

10. DEBON HOLDINGS – VICINITY TEMPLETON, SELWYN DISTRICT PROPOSE PLAN – VOLUME 2: RURAL

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The purpose of this report is to obtain the Council's approval to withdraw from proceedings in relation to its further submissions to the Proposed Selwyn District Plan (Volume 2 Rural Section), opposing a proposal by Debon Holdings Ltd to establish a rural residential development adjacent to Templeton.

BACKGROUND

In a privately initiated Plan Change (No 54) to the Selwyn District Transitional Plan in August 1998 Debon Holdings sought rezoning for 37 hectares of land near Templeton from Rural 3 to Rural Residential, providing for 58 sites with a minimum site area of 5,000m². The site is immediately adjacent to the boundary with Christchurch City on the south side of the Main South Road, east of Waterholes Road, opposite the existing township of Templeton (see map attached as Appendix 1).

The Christchurch City Council opposed this Plan Change on two grounds:

1. The proposed development would be in conflict with the objectives and policies of the Proposed City Plan;
2. That the pattern of subdivision would create potential adverse effects on the City by encouraging a dispersed pattern of settlement without any integration or coordinated planning.

This Plan Change was adopted by the Selwyn District Council. Environment Canterbury appealed, (ie made a reference) to the Environment Court. The City Council, as a submitter, registered an interest in the reference as a Section 271A party.

When the City Council lodged its submission, it did so in the knowledge that Environment Canterbury opposed the Plan Change on the basis it was contrary to the Regional Policy Statement. Therefore, the City Council registered its interest under Section 271A. Environment Canterbury later withdrew its reference.

As reported to the Regulatory and Consents Committee on 12 July 2002, the City Council withdrew as a party to the Environment Court proceeding. This report pointed out that withdrawal from this reference should not be seen as a 'softening' of the City Council's stance relating to urban development on its doorstep. The Committee also made it clear that withdrawal from this reference did not mean it would not consider opposing the development under the Proposed Plan.

PRESENT SITUATION

The Selwyn District Council did not include the Debon Holdings rural residential zone when it notified its Proposed Plan Volume 2 Rural Section. However, Plan Change 54 has been made operative as from 17 January 2003, as publicly notified in the Selwyn District Public Notice attached as Appendix 2.

Debon Holdings lodged submissions on this Plan essentially sought a new rural residential zone as it had in the Proposed Plan Change. The submissions (attached as Appendix 3) relate to and request an area of land opposite and near Templeton Township to be included in the Reviewed District Plan as an Existing Development Area.

The City Council made further submissions to the Selwyn Proposed District Plan, reaffirming the City Council's position opposing such dispersed development along the mutual boundary. The further submissions attached as Appendix 4 were adopted by the Council on 24 October 2002.

ASSESSMENT

There are good planning reasons for the City Council to be involved in this proposed development. Although benign on its own, this proposal risks setting a precedent for low density urban development across the territorial boundary from Templeton. In this respect it is worth noting the reasons why Judge Jackson allowed the reference by Ecan in the Trott case in Burwood (RMA 557/99) when he appeared critical of low density developments that were car dependent, isolated from community facilities, could not be designed to promote better pedestrian, cycle or public transport, and had no barrier to further development.

However, the Court's observations were made within the context of the objectives and policies of the Proposed City Plan, which under the Resource Management Act, carry limited weight in Selwyn District. The Regional Policy Statement also has provisions seeking to promote settlement patterns that will encourage transport, but that document has been criticised by the Environment Court for being too general. We understand that Ecan has not pursued the Debon submission for partly this reason. Thus, if the City Council were to pursue this case it would be on its own, and reliant on successfully arguing that the development was contrary to the principles of the RMA rather than specific policies.

A further matter to consider is that the Council should only remain a party to the hearings if it is prepared to take the case to the Environment Court. While it could lead credible evidence at the hearing, and subsequently in the Environment Court, the chances of a successful outcome for the Council would be very uncertain.

CONCLUSION

Once again, the case for withdrawing the City Council's further submissions seems compelling, on the basis that:

- The City Council has an uncertain, if not weak, statutory position;
- Plan Change 54 (Debon Holdings) has now been made operative. Also, the developer has already gone through a lengthy hearing process and there would need to be good grounds to delay the development even further;
- Staff resources could be better utilised in getting the Council's own plan operative;
- The matter of growth across territorial boundaries is a wider issue and would need to be considered in a strategic manner rather than through an adversarial hearings process.

A case could be made to oppose the development but there is a significant risk of the council losing. Under the current statutory regime, a more effective means of pursuing urban growth, particularly around Templeton, would therefore be through joint cross boundary meetings with the Selwyn District Council.

Staff

Recommendation: That the City Council withdraw its further submissions to Debon Holdings, as highlighted with an asterisk in the attached Appendix 4, by advising Debon Holdings and Selwyn District Council.

Chairman's

Recommendation:

1. For discussion.
2. That cross boundary talks between the appropriate Committee in the Selwyn District and this Committee commence as soon as possible.