

Environment Canterbury

1. Environment Canterbury is the regional council for Canterbury. Its role is to manage the region's land, water and air, in order to facilitate sustainable development in the Canterbury region. It works in partnership with Te Rūnanga o Ngāi Tahu and the ten territorial authorities and their communities within our region.
2. Environment Canterbury's primary governing legislation is the Local Government Act 2002, the Resource Management Act 1991, and the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 as amended in 2013. Other governing legislation includes the Canterbury Earthquake (Local Government Act 2002) Order (No. 2) 2011, the Soil Conservation and River Control Act 1941, the Civil Defence and Emergency Management Act 2002, the Biosecurity Act 1993, the Land Transport Management Amendment Act 2013, the Rating Valuations Act 1998, the Local Electoral Act 2001 and the Local Government Official Information and Meetings Act 1987.
3. Environment Canterbury also has additional regulatory obligations in relation to National Policy Statements and National Environmental Standards.

Q3 - What criteria should the Commission consider in evaluating the current land planning and development system in New Zealand?

We recommend that the Commission consider the inclusion of the following criteria:

- infrastructure provision
- planning frameworks
- density provisions
- the role of development contributions
- provision and release of land supply
- population changes
- macroeconomic influences

Q5 - What data sources will be most useful in identifying effective local authority planning processes for the development of land for housing?

- data about Territorial Local Authorities' (TLA) consents and building consents
- time taken to process consents
- costs associated with each type of consent.

It would also be useful to align sales data with consent issuing dates which could identify land banking practices.

Q8 - Alongside the Resource Management, Local Government and Land Transport Management Acts, are there other statutes that play a significant role in New Zealand's planning and development system?

- Building Act 2004
- Civil Defence and Emergency Act 2002
- Rating Valuations Act 1998

Q10 - Is ensuring an adequate land supply for housing an objective of current District or Unitary Plans? If so, what priority is this objective given?

The Canterbury Regional Policy Statement (CRPS) 2013 aims to ensure adequate land supply for housing is made available. Chapter 5 of the CRPS focuses on land use and infrastructure and has specific objectives identified alongside key policies which will implement these objectives. Chapter 6 of the CRPS was inserted into the CRPS and was directed by the Minister for Canterbury Earthquake Recovery in the Land Use Recovery Plan (LURP) for Greater Christchurch after the Canterbury earthquakes. This relates to urban development and land release for housing in greater Christchurch.

Q11 - What steps do local authorities take to ensure that all people potentially affected by land use Plan provisions or changes have the opportunity to comment? How effective and efficient are these steps?

Environment Canterbury meets its obligations for consultation under Schedule 1 of the Resource Management Act 1991. A summary of the various stages is outlined below:

- *Collaboration prior to plan drafting* we work with communities – in the fresh water area through the Zone Committee and Canterbury Water Management Strategy collaborative process and for other planning projects through our collaborative relationship with our TLA partners and key stakeholders.
- *Schedule 1 consultation process* with required parties – ministers, local authorities, Ngāi Tahu and other key stakeholders.
- *Public Notification* of proposed policy statement or regional plan, or variation or changes to these for formal submission.
- *Submissions* – submission period of 40 days for proposed policy statements or plans, 20 days for variations or changes.
- *Submissions close* - Council staff produce a summary of decisions requested (SODR), which is publicly notified and further submissions are sought
- *Further submissions* – 10 working day period for further submissions to be lodged
- *Further submissions close* - Council staff produce a s42A officer report which includes an evaluation and recommendation for each submission. The report goes to submitters and to the hearing panel.
- *Hearings* – submitters and further submitters who indicated they wish to be heard on their submissions are able to speak to the hearing panel about their submission.
- *Deliberations* – the hearing panel considers all the information they have received before making decisions on submissions.
- *Council receives the hearing panel's recommendations* and resolves to accept or reject them. If accepted these recommendations become the Council decision on submissions.
- *Decisions* – Council notifies its decisions on submissions. The variation or change plan or policy statement is amended per the decisions but retains its “proposed” status.
- *Appeals* – Anyone who made a submission on the plan or policy statement can appeal the decision of the council. Please note that Section 66 the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (the Environment Canterbury Act) has temporarily removed the right of appeal to the

Environment Court for regional plan or policy statement decisions notified prior to the expiry of the Environment Canterbury Act in 2013, under this Act, the right of appeal is to the High Court on questions of law only.

- *Court Decisions* – The Court releases its decisions on appeals and the variation or change is amended as directed.
- *Operative* - Following the resolution of any appeals, the final step in the process is for Environment Canterbury to make the plan or policy statement operative.

The formal plan process laid out in the Schedule 1 of the RMA has been found to exclude parts of the community. The collaborative process we are now following has resulted in much greater public participation and better resource management outcomes.

Environment Canterbury has also adopted the Significant and Engagement policy under the Local Government Act from 1 December 2014.

Q12 - What steps do local authorities take to understand and incorporate the views of people who are potentially affected by Plan provisions or changes, but who do not formally engage in the Plan process?

The collaborative process that is now embedded in the Environment Canterbury planning process has resulted in much greater engagement with parties who traditionally did not engage in the formal planning process. Environment Canterbury is consistently looking at ways to further engage the community, particularly the silent majority, to understand their views and develop resource management solutions which achieve sustainable development and outcomes with community expectations.

Q14 - How accurate are local authority assessments of the demand for and supply of land? How well do they reflect market demands and the actual development capacity of land? Are there any good examples of supply and demand forecasts?

Demand and supply forecasts are generally based on analysis of population data from Statistics New Zealand. Environment Canterbury has worked with Canterbury TLAs and Statistics New Zealand and published population analysis and data on its website to support development of 2015 Long Term Plans:

<http://ecan.govt.nz/about-us/population/pages/default.aspx>

Q25 - Do second-generation Plans take a more flexible or enabling approach to land use control?

The resource management planning community has learned a lot from the first generation plans and is now undertaking a more enabling approach to development. This has primarily been achieved by focusing on regulating issues which have a real and demonstrated effect on the environment. However, many local authorities are only now developing their second generation plans and efficiency and effectiveness of these new plans is yet to be seen.

Q28 - Which local authority pre-application advice and information services are the most effective for communicating expectations and reducing unnecessary cost for applicants? What makes them effective?

The most effective services for providing pre-application advice are having good customer services staff that are regularly trained and updated about emerging plan changes. Accordingly, staff is able to respond to enquiries and provide advice on consent requirements. If more specialised advice is required pre-application advice can be provided by consents staff, and one hour of staff time is provided free of charge. We also have application forms and notes providing guidance on the information required for an application. In addition, staff have time in their personal budgets for advisory requests and for providing advice to stakeholders and councils. Communication and relationships between councils is key and we budget for this.

Q29 - Which processes are most important to applicants for providing consistent and efficient assessments of resource consent applications?

The most important processes for providing consistent and effective assessments include internal guidance notes and checklists; e.g. audit sheets and report templates to ensure the appropriate effects are assessed in accordance with rule and policy requirements of the relevant planning documents. Staff training and procedure documents also ensure consistency. Previously used condition sets are used as a starting point for the majority of typical applications, and independent certified decision makers make decisions on notified consents, including a review of consent conditions to ensure they are appropriate.

Q30 - Have resource consent processing times resulted in unnecessary delays in the development of land for housing? If so, do you anticipate that the recent changes to processing timeframes will address delays?

Having clearly identified areas earmarked for development, for example, as under the Urban Development Strategy (UDS), speeds up the decision-making process. Also the use of global consents held by TLAs for infrastructure provision allows developments to proceed more rapidly. We do not believe that consent processing times have delayed the development of land. The requirement for consents should be factored into the planning process for development and it is the responsibility of the developer to identify regulatory requirements as part of their project planning.

Q31 - What explains the variation between jurisdictions regarding requests for additional information and use of stop-the-clock provisions when assessing resource consent applications?

The low proportion of applications requiring s92 requests reflects the scrutiny given to new applications to ensure they are adequate and meet Schedule 4 requirements. The use of pre-application advice and the consequent higher quality of applications received can also explain differences between jurisdictions. s37 is commonly used to provide the applicant the opportunity to review and approve draft conditions.

Q32 - What are the impacts of notification on the supply of development capacity? How could the processes surrounding notification be improved?

Notification extends timeframes and costs to applicants. Applicants typically try to avoid notification and this can result in delays and increased costs if adverse effects or affected parties are identified as the applicant seeks written approvals, amends their application or seeks to justify why the proposals should not be notified. In many cases it may be better for the applicant to request or proceed with notification and reach a decision more quickly rather than avoid the process. The use of early consultation with potentially affected parties, use of pre-application advice and provision of a robust assessment of effects reduces costs and identification of issues after lodgement. This also reduces the need for peer review and use of external experts if issues can be addressed upfront.

The use of global consents held by TLAs for stormwater and wastewater also avoids the need for developers to seek their own consent as the effects of development are already authorised.

Q33 - What explains the reduction in the prevalence of pre-hearing meetings?

There may be fewer pre-hearings meetings due to improved consultation occurring prior to notification in many cases. Only more significant applications are notified and are therefore more complicated and the benefits of pre-hearing meetings may be diminished, for example, if there are large numbers of submitters and the effects are well understood.

Q34 - Which local authorities make the best use of pre-hearing meetings? What factors best contribute to successful pre-hearing meetings?

We offer no comment on which local authorities make best use of pre-hearing meetings. Factors contributing to successful pre-hearing meetings include:

- having a good facilitator
- willingness by the applicant and submitters to engage in discussion
- submitters having a good understanding of the process.

Q35 - Does the type of person making the decision on resource consent applications affect the fairness, efficiency or quality of the outcome? What difference (if any) does it make?

The type of person making the decision should not make a difference to the quality of the decision. Decision makers (internal or external staff) are certified and delegated or selected to make the decision. They should be selected for their experience and knowledge and should be objective. Panels of decision makers can be used for more difficult or sensitive decisions e.g. Resource Management Officers Group panels used at Environment Canterbury for non-notified applications or notification decisions to ensure fairness.

Q36 - Does the use of external experts (for example as independent commissioners or contracted staff) in making resource consent decisions create conflicts of interest? If so, how are these conflicts managed?

When independent commissioners are appointed, they are selected with regard to potential conflicts of interest. There is occasionally a perceived conflict of interest, but commissioners are chosen carefully and any potential for conflicts are identified and declared. Environment Canterbury has adopted a Hearings Policy 2014 (4 December 2014) which, amongst other things, deals specifically with conflicts of interest.

Q37 - What processes do local authorities use for ensuring that consent conditions are fair and reasonable? How successful are local authorities in meeting the “fair and reasonable” test?

Consent conditions for common activities generally originate from a set of typically used conditions which are adapted to ensure conditions are appropriate for the scale and effects of the activity to ensure a level of consistency. s42A reports identify the effects of the proposal and the mitigation and conditions required. Condition sets are regularly reviewed and updated by activity specialists with input from compliance staff and other council staff. Draft conditions are routinely reviewed and approved by applicants to ensure they are correct and appropriate for the activity. All decisions and consent conditions are reviewed by a senior delegated decision maker or a hearing panel for complicated or significant applications. Decisions are also reviewed annually by an external reviewer to confirm the process has been of appropriate quality.

Q38 - In your experience, what impact do conditions on resource consents have on the viability of development projects?

If conditions are fair and reasonable, they should not constrain development. The applicant typically has the ability to comment on decisions and has the opportunity to make corrections. Environment Canterbury tries to allow some flexibility in the activity consented while maintaining appropriate monitoring and reporting against limits set in conditions.

Q39 - Which local authorities have been most successful in providing coordinated decisions over applications to use land for housing? What explains their success?

Environment Canterbury and the TLAs within greater Christchurch have had success through the UDS strategy and LURP to identify areas for growth. We make good use of relationships with council staff to ensure communication over developments and joint processes and use of s91 where appropriate to ensure consenting processes are aligned.

Q40- Are there issues relating to the process for challenging or changing decisions which impede the supply of effective land for housing?

Changes of consent conditions are generally straightforward and only the effects of the change are assessed, in accordance with s127 RMA. The same principles of making a streamlined consent application apply – pre-application advice, consultation and a good quality application.

Q57 - What is the likely effect of long-term infrastructure strategies on the availability of land for housing?

The purpose of 30 year infrastructure strategies is to identify significant infrastructure issues and needs facing local authorities and principal options for managing those issues. The infrastructure strategies are likely to provide clarity around infrastructure needs which should provide certainty for future land supply.