

44. OLD TAI TAPU ROAD/TEMPLETON BOUNDARY CHANGES – REORGANISATION SCHEMES



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PURPOSE OF REPORT

1. The purpose of this report is to present the report and recommendation of the Committee appointed to conduct a hearing on the draft reorganisation schemes between Selwyn District Council and Christchurch City Council for the areas of Old Tai Tapu Road and Templeton, in accordance with Schedule 3 of the Local Government Act 2002.

EXECUTIVE SUMMARY

2. In February, 2002, the Council adopted a report recommending a boundary alteration in the vicinity of Templeton and authorised staff to consult with affected land owners to ascertain their views on a proposed boundary adjustment. Since 2002, a new area came to the attention of both the Christchurch City Council and Selwyn District Council. This property is situated at 280 Old Tai Tapu Road and has been identified as a high priority.
3. The main reason for undertaking a boundary change is because the present location of the Christchurch City Council territorial boundary bisects a number of properties, creating difficulties and uncertainties in relation to bylaw administration, rates collection, service provision and electoral and census activities. The existing boundary also bisects the Templeton community into western and eastern sections, creating problems for neighbourhood identity and electoral and census activities.
4. In order to begin the boundary alteration process, a proposal must be initiated by a territorial authority under clause 1(1) of Schedule 3 of the Local Government Act 2002, as an affected local authority. In this case, Christchurch City Council prepared the proposal to file with the other affected local authority Selwyn District Council.
5. The two proposals, one for the 17 Templeton properties and one located at 280 Old Tai Tapu Road, had been formulated generally on the following basis:
 - (a) Meeting the requirements of Schedule 3 of the Local Government Act 2002.
 - (b) Creating greater coherence and rationality of the boundary in the areas of Templeton and Old Tai Tapu Road and improving local governance through the consolidation of distinct communities of interest.
 - (c) Aligning the boundary with existing cadastral boundaries and avoiding buildings and other major structures.
 - (d) Transferring the land in Templeton, which is currently in Selwyn and primarily developed for urban purposes into Christchurch.
 - (e) Transferring the land in Templeton and Old Tai Tapu Road that is currently in Christchurch and primarily developed for rural purposes to Selwyn.
6. A report went to the Council's Regulatory and Planning Committee on 3 December 2009 the purpose of which was to obtain approval from the Committee to submit two boundary alteration proposals to the Selwyn District Council for the areas of Templeton and 280 Old Tai Tapu Road in accordance with Part 1, Schedule 3 of the Local Government Act 2002. The filing of the proposals with Selwyn District Council would enact the statutory process for beginning boundary reorganisation via the Local Government Act 2002.
7. On 10 December 2009 the Council resolved to confirm two separate draft reorganisation proposals to:
 - (i) File with the Selwyn District Council to start the formal Local Government Act reorganisation process;

- (ii) Instruct officers to draft a reorganisation scheme in the likely event Selwyn District Council would appoint the Christchurch City Council to manage the process; and
 - (iii) Ask the CEO of Christchurch City Council to enter into negotiations with the CEO of the Selwyn District Council regarding cost sharing associated with the reorganisation process.
8. Officers then prepared two draft reorganisation schemes in accordance with Schedule 3 of the Local Government Act 2002. Two separate reorganisation proposals were drafted because the Tai Tapu reorganisation scheme involves a single landowner thereby avoiding potential appeal delays associated with the Templeton scheme that involves multiple land owners.
 9. Following the Council meeting of 10 December 2009 the Council's Chief Executive Officer, Mr. Marryatt sent a letter to Mr. Davey CEO of Selwyn District Council requesting that Council give notice of the two proposals to the Secretary of Local Government and the Local Government Commission pursuant to clause 10, Schedule 3 of the Local Government Act 2002 thereby confirming the draft reorganisation schemes. Selwyn District Council was also asked to determine whether Selwyn District Council or CCC or a joint committee will be responsible for preparing the draft reorganisation schemes and finally to confirm cost sharing negotiations between the CEO's.
 10. The reorganisation schemes (**Attachment 1**) and the associated requests were submitted to the full Selwyn District Council on 10 February 2010 where that Council resolved to give effect to those matters contained in Mr. Marryatt's letter.
 11. On 6 May 2010 the Regulatory and Planning Committee resolved to recommend to the Council approval for public notification of the two draft reorganisation schemes, one for 280 Old Tai Tapu Road and another for 17 properties near Templeton and to appoint a hearings panel to consider submissions on the draft reorganisation schemes and make recommendations to the Council.
 12. The Council ratified the Committee recommendation on 27 May 2010 approving the release of the two draft reorganisation schemes for a two month public notification period. The two schemes were publicly notified on 4 and 5 June 2010. Submissions closed on 4 August 2010. Public notification of the draft schemes was also sent directly to the Local Government Commission, Selwyn District Council and other named parties in clause 12(3) of Schedule 3 of the Local Government Act 2002.
 13. Two submissions were received in response to the public notification of these draft reorganisation schemes, one in support and one in support with amendments (being the inclusion of 19 Trents Road in Christchurch City Council boundary). The amendment was sought by Cookie Time Limited to have their land holdings entirely with one territorial authority for efficiencies relating to bylaw administration, rates collection and service provisions by the relevant authority (including building and planning controls).
 14. The appointed Committee to hear the submissions and make a recommendation to the Council, comprised of Councillors Bob Shearing (Chairperson), Mike Wall and Sue Wells. The hearing was conducted on 25 August 2010 at the Sockburn Service Centre. In their report to the Council they recommend the draft reorganisation schemes as notified with amendments (inclusion of 19 Trents Road). Its report is attached (**Attachment 2**).

FRAMEWORK OF THE LOCAL GOVERNMENT ACT 2002 (LGA)

15. Once the Committee has made their recommendation to the Council in relation to the draft reorganisation scheme, the Council can either:
 - (a) *Adopt the draft reorganisation scheme; or*
 - (b) *Adopt the draft reorganisation scheme with amendments to take into account of recommendations, submissions, relevant material, representation or comments received by it; or*
 - (c) *Decision that the draft reorganisation scheme should not proceed*

16. If the Council is of the mind to adopt the recommendations of the Committee, then notice of the decision must be given to:
- (a)
 - (i) *Each affected local authority.*
 - (ii) *The Secretary (of Local Government).*
 - (iii) *The Commission (of Local Government).*
 - (iv) *Each person who made a submission.*
 - (v) *The proposed of his or her representative.*
 - (b) *Give public notice of the decision.*
17. If a person who has been given notice is dissatisfied with the decision, that person may appeal to the Commission against the decision. This must be lodged within one month after the date of the decision with the CEO of the Commission and the Chairperson of the Committee (Councillor Bob Shearing) or the CEO of the Christchurch City Council.
18. If no notice of appeal has been lodged, Christchurch City Council must refer it to the Minister of Local Government for the preparation for an Order in Council to give effect to it.

OTHER MATTERS FOR CONSIDERATION

Resource Management Act

19. Section 81 (Boundary adjustments) of the Resource Management Act 1991 (RMA) notes that;
- (1) *Where the boundaries of any region or district are altered, and any area comes within the jurisdiction of a different local authority,—*
 - (a) *The plan or proposed plan that applied to the area before the alteration of the boundaries shall continue to apply to that area and shall, in so far as it applies to the area, be deemed to be part of the plan or proposed plan of the different local authority:*
 - (b) *Any activity that may, before the alteration of the boundaries, have been undertaken under section 19 may continue to be undertaken as if the alteration of the boundaries had not taken place.*
 - (2) *Where the boundaries of any district are altered so as to include within that district any area not previously within the boundaries of any other district, no person may use that land (as defined in section 9) unless expressly allowed by a resource consent, until a district plan provides otherwise.*
 - (3) *A territorial authority shall, as soon as practicable but within 2 years, make such changes to its district plans as it considers necessary to cover any area that comes within its jurisdiction, and, after the changes are made, this section shall cease to apply.*
20. It is proposed that in order to give effect to section 81(3) of the RMA, that the proposed boundary changes be incorporated into the District Plan review. Section 81(3) can be interpreted as not applying if the Council does not consider that any changes are necessary in the meantime. In other words, the Council is happy to rely on the provisions of the Selwyn District Plan until it undertakes its District Plan review.

Census Data

21. With regards to the proposed amendments to include 19 Trents Road, and the new territorial boundary, there is no specific restriction in the LGA to consider cadastral boundaries or roads as appropriate boundaries for TA. It is noted that cadastral boundaries are used currently to delineate TA boundaries since they represent a relatively efficient option for boundary alteration that supports the desires of affected landowners and provides for a more logical rates arrangement.

22. The LGA does promote the use of Statistics New Zealand meshblock boundaries (used for electoral purposes) in defining limits of Territorial Authorities (TAs). The current meshblock boundaries are congruent with the existing Christchurch City Council boundary. Meshblock boundaries are set by Statistics New Zealand and they are generally happy to change meshblock boundaries to accommodate TA boundary changes so long as they are sensible and follow cadastral boundaries. It is very likely that Statistics New Zealand will amend their meshblock to the proposed TA boundary once settled.
23. TA boundary often run down the centre lines of roads as does the current TA boundary with Selwyn District Council in places including Trents Rd. Where the road is administered by NZTA there are no operational/maintenance issues. Where the road is a local road, a boundary road agreement determines which TA administers the road (maintenance and upgrading) is usually in place. It would be a matter of amending the agreement to reflect the new TA boundary.

Rating

24. Rating of the properties affected by the changes to boundaries will remain as per status quo. Once the changes to the territorial boundary have been made by the relevant authority, the rating changes will occur in the next financial year.

FINANCIAL IMPLICATIONS

25. There are no direct financial implications arising out of this report. At the completion of the boundary change process there will ultimately be some small costs associated with the rezoning and possible increases to service provision. There are also some costs associated with staff time to prepare the changes required to the District Plan, however it is envisioned that these are to be included within the upcoming District Plan Review process.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

26. Not relevant.

LEGAL CONSIDERATIONS

27. Schedule 3 to the Local Government Act 2002 sets out a process for considering the reorganisation of local authorities. This process has been followed.

Have you considered the legal implications of the issue under consideration?

28. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

29. The boundary alterations aligns with the objectives of the South West Area Plan; notably, the objective to visibly define and reinforce the urban limit. The boundary proposal also aligns with the Greater Christchurch Urban Development Strategy, which seeks a well-defined district boundary, which creates a demarcation between urban and rural areas.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

30. Yes. Supports the maintenance and review of the District Plan.

ALIGNMENT WITH STRATEGIES

31. Not applicable.

Do the recommendations align with the Council's strategies?

32. Not applicable.

CONSULTATION FULFILMENT

33. The consultation requirements of the Local Government Act 2002 have been fulfilled at this stage in the process.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Adopt the draft reorganisation schemes with amendments, for the reasons set out in the recommendation of the Committee (Attachment 1) and as stated by the Committee that "...this proposal for the reorganisation of territorial authority boundary between Christchurch City Council and Selwyn District Council is adopted with amendments (inclusion of 19 Trents Road) in accordance with Section 18 Schedule 3 of the Local Government Act 2002".