

Proposed Plan Change 66.

18th June 2021

My submission relates to the properties of the soil and land.

This land is LUC 2 land is highly valued for its productive potential. The forthcoming national Policy Statement has put councils on notice that they must do more to ensure that such land is not taken out of future productive use.

The rezoning of this land will do precisely that. In addition, further such land around the site would also be rendered unusable due to reverse sensitivity effects.

So not only would this 28 hectares be taken out of use as HPL the surrounding LUC 2 or 3 land will also be rendered sterile. This then gives rise to the creep effect, and over time takes out more and more HPL. The creep should not be allowed to even start.

Current legislation and policy regarding use of Highly Productive Land.

The forthcoming National Policy Statement has been widely discussed and all councils will have been aware of its existence as of 2018. In addition the Regional Policy Statement is currently in place and has an entire section dedicated to the issue of protecting soils.

The District Plan also has provisions, and has encouraged development around townships. Therefore there can be the assumption such development is not encouraged in rural areas such as Weedons, West Melton or Templeton. I will bring to your attention relevant aspects of section 5 of the Regional Policy Statement as well as section 15 of the Regional Policy Statement. Section 15 is comprehensive and rather than include the entire section, I have indicated key points. However, I do recommend the reading of the entire section which is comprehensive.

The timing of the release of the NPS is not clear, but it is anticipated for the 2nd half of 2021. Regard should be given to this NPS. As indicated, SDC are fully aware of its impact and importance. It would be unethical to grandfather in such consents so close to the release of key requirements. SDC has a huge amount of HPL and has a role to play to ensure that development does not infringe on this land to the extent future generations will be adversely impacted with reduce opportunity for food growth.

With regards this application, it is of concern that the applicant did not indicate the LUC properties of the land in the initial application. It is fortunate that some submitters have undertaken their own research using Canterbury Maps. I was aware of the need to do so following a similar issue arising from a previous application that was consented in this region. I would like to see the applicant explain through any right of reply, why they did not indicate clearly demonstrate the LUC properties of the land, with an associated statutory assessment.

There is ample evidence to indicate that there is no valid reason to grant the consent and allow this land to be rezoned. It is contrary to Policy, Plans and the forthcoming NPS.

I also support the submission by Carole Greenfield with regards the increased levels of transport. With the existing zone and import, heavy vehicle traffic on rural roads is affecting the enjoyment and amenity value of the area. Weedons and Templeton should not be disregarded in this way any further. The roads were not designed for that size, weight and volume of vehicle and is impacting on the enjoyment of users and residents of this area.

Cumulative effects must now be considered by decision makers, and regard given to the requirements of the RMA with regards impact on amenity values. Those being established by the Environment Court as being those that are valued by the residents. (Yaldhurst Joint Action Group v Harewood Gravels)

Section 5 of the Regional Policy Statement:

Primary production from Canterbury's rural areas is of significance to the economic and social well-being of Canterbury's people and communities. It is foreseeable that the well-being of future generations will also be strongly influenced by the ability to continue with such primary production. It is important to manage resources and activities in rural areas so that the foreseeable potential of the rural primary base of Canterbury is maintained. This includes maintaining the primary production resource and the efficient provision of infrastructure and use of other natural resources such as water, in appropriate locations to support primary production.

5.3.12 Maintain and enhance natural and physical resources contributing to Canterbury's overall rural productive economy in areas which are valued for existing or foreseeable future primary production, by:

1. avoiding development, and/or fragmentation which;
 - a. forecloses the ability to make appropriate use of that land for primary production; and/or
 - b. results in reverse sensitivity effects that limit or precludes primary production

Section 15 of the Regional Policy Statement

A highly versatile soil has few limitations for use, that is / it will be suitable for primary production with few inputs such as additional water or nutrients. Less versatile soil will need more inputs to achieve similar production, or will simply be unsuitable for agriculture or forestry. In the Canterbury Regional Policy Statement, versatile soils are those soils that are classified as Land Use Capability I or II in the New Zealand Land Resource Inventory. (NOTE: amended to include LUC 1- 3 in line with the forthcoming National Policy Statement. Amended as of August 2020)

15.1 ISSUES 15.1.1 SOIL DEGRADATION

Degradation in the quality, life-supporting capacity and or mauri of soils as a result of land-uses can limit the productive capability of the land and reduce its ability to provide for the social, cultural, environmental and economic well-being of Canterbury's people and communities.

Explanation

..... There is a need to match land-use with land-use capability. Versatile soils are a finite resource that enable highly efficient primary production, so it is desirable to ensure that resource is available for that use. Other soils may be too poor to be used for production and may be more suited to residential development.

Safeguarding the life-supporting capacity and/or mauri or health of the soil promotes the sustainable management of the soil resource and its associated ecosystems, productivity, and the social, cultural, environmental and economic values that depend on good soil.

15.2 OBJECTIVES

15.2.1 Maintenance of soil quality

Maintenance and improvement of the quality of Canterbury's soil to safeguard their mauri, their life supporting capacity, their health and their productive capacity.

15.3 POLICIES

15.3.1 Avoid remedy or mitigate soil degradation

in relation to soil:

1. To ensure that land-uses and land management practices avoid significant long-term adverse effects on soil quality,
2. to promote land-use practices that maintain and improve soil quality.

This policy implements the following objectives:

Objective 15.2.1, Objective 5.2.1 and Objective 18.2.2

Methods

The Canterbury Regional Council:

Will:

1. Set out objectives and policies, and may include methods in regional plans to ensure that land-uses avoid significant long-term adverse effects on soil quality.....

Principal reasons and explanation

A secure foundation for the long term supply of food for domestic and export markets requires the productive capacity of soils to be maintained. ...

We also need to give regard to the District Plan.

Policy B 1.1.8 sets out a limb process for deciding whether erecting buildings on versatile soils promotes sustainable management of natural and physical resources. If a site is useful for primary production the second limb of the policy applies. The second limb is to avoid rezoning that site if there are alternative sites adjoining the township that are suitable for erecting new buildings and do not contain versatile soils.

The policy says:

Avoid rezoning land which contains versatile soils for new residential or business development if:

The land is appropriate for other activities and

There are other areas adjoining the township which are appropriate for new residential or business development which do not contain versatile soils.

It is clear that both aspects are applicable. The land is appropriate for other activities.

There are other areas adjoining that do not contain versatile soils. The attached images confirm the land subject to the application is LUC 2 soil. Very little land in this country is classed as LUC 1 & 2. Only 15% of the available soil in this country is classified 1 - 3.

The other image attached also shows how close this site is to non-LUC classified land. That land (which would be suitable) is approx 2.5km away.

I now reference the comments made by the S42a officer.

I understand that the NPS is currently a proposal but is near to being gazetted (predicted second part of 2021). However there are adequate provisions in the RPS, to which the District Plan should be giving regard, as well as the provisions that are in the District Plan. As stated, only 5% of available land is LUC 1 & 2 and not only will this 28 hectares be affected but it would also cause sterilisation of any HPL and around it. This was explained recently through TV media / documentary. As Carole Greenfield stated, this land has not been identified for further urban development. SDC have already had 170 hectares of LUC 2 & 3 land consented for land use in 2020. It is not acceptable to just keep granting such consents when in clear contravention of current and proposed requirements to act responsibly and ensure such land is safeguarded for long term and future use.

The section 42a officer mentions that consideration is required around the costs and benefits associated with impacts on HPL, and feasibility of alternatives. You have been shown that non HPL is available less than 3km away. It is to be noted that the applicant did not indicate transparency in identifying the relevance of the soil land, and has not adequately evidenced that alternative sites have been adequately considered - most notably land that is not highly productive that is in the same area. This baseline test therefore has not been passed by the applicant. If it is deemed the volume of traffic will not be enough to be considered as having more than minor effects with regards to amenity values etc, then there is clearly no requirement to have this site as the only option due to proximity to main vehicular routes. It can be assumed any such request to use HPL for industrial or land use will have access to roads or transport networks. Therefore this alone should not be given significant weight when deciding consent, and should certainly be afforded less weight than the fact a) there are alternative areas that should and could be considered and b) this is not best use of important land. If the issue of transport routes was a main driving factor (no pun intended), then, then this Selwyn District Council may as well just ignore provisions of the RMA, District Plan and RPS and happily write off productive

land in preference of other uses. It is clear what should be prioritised and why. What is not clear is why there appears to be intent to utilise any possible factor as justification to endorse the granting of the consent as opposed to declining. If granted it is another step that will contribute to the 'creep scenario' where more neighbouring HPL will be vulnerable.

I would now address what Mr. MThamo has said, and will provide an amended version of this submission electronically to the hearings officer.

Point 66 where he refers to the Canterbury Land & Water regional plan and the requirement for nutrient reduction.

The requirement to reduce nitrate discharge will apply across various sectors, and it is not really appropriate to assume this will result in reduced productivity. He has not evidenced but this but made an assumption to justify the allowing of this land to be used for other purposes. In the absence of evidence from horticulture experts, who may be able to explain how they are to adapt practices to ensure yields are maintained, I ask that this comment be regarded with caution. If taken at face value his generic and un-evidenced comment regarding reduced productivity would result in less food being produced for a growing population thus leading to a food shortage. I have yet to see reporting highlighting this as a concern.

With regards to point 73, I have already discussed the issue of reverse sensitivity. If you do consent this land, this continues the domino effect. This would then render further land sterile, which then has potential to be subject of such applications, and so the domino issue continues. This just cannot be allowed to happen.

With regards to point 77 it is irrelevant how much soil is LUC 1 & 2 in the Selwyn area. Each consent adds up, and it is not acceptable to come out with the 'yeah but it is only a small amount' each time. Each small amount adds up. The fact the Government are concerned enough to come down hard by implementing a NPS is indication that NZ has reached the stage where urgent action has to be taken to put the brakes on irresponsible consenting of this land. They have identified current such use is likely to cause problems in the future with regards to food production. It should not be relevant that the land is not currently growing produce. It is the long term future potential that is being considered.

Mr MThamo has referred to a case before the High Court, which was returned to the Environment court. (December 2020). He has selected one quote that does not give context to any decision or opinion of the court, and does not indicate this is now to be applied whenever HPL is subject to an application such as this. The Environment court declined the use of this land for urbanisation as will be shown.

The key point in relation to this in effect rehearing was shown in point 47: *We also agree with Mr. Fischer that the RPS must be given effect to in its entirety, meaning that other objectives, and policies about elite soils are relevant in addition to policy criterion B2.2.2(2)(j)*

The issue of giving regard to the policy holistically and not in isolation is also referenced in Powell v Dunedin City Council.

Therefore all aspects of the District Plan, and all of Chapter 5 and Chapter 15 of the RPS should be considered with regards the soils on this site.

In Point 56: The Environment court stated: *To us, the calls to consider the context of change are not easily or satisfactorily addressed by adopting a simple ratio of areas as the single determinative criterion of significance.*

In point 59: *We have concerns about the shortcomings of using a regional percentage figure calculated on this basis. This baseline takes no account of the level of actual use of these soils for the critical purpose of sustainable food production and simply assumes that all such soils are equally substitutable when the experts tell us that this is not so, particularly when climatic differences are taken into account. This baseline allows for no consideration of the time dimension, indeed it is arbitrary in this respect and simply reflects the total area of such soils remaining in the region at a certain point in time. This, in our view, is a distinct limitation, given the irreversibility of soil loss under urbanisation.*

Point 84 referred to a table showing an incremental rate of loss of such land with this comment in point 86:

It is evident that the rate of 'occupying' and 'consuming' elite and prime soils is accelerating. However, as with the use of regional percentage figures for determining regional significance, there are no thresholds even identified, let alone agreed, for addressing this irreversible, cumulative loss of productive land resources.

This what the table showed. Due to the fact there is an urgent need for a NPS - it can be assumed this degree of loss is not specific to Auckland.

Table 1 - Annual rate of loss of land with elite and prime soils to urbanisation during the period 1915 to 2010

| <i>Time period</i> | <i>Rate of loss (ha/yr)</i> |
|--------------------|-----------------------------|
| 1915-1945 | 4 |
| 1945-1964 | 8 |
| 1964-1975 | 42 |
| 1975-1987 | 52 |
| 1987-1996 | 226 |
| 1996-2001 | 287 |
| 2001-2006 | 256 |
| 2006-2008 | 154 |
| 2008-2010 | 356 |

This case related to the use of land containing versatile soil for urbanisation. The Environment Court, when re-hearing the case having had it returned from the High Court applied the previous judgement made. The land in question was not suitable for urbanisation, and in the summary of the ruling included this reference as reason: *It will give effect to the RPS by protecting elite soils, mana whenua values.....:*

CONCLUSION

I ask that this request be denied. It would be wrong for this land to be rezoned and the reasons to decline outweigh the reasons to grant the consent. The fact it is 'only' 28 hectares is irrelevant. It does not take many such consents to add up and reduce the available land for production. Death by a 1000 cuts is a saying that is appropriate in these circumstances. And this is upheld by an Environment court ruling.

I have been reporting to the Minister for the Environment regarding the cavalier approach to consenting of LUC 1 - 3 versatile soil land in Selwyn, and the reports are being noted. I sincerely hope you make the right decision, protect this land accordingly and apply the policies as they are intended to be applied.

Davina Penny

AREA OF CONCERN - LUC 2 VERSATILE SOIL / HIGHLY PRODUCTIVE LAND



DISTANCE FROM PROPOSED SITE OF ZONE CHANGE TO NON PRODUCTIVE LAND. (GOOGLE MAPS)

