

In the Matter of Canterbury Earthquake Recovery
Act 2011

and

In the Matter of The hearing of comments on the
Preliminary Draft Waimakariri Red
Zone Recovery Plan

Second Minute in response to Crown request for further evidence and analysis to support the
Draft Recovery Plan dated 13 April 2016

Background

1. The hearing of comments on the Preliminary Draft Waimakariri Red Zone Recovery Plan ('PDRP') took place on 6, 7 and 8 April 2016. At the commencement of the hearing we heard from Sarah Jardine, Manager of the Policy and Monitoring Team in the Greater Christchurch Group within the Department of the Prime Minister and Cabinet, for and on behalf of the Crown ('the Crown'). The Crown considers further analysis is required for some of the options set out in the PDRP to ensure that sufficient evidence is provided to the Minister to make decisions on the Draft Recovery Plan in due course. We have adjourned the hearing to consider whether further evidence or analysis would assist us in making recommendations to the Waimakariri District Council ('Council'). This Minute sets out the information we require from the Crown and the Council.
2. The Hearing Panel was appointed by the Council to hear comments and make recommendations to the Council on the PDRP. The hearing process was not a requirement of the Minister's Direction,¹ nor is it a requirement of the Canterbury Earthquake Recovery Act 2011. A hearing of comments on the PDRP is enabled in the Ministers Direction, at the discretion of the Council, for the purposes of community participation. It was acknowledged by the Crown in its written comment

¹ Gazette Notice 3 September 2015, Direction to Develop a Draft Waimakariri Residential Recovery Plan

on the PDRP that the hearing adds to the ‘transparency and robustness’ of the process.²

3. In making our recommendations to the Council on the PDRP we are required to address the Objectives and relevant statutory matters set out in the Minister’s Direction.³ We have determined that some of the evidence and analysis sought by the Crown is relevant to our consideration of comments and the recommendations we may make on the PDRP. Without that information we would be limited to recommending either that we agreed or disagreed with the Crown’s suggestions to undertake further work or to provide further analysis. This further work and analysis would then need to be undertaken and evaluated by Council prior to finalising the Draft Recovery Plan. Given the information may impact on the final land use options in the Draft Recovery Plan and the associated actions to be implemented, we consider that it would add to the transparency and robustness of the process to provide an opportunity for the further work identified by the Crown to be undertaken and provided to us before we make our recommendations to the Council. We are of the view that we need to receive the additional material to enable an integrated assessment of the relevant matters outlined in the Minister’s Direction, and the comments made on the PDRP.
4. Before turning to the specific matters raised by the Crown we wish to make it clear that we have considered all of the comments received on the PDRP, and the fact that we are seeking further clarification and information from the Crown does not in any way indicate a preference for a return to residential use of the regeneration area. We are seeking further information to assist us to make recommendations on the PDRP. We will address the comments on future activities and land uses in our final recommendations to the Council in due course
5. The particular issues identified by the Crown were identified under three ‘themes’ as follows:
 - a. The need to better understand how and why each future option will meet earthquake recovery objectives, including those in the Canterbury Earthquake Recovery Act 2011, the Recovery Strategy and the Minister’s Direction;

² Crown written comments dated 4 March 2016 at 2.3

³ Ministers Direction at 4

- b. The Crown’s responsibilities as the owner of a significant portion of land, including fiscal responsibilities, and the sorts of matters the Crown must consider if a request to vest any of the regeneration area (red zoned land) is made; and
 - c. The need for clarity about implementation of the PDRP, in particular being clear about time frames.
6. In particular the information required by the Crown included:
- a. A ‘cost/benefit’ analysis, including more detailed analysis of the relevant statutory documents, to support all options for future land uses (including options considered and recommended). The Crown submitted that this material could be provided in an Appendix to the Draft Recovery Plan. The Crown indicated that it was committed to working with Council in preparing this more detailed information for each option. On this topic the Crown also indicated that it had commissioned further work to analyse whether residential land use was economically viable within the regeneration area, this included higher density residential uses in close proximity to the Kaiapoi Town Centre (Area 2, 3 and 17) and ‘rural residential’ or lower density residential land uses in other areas, (in particular Area 5 and 12). The Crown wished to complete that work and therefore did not wish the PDRP to foreclose opportunities for future residential use. We return to the issue of future residential uses below.

Information required

We agree with the Crown that the PDRP ought to include a more detailed ‘cost/benefit’ analysis of options considered and recommended and more specific supporting analysis of the relevant statutory framework.⁴ In most cases it appears to us the information is already available in various forms, and has been succinctly summarised in the PDRP. We agree that the Minister, the Community and other readers of the Draft Recovery Plan would be assisted by a more detailed evaluation as suggested by the Crown. We would also be assisted by having the information consolidated in that form when considering

⁴ In response to our First Minute dated 6 April 2016, the Council Officers provided an analysis of relevant Resource Management Act 1991, Local Government Act 2002 and Reserve Act 1977 statutory planning documents which can be adapted for incorporation into the PDRP.

the comments made on the PDRP. We request that the Crown and Council confer on the preparation of that documentation and indicate a date when it is reasonable to provide it to the Panel.

- b. Similarly on the issue of future ownership and management of Crown owned land, the Crown indicated that there was a need for further analysis of costs and benefits and consideration of the 'fit' with existing Crown – owned assets and services. Much of this information will be within the knowledge of the Crown. We are not clear whether these were matters that the Crown requests to be specifically incorporated into the Draft Recovery Plan before it is submitted to the Minister, whether this forms part of a separate report to the Minister that follows the approval of the Draft Recovery Plan by the Council or whether it forms part of a later 'business case' when and if the Council requests the ownership or management of land to be transferred to it, and therefore can be addressed through an action point(s) with a specified time frame for the future.

Information required

We invite the Crown to clarify its position. If the information ought to be included in the Draft Recovery Plan, can the Crown provide that information in a form that can be incorporated into the Draft Recovery Plan? If the information is to be compiled at a later date, then please indicate a time frame for the relevant action. Could the Crown also clarify whether the term 'vest' as used in the additional comments made at the hearing⁵ applies to the transfer of ownership and management or to ownership only?

- c. The Crown raised a concern that the reference to 'long term' in the PDRP was not clearly or consistently defined. It is our understanding from the evidence we heard, comments received and the definition of 'long term action' in the PDRP that 'long term' is the period post 2028 – or beyond 10 years from the gazetting of the Draft Recovery Plan. The Glossary provides definitions for 'short term', 'medium term' and 'long term' actions and there is reference to

⁵ Additional Written Comments by the Crown for the Hearing Panel on the PDRP undated but referred to at the hearing on 6 April 2016.

the time frames at section 5.2 ‘Overall Implementation Tables’ which are consistent with the defined terms. The definitions adopted do differ from the definition of ‘long term’ in the Council Long Term Plan (2015-2025), but generally align with the Land Use Recovery Plan which provides for ‘short’ and ‘medium’ term land uses until 2028. Mr Heath from Property Economics Limited, Mr Sellars, the Councils valuation expert, and a number of commenters with property development experience, commented that the ‘short term’ generally equates to 0 to 5 year period, ‘medium term’ to be between 5 – 10 or 10 – 15 years and long term beyond 10 -15 years. We consider that the time periods used in the PDRP are generally consistent with commonly understood time frames for development opportunities.

Information required

We are not clear on where the ‘inconsistency’ referred to by the Crown arises in the PDRP, so we invite the Crown to clarify where it considers that the terms are used inconsistently and to discuss with the Council’s Core Project Team (CPT) whether further clarification is needed to achieve overall consistency.

It is apparent that a number of land uses may not occur for a much longer period. In that case we agree that there is a need to be more specific as to timeframes within the extended ‘longer term’ period, for example if future options are likely to be implemented 20+ years post gazetting, it would assist if this could be specified. We note the Council has done this in relation to the sports field proposal in Area 10 and also the proposed ‘memorial gardens’ in Area 11.

Residential land use options

7. The potential for the regeneration areas to be returned to some form of residential use, if the required land remediation and natural hazard mitigation is economically viable, was a matter that divided public comment throughout all stages of community consultation. There were strong views expressed for and against a return to residential land use. The PDRP does not expressly identify areas for residential redevelopment.

The technical evidence indicated that the costs of rehabilitation of the regeneration area and flood mitigation requirements rendered residential land use uneconomic in current market conditions. A number of comments, including from the Crown, requested that the Council should not foreclose the option of residential development if in the future such developments became economic. Mr Andrew Willis, a Planning expert and member of the CPT recommended amendments to the PDRP that left open the possibility of residential land use in the long term should it become economically viable, including through provision of a mix of uses within Areas 2, 3 and 17, and recognition that there is the potential for land uses to ‘evolve’ in Areas 5 and 12. The Crown has indicated that it has commissioned further work to assess the feasibility of residential land uses within the regeneration area. The Crown had hoped to have the information available at the hearing but was not in a position to provide it in time.

8. At the hearing, Mr Willis expressed the opinion that the PDRP, with the addition of his recommended amendments in the Officer Report, would not foreclose future residential land use options if technical and market factors supported that land use in the future. We understood him to say that the intention was to leave the underlying Residential zonings as they are for the time being, regardless of the interim land uses, noting that the Residential zones would enable some limited rural land uses such as grazing in Area 5 and 12.⁶

Information required

We would like to hear further from the Crown and the CPT as to whether further feasibility work, in light of the uncertainties that exist in the market and current cost of rehabilitation work and hazard mitigation, is likely to enable more specific provision for residential land uses to be considered in the preparation of the Draft Recovery Plan (assuming the Recovery Objectives are met), or for it to be excluded in the long term. Alternatively is Mr Willis’ recommendation to leave the ‘planning door open’, subject to further analysis in the future should there be market demand, sufficient for the purposes of the Draft Recovery Plan, given the various uncertainties that exist around costings and market demand in the longer term?

⁶ That position is not reflected in the PDRP at section 5.2 where reference is made to Plan Changes for Rural Zoning and in other parts such as page 32 in relation to Area 5 for example. Although presumably some consequential plan changes may be required to address Natural Hazards and infrastructure requirements.

9. We are mindful that on the one hand the Draft Recovery Plan needs to contain sufficient detail to provide certainty and clarity for the community and for the Crown regarding future land use options, but on the other hand, a Recovery Plan is a 'higher level' document and needs to retain some flexibility because the precise details of future land uses are contingent on more detailed assessment at later stages.

Information required

Can the Crown and the CPT give further consideration to the necessity of further feasibility work and the extent to which it will assist in striking the right balance between certainty and flexibility? If the Crown considers that the further feasibility work is necessary we request that the Crown provide that information to the Panel and indicate a time frame within which it can be made available.

Implementation and Amendments to the District Plan

10. The PDRP currently provides for future plan changes as a medium term or long term action, recognising the likely master planning work required and, in the case of the business or mixed use areas, the need to review the Kaiapoi Town Centre Plan. The Crown urged us to consider actions that utilised the powers under the CER Act and/or the Greater Christchurch Regeneration Act 2016, to provide for a timelier implementation of future land use options.

Information required

We would like the CPT to consider whether any future zoning changes would be more appropriately advanced through the Recovery Plan, utilising the recovery and regeneration powers, rather than Schedule 1 RMA processes, to better achieve the recovery objectives. Can Mr Willis provide a recommendation to the Panel on the preferred option with reasons for that recommendation?

Time frames to respond to information required by this Minute

11. Ideally we would like to receive a joint proposal from the Council and the Crown answering our questions above and setting out the time frames within which the further information and analysis can be provided to the Panel, including:
 - a. The 'cost/benefit and statutory document analysis identified at 6(a) and (b);
 - b. Further feasibility work for residential uses; and
 - c. Whether any future zoning changes would be more appropriately advanced through the Recovery Plan rather than Schedule 1 RMA processes.

12. We would like the proposal by **Friday 22nd April 2016**. We reserve the ability to reconvene the hearing to consider the additional material in due course.



Cindy Robinson
Hearing Panel Chair