

Greater Christchurch Urban Development Strategy

Report To: UDS Implementation Committee
Meeting Date: 18 February 2008
Subject: Proposed Approach to Processing RPS Change No. 1 Submissions
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Reference to UDS: Implementation Tools ref: Appendix I
Lead Agency – Environment Canterbury

1. Purpose of Report

To consider and agree the proposed approach to analysing, reporting on and resolving submissions on Proposed Change No 1. to the RPS in such a way as to meet preferred timeframes for progressing the Change.

2. Introduction

Proposed Change No 1. is a Top 20 Action for the UDS and a key land use policy document complementing the Canterbury Transport Regional Implementation Plan, the draft RLTS and transport funding assistance package lodged with the Government. It is the basis for co-ordinated District Plan Changes so as to ensure the requisite supply at the appropriate time of Greenfield land and associated services. The preferred timeline for the Proposed Change (Attachment 1) has been previously discussed with the UDS CEO's.

The immediate challenge then is to design and resource a process that enables the UDS Partners to ensure decisions on submissions on the Change are notified by November 2008, in a manner which provides:

- a. The timeline is met;
- b. Continued support from the Strategy Partners for the Change;
- c. Submitters and Strategy Partners to be satisfied an appropriate process under the Resource Management Act 1991 has been followed.

3. Approaches

There are two main approaches that could be adopted for proceeding with the Change:

- a. Conventional RMA Approach
- b. Defined Timeline/Dispute Resolution Approach

There are overlaps and similarities between the two approaches but for the purposes of this report their distinguishing features are as follows.

The Conventional RMA Approach (such as that used by Christchurch City on its City Plan or Environment Canterbury on its PNRRP) involves:

- a. Relatively little engagement, prior to the hearing, between the council hearing submissions and the submitters;
- b. Detailed and often lengthy officers reports on submissions in relation to the constituent parts of the plan;
- c. Lengthy hearings which tend to pit submitters against officers in an adversarial manner, resulting in decision-makers having to wade through volumes of opposing evidence to reach a decision;
- d. Relatively little focus on the plan as a whole or on the key strategic directions other than by consideration of the constituent parts of the plan.

The result of that approach has been that defined timelines have been difficult to meet. However, the amendments to the RMA in 2005 now require that local authorities publicly notify decisions on submissions on a proposed policy statement or plan no later than 2 years after notifying the policy statement or plan (clause 10(3), First Schedule). Coupled with that requirement is a method (provided in clause 8AA, First Schedule) for resolution of disputes relating to proposed policy statements or plans. This process takes place through pre-hearing meetings between submitters and the local authority, with or without the assistance of a mediator. Matters which are agreed at such meetings are identified to the decision-maker, who must have regard to such agreement in reaching a decision. The process also permits the local authority to involve any "such other person as the local authority thinks appropriate" (clause 8AA(1), First Schedule).

The Defined Timeline /Dispute Resolution Approach is foreshadowed by the collaborative working style in preparing the Change itself and through MoU's prepared by the Strategy Partners where they have agreed to discuss and negotiate the Urban Growth Limits to be notified for Kaiapoi, Woodend and Rolleston, taking into account the noise contour issue for Christchurch International Airport. It is also foreshadowed by the manner in which key processes and policy documents have been prepared for the UDS Partners over the past eighteen months, namely by agreeing on key dates and meeting those dates as a "must do".

Its distinguishing features from the Conventional RMA Approach would be:

- a. A phase shortly after submissions close, and prior to any hearings, in which the Strategy Partners meet for the purpose of clarifying or facilitating any matters raised in the submissions, so that an agreed "response in principle" can be set out in relation to the key submissions/substantive issues;
- b. Information to be provided to submitters on the timeline and proposed process and outcomes, including that the dispute resolution process will be used where appropriate, and the proposed timeframe for the process, that the hearing of submissions will run for a defined period (say July, August and first two weeks of September) and that decisions will be notified in November 2008. This would require that officer's reports encompass a report from the chairperson of any dispute resolution meeting on the matters agreed and not agreed at those meetings, and that both officers and submitters present their material within defined time limits, in order to meet the overall timeline for 2008.
- c. A phase prior to any hearings during which the Strategy Partners meet with the submitters for the purpose of clarifying or facilitating the resolution of any matters relating to the proposed change to the RPS.

The Defined Timeline /Dispute Resolution Approach that is being proposed in the current context is shown in outline as Attachment 2. Its further defining features are:

- d. UDS partner staffed topic groups would be the main way submissions would be considered, advised on and negotiated, with the work overseen by the UDSIMG in the first instance and steered by the UDSIC.
- e. Regular reports would be made to the Administering Authority for the Change, Environment Canterbury, through its Regional Planning Committee.

The UDSIMG believe that only the Defined Timeline /Dispute Resolution Approach can deliver the required result in the required timeframe and that the collaborative working style developed so far with preparing and considering the Change is the basis of likely success of that approach.

4. Hearings Panel

The composition of the Hearing Panel will also have an impact on the rate and nature of progress in resolving submissions both among Partners and with submitters. The options for a hearing panel include:

- a. Panel of Environment Canterbury councillors;
- b. Option a. with a commissioner, either as a member, or as chairperson;
- c. Panel of commissioners.

The Hearing Panel is appointed by Environment Canterbury as it is the council which administers the RPS under the RMA. Consideration of co-opting City and District Councillors as Hearing Panel members has been discounted because all councils have lodged submissions on the Proposed Change. There is the question of whether the Panel would have power to decide or recommend back to Environment Canterbury.

A panel of ECan councillors would lead to greater political ownership of the Change whereas a panel of commissioners, depending who they were, is likely to have a more conventional legal/technical focus and may not accommodate the hearing approach and timeline for a Defined Timeline/Dispute Resolution approach. Some commissioners may wish to dictate their own hearing process.

5. Resourcing and Funding

There are some 256 submissions on the Proposed Change. As set out in Attachment 2 resources from the Strategy Partners are required for the four main stages, namely:

- i. Strategy Partners develop a "position" in relation to the submissions in preparation for meeting the submitters as part of the pre-hearing dispute resolution process. This "position" would need to be approved by the UDSIC;
- ii. Pre Hearing dispute resolution process with submitters, led by Environment Canterbury but involving the Strategy Partners and being informed by determinations of the UDSIC;
- iii. Hearings;
- iv. Preparation and notification of decisions on submissions.

The resources required will be:

- a. Administrative assistance to set up meetings, liaise with submitters, run hearings, take minutes, file material.
- b. Development of an Operational Plan for the Pre Hearing process.
- c. Overall policy and editorial co-ordination for the Proposed Change through the Strategy Partner and submitter discussions/negotiations.

- d. Preparation of briefs for the topic groups.
- e. Engaging with submitters prior to hearings
- f. Preparing chairpersons report on Pre Hearing Resolution of Disputes (Clause 8AA(5), First Schedule and Officers reports for hearings.
- g. Operation of the hearing process
- h. Preparation and notification of decisions on submissions

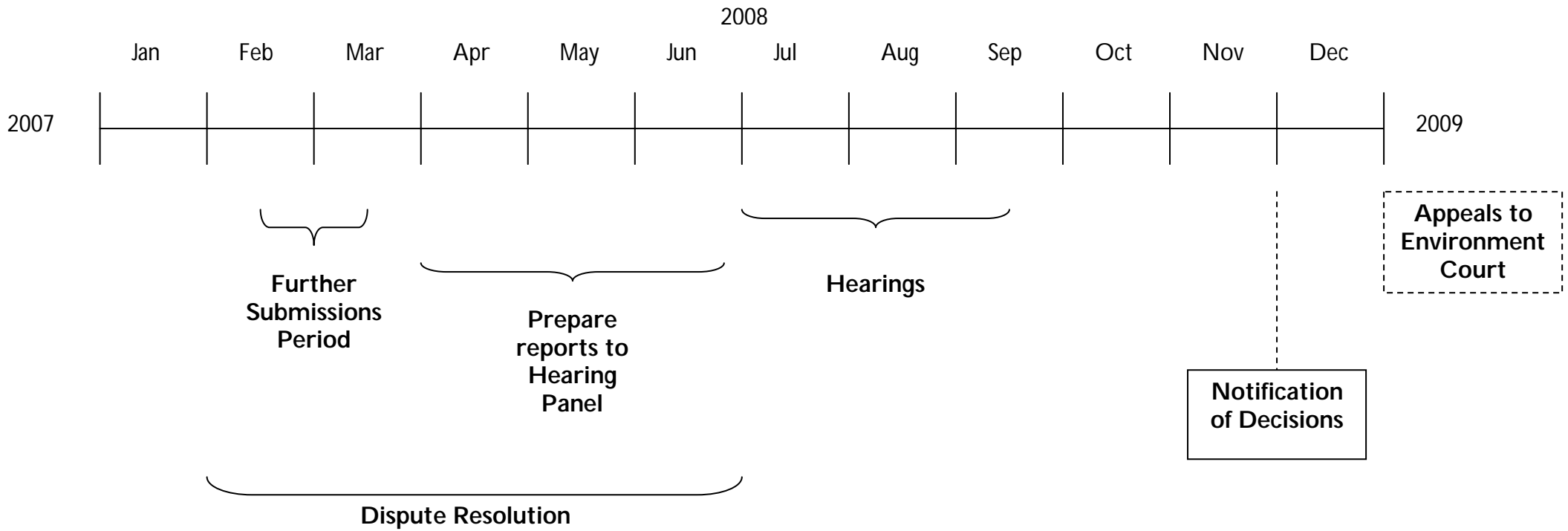
Environment Canterbury would be responsible for the costs and provision of administrative support, overall policy and editorial co-ordination, preparing officers reports and the running of the hearing/decision process. Significant staff time will be required from the Strategy Partners so that the process can move forward in the same collaborative manner as occurred on the preparation of the Proposed Change. The work of the topic groups and discussions/negotiations with submitters will require staff input beyond that of just the UDSIMG and will need to be a priority in order for all parties to meet the timelines.

It is anticipated that the hearing panel would constitute a priority commitment for the period of the hearings and decision - making. These costs would be borne by Environment Canterbury.

6. Recommendations

- a. **That the approach and timeline to RPS Change No 1 submissions processing be endorsed.**

Proposed Hearings Process Timeline for RPS Plan Change 1



PROPOSED APPROACH TO PROCESSING OF SUBMISSIONS ON RPS CHANGE NO. 1

