

1. PLAN CHANGE 54, SELWYN DISTRICT PLAN REFERENCE NUMBER 481/00, CANTERBURY REGIONAL COUNCIL VS SELWYN DISTRICT COUNCIL (DEBON HOLDINGS)

Officer responsible
Director of Information

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The purpose of this report is to obtain approval for the Council to withdraw as a party to Change 54 of the Selwyn Transitional District Plan. The Christchurch City Council is an interested party under Section 271A of the Resource Management Act relating to a reference lodged by the Canterbury Regional Council. The Regional Council has subsequently withdrawn from the reference leaving the Christchurch City Council as the only active party in the proceedings.

BACKGROUND

Plan Change 54 to the Selwyn Transitional District Plan was promoted by Debon Holdings in August 1998 and heard by a Commissioner in May 2000. This privately initiated change sought rezoning for 37 hectares of land at Templeton from Rural 3 to Rural Residential, providing for 58 sites with a minimum area of 5000m². The site is immediately adjacent to the boundary with Christchurch City along the Main South Road opposite Templeton.

Council Submission and Commissioner's Decision

The Christchurch City Council opposed the 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.

The submission also raised issues concerning sewage disposal, but this matter was withdrawn following further information provided by the applicant.

In summary, the Christchurch City Council's concern was the potential for development on the other side of its boundary occurring in an ad hoc fashion, thereby extending Templeton across the boundary without any integration or co-ordinated planning.

In his written decision, the Commissioner accepted these concerns. Quoting from his decision, he said:

"It is these concerns which in my assessment make this proposal finely balanced. I can accept that this proposed change does not represent good 'planning' - there may well be a better way of providing for rural residential living and/or expanding Templeton. As I understand the legal framework however, these concerns about possible future problems are only one consideration and have to be balanced against the evidence given in support of the proposal."

The Commissioner went on then to approve the plan change and Environment Canterbury appealed. The City, as a submitter, registered an interest in the reference as a Section 271A party.

Present Situation

The Council has received a request from the legal advisers for Debon Holdings that the Council withdraw as a party to the Environment Court proceedings. The letter states that their client wishes to proceed with the development as soon as possible, but before the client incurs a significant cost in planning and design for subdivision and land use consent applications, he needs to be satisfied that the Environment Court matter is at an end.

As the Plan Change was under the Selwyn Transitional District Plan, it is understood that Debon Holdings has made a submission to the rural section of the Selwyn Proposed District Plan seeking a rural residential zone as per Plan Change 54. It is unsure why Selwyn District Council did not incorporate the Plan Change into its Proposed District Plan in the first place. In any event the submissions on the rural section are expected to be notified in a few weeks and further submissions sought. The Christchurch City Council needs to decide whether it wishes to pursue the Debon Holdings proposed zoning through further submissions and at the same time, retain its standing in the Environment Court with respect to Plan Change 54.

When the Council lodged its submission opposing Plan Change 54, it did so in the knowledge that the Regional Council would also be opposing the Plan Change on the basis that it was contrary to the Regional Policy Statement. Similarly, when it registered its interest under 271A, the Regional Council had lodged a reference against the decision. Now that the Regional Council has withdrawn its interest, the City Council needs to decide whether to pursue the reference.

The City Council has three options:

1. Withdraw from the Court proceedings and take no further interest in the site; or
2. Withdraw, but lodge a further submission opposing Debon Holding's submission on the Proposed District Plan; or
3. Retain an interest in the reference, and lodge a further submission on the Proposed District Plan.

A report is being prepared that sets out the statutory context for resolving cross boundary issues with neighbouring territorial authorities and points to current difficulties facing the Christchurch City Council in intervening in urban development proposed in adjoining districts.

The situation is further weakened by the Regional Policy Statement being found wanting by the Environment Court in the Pegasus Bay case. Those observations by the Court are, it is understood, largely the reason for the Regional Council withdrawing.

In this context, there is a significant risk that the Council would lose this particular case if it proceeded to Court, and staff resources could be more effectively engaged on other pressing issues. Moreover, the Legal Services Unit advises that it would be highly unusual for a local authority to take a case to the Court as a 271A party, unless it held particularly strong views, and if this was the case then the Council would have lodged its own reference.

Withdrawal from this reference (Option 1) should not be regarded by the public or adjoining territorial authorities as a 'softening' of the Council's stance relating to urban development on its doorstep. It should continue to make submissions on significant urban development proposals in adjoining districts according to the circumstances of each case. It still has this option for the Debon Holdings land in that the Council could oppose seeking a rural residential or other urban type zoning in the Proposed District Plan.

CONCLUSION

Given the circumstances set out above, and the issues likely to be raised in the cross boundaries report, it is considered that it would not be appropriate for the Council to pursue this reference. While there are some sound planning reasons as to why the zone should not go ahead, the situation is not considered sufficiently serious to justify holding up the proposed subdivision, or diverting financial and staff resources away from preparing for another fixture.

The present case highlights the need for the Council to move quickly in working with its adjoining territorial authorities, in developing a strong policy framework that would enable urban development to occur in a co-ordinated and integrated manner.

Recommendation: That the Council withdraw as a party to the Environment Court on RMA481/00 – Plan Change 54 to the Selwyn Transitional District Plan.

That a further submission reaffirming the Council's position be made to the Selwyn Proposed District Plan if required.

(**Note:** Councillor Broughton recorded her vote against the adoption of the foregoing recommendation).