

COMMENT FORM

Land Use Recovery Plan Review: Draft Recommendations

Comments can be emailed to:
lurp@ecan.govt.nz or posted to:
Comments on Land Use Recovery
Plan Review Environment
Canterbury
P O Box 345
Christchurch 8140

All comments to be received by 5pm, Friday 28 August 2015

SUBMITTER ID:
FILE NO: LAND/LURP/PLAN/1

SUBMITTER: JDH HOLDINGS NO 1 LIMITED

Address for service:

C/- Planz Consultants Limited
PO Box 1845
CHRISTCHURCH 8140
Attention: Jonathan Clease
Phone: (03) 964-4630
jonathan@planzconsultants.co.nz

Signature: 

Date: 27 August 2015

(Signature of person making submission or person authorised to sign on behalf of person making the comment)

Please note: All information contained in comments provided, becomes public information.

Comments

Background

JDH Holdings commented on the initial Land Use Recovery Plan (LURP) Review Consultation phase seeking that their 'site' which fronts Main North Road in Belfast be included as a greenfield priority area on Map 1 in the LURP and that the Canterbury Regional Policy Statement (CRPS) be amended accordingly.

JDH own several parcels of land in northwest Belfast, as shown on Attachment 1. The site is comprised of four lots as follows:

- Lot 1 DP76408 (4,742m²) – 'The Peg';
- Lot 1 DP334238 (1,891m²) – 'The Peg access';

- Lot 1 DP331273 (1,153m²) – ‘the residential lot’; and
- Lot 2 DP334238 (7,175m²) – ‘the rural lot’

These landholdings currently contain ‘The Peg’ bar and bottle store, associated access and parking (from both Main North Road and Dickey’s Road), and a vacant residential lot fronting onto Main North Road associated with the business. The Peg and the residential lot are both zoned Living 1 in the operative City Plan and are both proposed to have a Residential Suburban zoning, whilst the Dickey’s Road access lot has a Rural Urban Fringe Zone. The site also incorporates a rural lot to the rear of the site that is accessed from Dickey’s Road. The site is bordered by residential dwellings to the north and south, Main North Road to the east, and the Waimakariri River secondary stop bank to the west (i.e. the site is on the ‘safe’ side of the stopbank). Further to the west on the outside of the stop bank is a long-established timber mill operation that has the necessary resource consents in place to continue operating. The site is therefore surrounded by urban activities that are either zoned or consented. As such, JDH Holdings consider that a residential zoning is appropriate for the entire site and is consistent with the balance of Belfast’s urban form where all the land to the east of the secondary stop bank is zoned for residential activities.

The Peg lot, residential lot, and access lot are all to be scheduled in the District Plan in recognition of the existing bar and bottle store activities. The access lot and the rural lot are however proposed to have a rural zoning (as they do in the operative District Plan).

The following comments are provided in relation to Recommendations 1-3 and the question regarding development outside greenfield priority areas.

Draft Recommendation 1: The LURP Review should principally identify any areas for further consideration through more traditional statutory mechanisms rather than attempt to resolve them directly by recommending changes to the LURP.

Draft Recommendation 2: Any consideration of significant change is best undertaken through a more comprehensive future spatial planning process or in the review of the Regional Policy Statement including:

- *any consideration of additional greenfield land*
- *any consideration of further intensification initiatives*
- *any consideration of further significant investment in strategic infrastructure*

Draft Recommendation 3: The Minister amend the LURP to show Figure 4 on page 23 of the LURP as being ‘indicative’ only, and remove Appendix 1 relating to Chapter 6.

Re section 3.3.3: Development outside greenfield priority areas: Do you have views on the conclusion reached?

Comments

A problem with having Map A in the CRPS is that, in the absence of any policy exemption, by defining an urban area boundary the “must give effect” requirement of s75(3) of the RMA creates a prohibition to development outside that line regardless of the merits of the proposal. In the context of the submitters land this is important because the rezoning is supported by the City Council on merit, with the Council confirming that there are no servicing or transport reasons why the site could not be rezoned (Sarah Oliver planning evidence on the Residential Chapter, District Plan Review).

The submitters are now left in the rather absurd situation that there is general agreement that their land should be rezoned, and that the Christchurch Replacement District Plan review is the appropriate place for that to occur, but this is at present prevented because of an effective prohibition in terms of the CRPS creating a hard urban fence line in that document. Whether this was ever the intent of the “must give effect” requirement of s75(3) of the RMA is debatable however it is in this circumstance the reality. This situation is somewhat confirmed by the recent City Council evidence on the Residential proposal in Stage 2 of the Christchurch Replacement District Plan review where a number of relatively minor re-zonings have been recommended to be rejected on the grounds that they are contrary to Strategic Direction Objective 3.3.7(c), which only provides for urban activities within existing urban areas and greenfield priority areas in accordance with Chapter 6, Map A and Policy 6.3.9 of the CRPS. This is despite the evidence acknowledging in many cases there are merits to the re-zonings themselves.

The UDS, LURP, and associated CRPS processes have to date necessarily been focussed at a metropolitan level, with greenfield priority areas being large blocks that are capable of accommodating large numbers of dwellings or

businesses as a post-earthquake response. Small site anomalies consequently 'flew under the radar'. The current District Plan Review process is the correct forum for investigating the merit and the correct zoning of individual sites, yet the CRPS means that consideration of the merits of small individual sites cannot get past first base due to the CRPS policy direction of avoiding urban development outside of the existing urban area. Private landowners cannot initiate changes to the CRPS, and whilst private plan changes to the District Plan will be possible after two years of the Plan becoming operative, without amendments to the CRPS such private plan changes to correct small zone boundary anomalies will face a high barrier in demonstrating that they 'give effect to' the CRPS.

The proposed Rural Urban Fringe Zone rule package, as notified by Council, likewise makes the erection of dwellings or subdivision of lots less than 1ha a prohibited activity. The proposed rule package therefore means that consideration of the merits of individual sites or the ability to rectify zone boundary anomalies via the resource consent (rather than plan change) processes, will not be available.

JDH Holdings (and presumably other landowners with small rural blocks surrounded by urban development) are therefore in the extremely unfortunate position where the City Council accepts the merit of rezoning, yet is recommending decline due to inconsistency with the CRPS; private plan changes in the future will likewise have little chance of success; and where the alternative resource consent route is likewise not available given the proposed prohibited activity rule package.

If there is a concern with regards changing the urban boundary line itself (the submitters preferred option) then it is noted that a previous version of the CRPS (Plan Change 1) contained a policy which enabled minor amendments to provide for urban zoning outside the urban boundary where certain criteria or conditions were met e.g. less than 5% of a greenfield area; bounded by urban zoning on more two or more sides and less than 1ha in size, not under the air noise contours or natural hazard areas etc. It is submitted that such a policy addition to the CRPS could be directed as a LURP Action.

Either approach would overcome the submitter's situation and enable consideration and the potential tidying up of this anomaly through the Christchurch Replacement District Plan review process. It is also considered that both approaches would meet the relevant methodology and criteria specified in paragraph 3.1 of the Consultation Document being:

1. It would not be inconsistent with the Recovery Strategy within which 'recovery' has a broad ranging definition;
2. There is a degree of urgency given the current Christchurch Replacement District Plan review process;
3. It will contribute to the LURP outcomes by enabling a wider range of residential land to be available and in close proximity to key urban facilities;
4. It would meet the purpose of the CER Act in helping to aid recovery; and
5. The matter cannot be actioned through a resource consent

Conclusion

While it is accepted that a move back to traditional RMA processes is an appropriate goal, there is a degree of urgency in the submitters view around this issue given the current Christchurch Replacement District Plan review process. To await a further review and consideration through the traditional RMA processes will result in further extensive delay and potential cost should the submitters have to then await the two year stand down period to prepare their own plan change.

Given that the CRPS (Chapter 6) is effectively the stumbling block (which all parties seem to agree) and that it was prepared under the CER Act via the LURP the submitters consider it is appropriate that either of the amendments suggested above are promulgated via an Action under this LURP review.

Finally the submitters agree with Recommendation 3 that the LURP be amended to show Figure 4 as being 'indicative' only, and remove Appendix 1 relating to Chapter 6.