concluded that the final decision about the recommendation should rest with the Council⁶⁰.

[379] Overall it is my opinion that the CRC response to the Minister's directions relating to Step 4 has been carefully considered and is comprehensive. Subject to the relatively minor matters mentioned above, I believe that the Recommendations Report can be safely relied on by the Minister.

Hon. Lester Chisholm.

12 March 2021.

⁶⁰ See paragraphs [157] to [160].

Appendix 1 Proposed Amendment to Map A

