

ENV-2010-CHC-31 Cashmere Rural Landowners Incorporated v Canterbury Regional Council and other appeals

Topic: Proposed Plan Change 1 and Variations 1-4 to the Canterbury Regional Policy Statement

Minute to the parties (Record of prehearing conference 9 June 2010 and further directions)

[1] A second prehearing conference on these 50 appeals was held at the Environment Court, Christchurch on Wednesday 9 June 2010 at 1000 in order to plan for the hearing on these appeals on Change 1 to the Canterbury Regional Policy Statement.

[2] The court (Judge Jackson and Commissioner Fletcher) recorded appearances for parties as listed in Schedule 1 to this Record.

[3] The main purposes of the conference were:

- (1) to suggest a scheme for dividing the hearing about Chapter 12A of the RPS into different topics – starting with the most general;
- (2) to consider evidence on certain matters;
- (3) to settle a possible timetable for the service of evidence.

[4] This minute records the directions given at the conference, gives some further directions and suggests other potentially useful directions which might be given at the next conference.

The Canterbury Regional Council's position

[5] As a preliminary issue some parties reiterated their concern that they do not know what position the Canterbury Regional Council ("CRC") is going to take, and raised doubts about it and, more importantly, when the CRC decided not to defend the Commissioners' decision.



[6] We directed that the CRC lodge and serve by 18 June 2010 (with the memorandum it already needs to lodge) an affidavit by an authorised officer of the CRC stating the history of its changes in position on its proposed Change 1 and in particular when it advised its “UGS” parties it would not defend the Commissioners’ decision.

[7] Our tentative view is that the CRC is in a position where it must show the utmost good faith in relation to disclosure on this issue. Any understandings or arrangements must be identified.

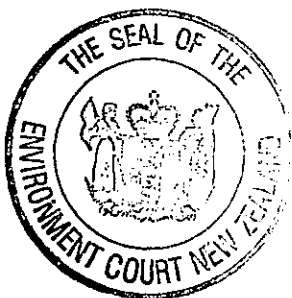
Hearing in stages

[8] Without recording the contents of memoranda filed or submissions made it appeared there is a general consensus there should be three or more stages to the hearing:

- | | |
|--------------------|--|
| Stage 1 | Should there not be an urban growth boundary for the purpose of rationing new households in the greater Christchurch part of the region? |
| Stage 2 (possibly) | Should there be Key Activity Centres (and how should they be defined)? and, if so, where? |
| Stage 3 | Site-specific issues (if there <u>is</u> to be an urban growth boundary and rationing). |

We should add we are quite happy to use a one word alternative to ‘rationing’ if the parties can agree on one (‘allocation’?).

[9] We record that the parties wish the court to resolve the Stage 1 issues without prejudicing any specific landowner’s case or the case for any other party in Stages 2 and 3. It is possible that resolution of Stage 3 issues may result in some consequential changes to Stage 1 or 2 topics. At the most restrictive the court will only give a preliminary non-binding indication (if there is to be a rationing or allocation system) of what it considers the appropriate total should be.



Issues for Stage 1

[10] The issues for Stage 1 concern the 'Issues', 'Objectives' and 'Policies' in Chapter 12A proposed for the RPS.

Issues

[11] Proposed Chapter 12A contains a statement of eight issues. It seemed to be agreed that Issues 1-6, only, should be the issues at issue in Stage 1 (excluding any references to Key Activity Centres).

[12] There are few appeals specifically challenging the wording of the issues, but some appeals are against Chapter 12A as a whole. To assist the CRC prepare its evidence in response we directed that:

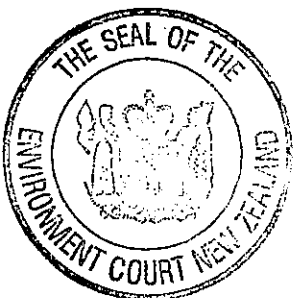
- (1) all appellants (and section 274 parties) opposing anything in Issues 1-6 inclusive) shall lodge and serve a statement identifying changes they seek to them by Friday 25 June;
- (2) any challenge by the CRC or any other party to that relief being beyond jurisdiction must by notice of motion be lodged and served within eight working days;
- (3) any notice of opposition must be lodged and served within a further eight working days.

[13] The court will then give directions as to which 'issues' are to be the subject of the Stage 1 hearing.

Objectives

[14] After hearing from the parties we direct that the Stage 1 hearing will also be concerned with the following objectives:

- all of objective 1 (except 1f)
- all of objectives 2, 3 and 4;
- not objective 5;
- all of objectives 6 and 7; and
- objective 8 with regard to strategic transport network.



Policies

[15] As for the policies, those in issue at Stage 1 will be:

- policies 1, 2, 3 (except policy 3(b)), and 4;
- omit policy 5;
- policy 6 – totals only i.e. on whether there should be rationing at all;
- policy 9.

[16] The court records, at CIAL's request, that the issue of 50 dBA versus 55 dBA OCB in the explanation to policy 1 of Chapter 12 is not in issue in the Stage 1 hearing.

Evidence

[17] The court asked for a preliminary indication of the witnesses to be called for the parties interested in the Stage 1 hearing. We itemise them under three sections headings below.

Social wellbeing

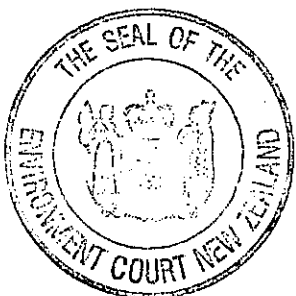
[18] Ms Perpick for CRC advised this topic would be covered by each of the planning witnesses; and Mr Marcus Spiller.

[19] Mr Christensen advised that Prestons Road Limited will call two overseas witnesses on this subject, plus planners and a demographer.

Cultural wellbeing

[20] The Tuahiwi Marae seeks that Reserve 873 be included within urban limits.

[21] For the CRC planning witnesses will cover this issue. Mr Tau lodged a memorandum as to the witnesses to be called for the appeal for the marae. However, the court directs that the Tuahiwi Marae case not be part of the Stage 1 or Stage 2 hearings.



Economic wellbeing

[22] A preliminary indication of the economists to be called by the parties is:

CRC	Mr Spiller
	Mr Butcher
	P Anderson (CCC)
Fulton Hogan	Mr Copeland
Franco Farms	Mr P Donnelly
HJ's club	Mr P Donnelly
Lincoln Land Development	Unknown, possibly Mr Shaw
CIAL ¹	Unknown
Progressive Enterprises	Dr Fairgray
Oakvale Farms Limited	Possibly
Applefields Limited	Possibly

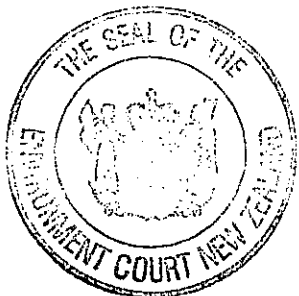
[23] Leave was reserved for other parties to call economic evidence at Stage 1 in response. Further, the court indicated it was contemplating a section 278 report from an expert on the effect of UGLs on housing supply and that it would be interested in hearing from the parties about that at the next conference.

Proposed evidence timetable

[24] We direct that the following timetable be followed:

<u>Deadline</u>	<u>Event</u>
25.6.10	each party seeking: <ol style="list-style-type: none"> (a) further households; or (b) key activity centre status, not already shown on Map 1 to Chapter 12A to the RPS; or (c) any other allocation of units (e.g. HUEs) rationed in Chapter 12A to the RPS; or (d) an area of business land;

¹ On the issue of whether urban limits can/should be used to protect strategic infrastructure.



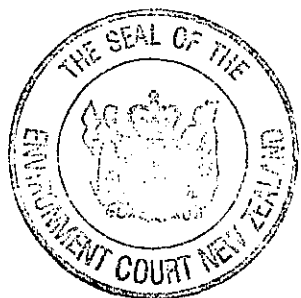
- (e) an area to be described as a “Special Treatment Area”
– must lodge and serve a memorandum specifying:
 - (f) the maximum number of households sought and their location; and/or
 - (g) the location of its proposed key activity centre; and/or
 - (h) the maximum number of other units or the maximum area sought
- 27.8.10** evidence-in-chief for the CRC, the local authorities, CIAL (if any) and NZTA – and for section 274 parties supporting the CRC and the local authorities – must be lodged and served;
- 19.11.10** evidence-in-chief for appellants must be lodged and served;
- 10.12.10** evidence-in-chief for section 274 parties supporting appellants must be lodged and served;
- 28.1.11** final rebuttal evidence must be lodged and served.

Modelling

[25] Some concern was expressed about further modelling to be carried out by the CCC. The parties are invited to consider whether directions are needed on this subject.

[26] For example, to assist the court, we are inclined to suggest that the CCC and the NZTA should each lodge and serve affidavits which (in addition to any other information other parties would consider useful):

- (1) name the proprietary names of the models used;
- (2) contain a simple description of what the models do;
- (3) identify all the assumptions in the modelling;
- (4) state, for example:
 - (a) whether the models describe transport patterns only, or describe land use-transport interactions;
 - (b) whether the models are monocentric or describe peripheral business and housing centres;
 - (c) any basic equilibrium equation used and identifying the parameters in it;
- (5) identify the data sets which have been inserted into the model(s).



We would expect any other party using a different model in its evidence to reciprocate in due course.

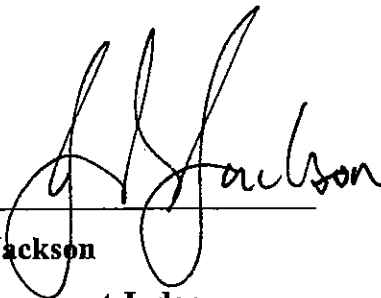
[27] In addition we consider it would be useful for the CRC and the NZTA to identify any standard methodology used for assessing the efficiency and/or effectiveness of the roading network or any part of it.

Next conference

[28] The proceedings were adjourned to Wednesday 30 June 2010 at 2 pm for a further conference on the stage 1 hearing.

[29] We have requested that our case manager send this minute and the notice of prehearing conference on 30 June 2010 to all parties. However, that is merely so that all parties can follow the progress of the proceeding. The court expects that parties who are not interested in Stage 1 will not attend (unless they are interested) the prehearing conference. There is certainly no obligation to do so unless they wish to appear and be heard at Stage 1.

Dated at Christchurch 17 June 2010



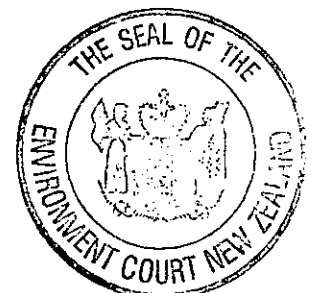
J R Jackson
Environment Judge



Issued²: **17 JUN 2010**

SCHEDULE 1

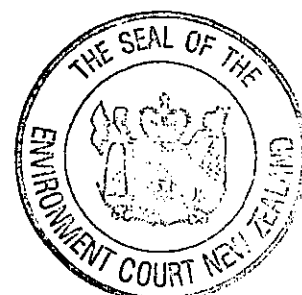
Ms M Perpick	for	Canterbury Regional Council as respondent
		<u>Appellants</u>
Ms McCormack	for	Christchurch Golf Resort Limited
Mr Lewis	for	Cashmere Park Trust
Mr Lewis	for	Cashmere Rural Landowners Incorporated
Ms Goodyer	for	Kiwi Property Holdings Limited and Kiwi Property Management Limited
No appearance	for	Apple Fields Limited
No appearance	for	Ministry of Education
Ms Hardacre	for	Progressive Enterprises Limited
Mr Christensen	for	Prestons Road Limited
Mr Christensen	for	Rookwood Holdings Limited
Mr Christensen	for	Clearwater Land Holdings Limited
Mr Christensen	for	Ravenswood Developments Limited
No appearance	for	A T Taylor
Mr Winchester	for	Christchurch City Council and Waimakariri District Council
Mr Evatt	for	B H Hayman and W K Trustees Limited (as trustees, G H Blair Grandchildrens Trust)
Mr Evatt	for	A M Rhodes and West Melton Investments Limited and Three Way Holdings Limited
Mr Fowler	for	Hills Investments
No appearance	for	Calco Developments Limited
Mr Mortlock	for	Franco Farms Limited
Ms Perpick	for	Winstone Aggregates
Mr Fowler	for	The Hussey Road Planning Group
Mr Fowler	for	Kaiapoi Waterways Developments Limited
Mr Fowler	for	The Mills Road Group
Mr Fowler	for	J M Scott
Mr Fowler	for	Selwyn Plantation Board Limited
Ms Watson	for	Lincoln Land Development
Ms Perpick	for	Waikiwi Developments Limited
No appearance	for	D W & S M Collins
Ms Perpick	for	R J & C B Sissons
Mr Hardie	for	N C R Mundy Family Trust



Ms Steven	for	Independent Fisheries Limited
Ms Steven	for	Fulton Hogan Limited
Mr Tau	for	Tuahiwi Marae Trustees
Mr Schulte	for	Silver Stream Estates Limited
Mr Schulte	for	Oakvale Farm Limited and Maurice Carter Limited
Mr Schulte	for	Ireland Group Limited
Mr McLeod	for	Heathcote Valley Community Association Incorporated
Mr Rawstron	for	Rossendale Holdings Limited and B and J Lee
Ms Wolt	for	Belfast Park Limited and Tyrone Estates Limited
Ms Wolt	for	Ruby Views Limited
Ms Wolt	for	MacRae Land Company Limited, S, R and K Jenkins, B and M Gordon, M and E Armstrong, R and T MacDonald, M and M Allan and T and R Polson
Ms Aston	for	V Foxton
Ms Aston	for	Denwood Holdings Limited
Ms Sewell	for	Christchurch International Airport Limited
Mr Hughes-Johnson QC	for	G F, M M and M G Case
Ms Steven	for	Suburban Estates Limited and Sigma Finance Limited
Mr Evatt	for	Broadfield Estates Limited

Section 274 parties

Ms Steven	for	100 Hawthorndon Road Limited, G J and L M Franks, J Lai and J Martin
No appearance	for	D Y and S A Anderson
Ms Steven	for	H R Armstrong
Ms Wolt	for	ASP Group Limited
Mr Schulte	for	Avonhead Mall Limited
No appearance	for	D M and S A Bastin
Mr Fowler	for	B H W and N I Boyes
Mr Schulte	for	Brian Gillman Limited
Ms Perpick	for	Bromac Lodge Limited
No appearance	for	R D and J Butt
Ms Steven	for	J C and N L Button
Ms Steven	for	Calder Stewart Industries Limited
Mr Wallace	for	Carter Family Trust
Ms Wolt	for	Eminence Investments Limited
Mr Christensen	for	Equus Trust



Ms Steven	for	B and A Garguilo and Mainland Tomatoes Limited
Mr Schulte	for	Gillman Wheelans Limited
Ms Sewell	for	Islington Park Limited
No appearance	for	Isaac Wildlife Trust & Diana Isaac Conservation Trust
Mr Fowler	for	IZone Planning Group
Ms Steven	for	John Jones Steel Limited
No appearance	for	Kennaway Joint Ventures Limited
Ms Limmer	for	Kaiapoi Community Board
Mr Carranceja	for	Lansdowne Environmental Issues Society Incorporated
Ms Steven	for	E Lin
No appearance	for	Lincoln Estates Limited
Ms Wolt	for	Lyttelton Port Company Limited
Ms Steven	for	W K MacDonald Family Trust
Mr Christensen	for	Memorial Avenue Investment Limited
Ms Steven	for	J S and G Mitchell
Mr Christensen	for	National Investment Trust
Mr Fowler	for	North Woodend Protection Society Incorporated
Mr Hassan	for	New Zealand Transport Agency
Mr Fowler	for	Ouruhia Styx Action Group
Ms Steven	for	R Peebles
Mr Piercy	for	W M Piercy
No appearance	for	Road Metals Limited
Mr Carranceja	for	Selwyn District Council
Ms Steven	for	P and J van Beek
Ms Limmer	for	Waimakariri District Council
Ms Steven	for	M Watson
Ms Steven	for	A T and R F Whitham
Mr Turpin	for	Yaldhurst Rural Residents Association Incorporated
Ms Watson	for	<i>Chilton Farms Limited</i>

