

Selwyn District Council – Best Practice Example

Source of further information

Lynda Weastell - Selwyn District Council - Lynda.Weastell@selwyn.govt.nz
Greg Dewe - Connell Wagner Ltd, Christchurch — Deweg@conwag.com

Description of Best Practice Example

The Selwyn District Council, having processed a large number of private plan change requests, have developed a reporting format which addresses the relevant matters from Clause 25 of the First Schedule to the RMA. The considerations required by Council at the initial phase of the private plan change process (i.e. where Clause 25 applies) are concerned with quite specific issues. As such, those making decisions in respect of Clause 25 are provided with details surrounding the matters to which their decision making powers are restricted.

Method

Planning staff from the Selwyn District Council have developed a standard reporting format which focuses on the specific provisions from Clause 25 of the First Schedule to the RMA. This allows the elected representatives who must decide whether the request should be notified (and if so how, see sub clauses (2) and (3) of Clause 25) or not to focus on the issues that must be decided on at this stage of the process rather than other matters, such as the merits of the request, which are to be considered at a latter stage of the process. A copy of the report format is attached as Appendix A.

Lessons Learned

Prior to the development of the reporting format described above private plan change requests would often be held up at the early phase of the process, i.e prior to notification, for reasons outside of those specified by Clause 25. The reporting format developed now overcomes (for the most part) this situation occurring.

Benefits

The format allows Council staff to efficiently prepare the necessary report for Council while at the same time meeting the statutory obligations imposed by the RMA.

The elected representatives receive standardised reports addressing the matters they must give consideration to. As such, it is difficult for erroneous matters or matters that are to be dealt with at a later stage to be brought up at this early phase.

Proponents of private plan changes requests are aware of the issues to be considered at this phase of the process and can check that they have addressed the necessary issues.

Costs

Costs are reduced as a report of some form would be required at this phase of the process and given the benefits identified above the costs will in all likelihood be kept to a minimum.

Other comments

While the report simply deals with matters that need to be addressed it has been the experience of practitioners preparing private plan change requests that quite often matters that need not be considered at this initial phase of the process, such as issues surrounding whether the plan change request ought to be approved or not, are debated by elected representatives. Clause 25 of the First Schedule to the RMA requires a much narrower consideration of issues and to this end the report format focuses attentions to relevant matters.

It is considered that the adoption of such a report format would assist Councils that are not overly familiar with the private plan change process.

REPORT

TO: Chief Executive
FOR: Planning Committee
FROM: Policy Planner
DATE:
SUBJECT: Proposed Plan Change X

Recommendation

(A recommendation is made as to what should occur with the plan change request, i.e. that it be notified as a private request, adopted as a Council Plan Change and notified, dealt with as if it was a resource consent application, or rejected.)

Introduction

(After identifying the plan change request the report then identifies that the following matters will be considered)

- i. Describe the plan change request;
- ii. Outline the process for the Council to consider the request;
- iii. Recommend a course of action to deal with the request.

Plan Change Request

(A description of the request is provided along with the changes proposed to the District Plan.)

Plan Change Process

1. Clause 25 of the First Schedule of the RMA requires Councils who have received a request for a private plan change to do one of three things:
 - a. Accept the request and notify it as a private plan change request.
 - b. Adopt the plan change request as a Council initiated plan change.
 - c. Reject the plan change request.
2. There are only limited grounds on which a plan change request can be rejected (Clause 25(4)). They are:
 - a. That the request is in whole or in part, frivolous or vexatious; or
 - b. The substance of the request or part of the request has been considered and given effect to or rejected by the local authority or Planning Tribunal within the last two years; or
 - c. The request or part of the request is not in accordance with sound resource management practice; or
 - d. The request or part of the request would make the policy statement or plan inconsistent with Part V; or
 - e. The plan has been operative for less than 2 years.

(An assessment against these matters is made.)

3. At a meeting of the Council's Planning Committee following the withdrawal of the Proposed District Plan in August 1997, guidelines were adopted for assisting in deciding whether a plan change should be accepted as a private request or adopted by the Council. An assessment of this plan change against those guidelines is attached to this report. As can be seen it is concluded that the request does not meet the guidelines for adoption as a plan change proposed by the Council.

Conclusion

(Reasons are given for the recommendation made at the start of the report.)

ATTACHMENT – Evaluation of the Plan Change Request

1. The issue cannot be resolved through granting a resource consent application
2. The plan change does not involve a change in resource management policy, which is better addressed through the redrafted district plan
3. Does it meet one or more of the following criteria:
 - i. The plan change has a community benefit, which is greater than any personal gain to the landowner.
 - ii. There has been special circumstances whereby the party has been more disadvantaged by the withdrawal of the Proposed District Plan 1995 than other landholders or submitters.
 - iii.(a) The issues has arisen due to a defect in the provisions of the Transitional District Plan; and
 - (b) It is more efficient to correct that defect now than to wait until the district plan is redrafted.
 - iv. The current provisions of the Transitional District Plan are not ensuring sound management of the District's resources in the interim

(An assessment of each of the above matters is made and an overall conclusion reached.)