

From: Michael Gibson [mailto:michaelpcgibson@hotmail.com]
Sent: Wednesday, 12 June 2013 1:33 p.m.
To: Nathan Stocker
Subject: Further Submission - Proposed DPC 77

To: Wellington City Council

This is a further submission in respect of the Council's proposed District Plan Change 77.

1/ I seek that the whole of Submission No. 61 be disallowed on the grounds that the Submitter, PrimeProperty Group, is not entitled to make a submission by virtue of [Clause 6\(3\)](#) & [Clause 6\(4\)](#) of Schedule 1 of the Resource Management Act 1991 which state that, apart from a "local authority in its own area" :

"(3) Any other person may make a submission but, if the person could gain an advantage in trade competition through the submission, the person's right to make a submission is limited by subclause (4).

"(4) A person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement or plan that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition"

I ask that it be NOTED that the Council's Summary of Submissions fails to allude to the proprietary interests of PrimeProperty Group in the matter let alone "the advantage in trade competition" it could gain through its submission & that it should have done so.

2/ Without wishing to detract from the above, it should be NOTED that the Submitter (or its representative):

- a) has had particularly close associations with the Council,**
- b) has stated in its Submission that it might proceed with an application for the establishment of a Mitre 10 on the Curtis Street site whilst failing to mention that this would be a cause for the closure of the rival Mitre 10 situated three kilometres down the Valley in Crofton Downs,**
- c) has not mentioned that the associated closure of the Mitre 10 in Crofton Downs would be to its own particular commercial advantage,**
- d) has not mentioned that the associated closure of the Mitre 10 in Crofton Downs & its replacement in Curtis Street would not add in any way to the overall sum of local amenities,**
- e) has not mentioned that the associated closure of the Mitre 10 in Crofton Downs combined with its replacement by a Mitre 10 in Curtis Street would have no advantage to the general community,**
- f) has not mentioned that the closure of the Mitre 10 in Crofton Downs would**

parallel the closure last year of a nearby hardware store in Marsden Village & that the closure of the hardware store followed the Submitter's application for the establishment of a Mitre 10 on the Curtis Street site,

g) has not mentioned that a main part of the value of the local hardware store-owner's property was destroyed by the Submitter's application for the establishment of a Mitre 10 on the Curtis Street site,

h) was the originator of the claim that the site is "unsuitable for residential development", that it made this claim to the Council, that the Council has merely repeated the phrase, including during its earlier attempt to rezone the site as rejected by a Judicial Review in the High Court, & that the Council has failed to analyse or justify that claim,

i) is misleading in claiming that "Creswick Valley is not predominantly residential in character" because *inter alia* it fails to mention that the other predominant feature of Creswick Valley is "Open Space" & that "Open Space" is the zoning of the greater part of the property in question,

j) fails to mention that there is a covenant on the title preventing supermarkets or supermarket activities on the site, &

k) fails to mention that, when the site was bought from the Council, strictly worded advice was given by the Council that the land was zoned Residential & Open Space & there were no undertakings whatsoever given by the Council that that zoning could or would be changed.

I submit that all these factors should now be taken into account.

With regard to the greater part of the property-owner's land at 55-85 Curtis Street, that is the part which is zoned Open Space, I also submit that its intrinsic value as Open Space is recognised by the Council by virtue of its arrangement with the owner to use ratepayers' money to mow its grass.

3/ I seek that the whole of Submission No. 47 be disallowed on the grounds that the Submitter, Mr Andrew Monahan, is not entitled to make a submission by virtue of [Clause 6\(3\) & Clause 6\(4\)](#) of Schedule 1 of the Resource Management Act 1991 as evidenced by:

a) Mr Monahan's deliberate failure to address his personal circumstances by his crossing out the part of the standard submission form which seeks information relating to his gaining "an advantage in trade competition" &

b) Mr Monahan's recent formal approaches to the Companies Office in connection with the changes of name to or from Prime Property Ltd &/or 84 Willis Street Limited &/or Garden Road Limited particularly when any of these changes of name have coincided with an Application to the High Court to put this Company (however named) into liquidation.

I ask that it be NOTED that the Council's Summary of Submissions is silent on Mr Monahan's failure - deliberate failure - to address the matter of his gaining "an advantage in trade competition" through his Submission & that it should have done so.

4/ I seek that Submission No. 1 be disallowed on the grounds that the Submitter, Mrs Naomi Lane, is not entitled to make a submission by virtue of [Clause 6\(3\) & Clause 6\(4\)](#) of Schedule 1 of the Resource Management Act 1991 & submit that she has agreed in her Submission that she could obtain a commercial advantage in the matter

Without wishing to detract from this, I submit that the Submitter is mistaken in her belief that "the site...is not suitable for residential development". One of the more obvious reasons for her being so mistaken is that houses could be usefully situated on the site whilst still avoiding any restrictions which might be caused by power-lines. This could be achieved by, for instance, arranging the houses & their gardens to accommodate any such restrictions.

Another obvious reason is that the claim about the site's 'unsuitability for housing development' is undermined by the very recent decision of the Council to grant its permission for the building of a Child-care Centre in the immediate vicinity.

Mrs Lane's argument that the "area is not very densely populated therefore development would not have too greater (sic) an impact" is completely irrelevant in respect of the part of the site zoned Residential because:

- a) it is already recognised that more housing is needed in Wellington,
- b) an increase in housing is, of course, possible under the present zoning,
- c) an increase in housing stock is already recognised by official Government policy as a desirable national objective &
- d) in view of statements made by the Opposition Labour Party that this desirable objective is unlikely to change in the foreseeable future.

5/ I seek that Submission No. 5 be disallowed on the grounds that the Submitter, Mrs. Madeleine McAlister, is not entitled to make a submission by virtue of [Clause 6\(3\) & Clause 6\(4\)](#) of Schedule 1 of the Resource Management Act 1991 & submit that she has illustrated this by crossing out the section of the Submission form where she is required to make a statement on the matter.

Without wishing to detract from this, I submit that the Submitter has been ill-advised to place the greater public interest ahead of her narrow personal interest when she states: "There would be less traffic if residents didn't have to travel elsewhere." I submit that this is a misguided principle in a planning & environmental matter of this sort & is particularly the case when the residents who live locally to the Mitre 10 in Crofton Downs are faced with the closure of their facility & a consequent increase in their own traffic movements.

6/ I oppose the only other Submission supporting the Proposed Plan Change, Submission No. 35, & note that that the Submitters, Paul Francis Broughton & Susan Jane Ryan, have failed to state that one or both of them "could not gain an advantage in trade competition" through their submission. I therefore request that consideration be given to treating Submission No. 35 in the same way as that requested for Submissions Nos. 1, 5, 47 & 61.

Without wishing to detract from this, I submit that the Submitters:

- a) are wrong, so far as the proposed Plan Change is concerned, to generalise about the state of affairs in their neighbourhood of Karori however sad or inconvenient this is for them &
- b) are misguided, so far as the proposed Plan Change is concerned, in their claim about being "forced" to drive to Rongotai or Petone for certain of their 'requirements'.

I submit that the Decision they seek is therefore unjustified as well as unjustifiable.

7/ GLOW-WORMS

I support & commend those submissions of local residents who are familiar with the area & are concerned about the noise, the habitat & the glow-worms - for example, Submission No. 28 by Cecilia Doogue.

Other commendable Submissions with concerns about the Glow-worms include Submission No. 6 from Jane Clunies-Ross & Hamish Hill, No. 11 from Pauline & Athol Swann, No. 12 from Anne & Gordon Somerville, No. 23 from the Trelissick Park Group, No. 29 from Bridgett Anne Parkin, No. 31 from Bev Abbott, No. 32 from Rodney John Lewington, No. 46 from Mary Munro, No. 50 from John Christopher Horne, No. 55 from Sara Clarke, No. 57 from Sheena Yvonne Bennett, No. 58 from Frances Lee, No. 62 from Hilary Freda Patton & No. 64 from Ruth Pemberton & Ken New.

In view of this, the lack of care & attention to the glow-worms given by the Council is unacceptable. This is evidenced by its very recent confirmation that:

- a) there is a complete lack of data held by the Council regarding the habitat of the glow-worms & what is needed to protect them,
- b) no research has been conducted by or on behalf of the Council into the above, &
- c) no consideration has been given by the Council to the nature of the buffering required to be planted to protect the glow-worms in spite of its resolution to commence this buffering by August this year.

The widespread interest in the glow-worms is further evidenced by the following email:

From: strickland4@iinet.net.au
To: michaelpcgibson@hotmail.com
Subject: Recent visit
Date: Sun, 19 May 2013 21:28:59 +1000

Hi Michael

It was great to catch up when we were visiting Wellington, together with many other Australians, to support our local team, St Kilda's, play at the Stadium.

We were thrilled to see the glow-worms when we visited. The glow-worms were fantastic and were much better than we expected and so close to the road. They almost seemed like fairies in the trees.

The area of Putnam Street is of family importance to us because our grandparents built No 11 just before the war & lived there for over fifty years. We would hate it if the area was spoiled & the glow-worms disappeared.

*Kind Regards
Michael Strickland*

*88 Milpera Crescent,
Wantirna, VIC 3152
Australia*

8/ I support & commend the whole Submission No. 43 from the Creswick Valley Residents Association. I am not & never have been a member of the Association so I am free to comment that the hard & professional work of its leading members on behalf of the community has been quite extraordinary particularly since people of their ability & talent have better things to do.

9/ I support & commend the thrust of the arguments made by the Greater Wellington Regional Council (GWRC) in its Submission No. 45 & I share its concerns about the Council's approach to District Plan Changes & to planning in general.

In this respect, I refer to a letter from GWRC to the Council dated 24 April 2013 which was some six weeks after submissions had closed. The letter notes that the Council plans to introduce a "city-wide natural environment plan change" within the next "one to two years" & that this "could address" the environmental concerns of GWRC (& many others).

I submit that it is absurd for the site-specific Curtis Street Plan Change No. 77 to proceed in the meantime. It is also absurd for it to 'lie on the table' whilst a proper process is being undertaken.

I ask that it be noted that I was required to pay the Council under Section 13 of the Local Government Official Information & Meetings Act 1987 for a copy of the 24 April 2013 letter giving the above information.

10/ I support & commend the professional & expert thrust of the points made in Submission No. 13 from John F Boshier particularly with regard to electromagnetic field radiation, noise, traffic flow & the previous use of the site at 55-85 Curtis Street.

11/ Equally I support & commend the professionalism shown by Jennifer Anne Boshier in Submission No. 14 & the further light she throws on the site itself.

12/ I support Submission No. 37 from Paul Oliver & Rowena Cullen & commend the Environmental & Traffic Reasons which they give in support of their arguments opposing the proposed Plan Change.

13/ I support & commend Submission No. 40 from Frances Fiona Knight & Wayne Dexter Newman & draw attention to the excellence of their points about general & site-specific resource management & Section 32 considerations as well as the piecemeal & unorthodox planning provisions scattered throughout the Council's proposals.

14/ With regard to Submission No. 49 it should be noted that the Submitter, Andrew J W Foster, is the Chairman of the Council Committee which considered proceeding to prepare the proposed Plan Change.

This was done after a Committee decision to exclude the Public from their deliberations. This means that the public were deprived in their legitimate expectation of knowing the Committee's reasons for its prejudicial & damaging instruction to officers to prepare to rezone the site as "Business 2".

Nor was the public allowed to know the reasoning for proceeding without the comprehensive economic impact assessment which Mr Foster now seeks.

In this respect, Mr Foster chooses to focus only "on the impact on the neighbouring centres of Karori, Marsden Village and Northland" & does not mention the impact in nearby Crofton Downs where staff of the Mitre 10 have been told that it will close down if the application for a Mitre 10 at 55-85 Curtis Street proceeds.

15/ More light can be thrown on the above-mentioned Committee, its officers & its activities by a letter which I have sent to the Council's new Chief Executive viz.

Mr Kevin Lavery
Chief Executive Officer
Wellington City Council

Dear Mr Lavery,

Complaint about exorbitant effort & expenditure

As a ratepayer I draw your attention to a matter of which your predecessor, Mr Garry Poole, was well aware but did nothing about.

It concerns the exorbitant amount of ratepayers' money & effort being spent by the Council on Council lawyers & planners purely for the benefit of a private land-owner.

The most obvious cost so far has been more than \$160,000 spent by the Council on external legal costs (let alone internal staff costs) in an unsuccessful High Court battle against a local Residents' Association.

As you can see below, Council officers seem happy again to bring the Council into disrepute by facing the Residents' Association in legal action.

The matter concerns the Council's plans, on behalf of a property-owner, to rezone

his land & involves a planning process which is messy, costly & time-consuming..

I ask you to look at the Council's work on this matter & to recommend to the Council not to proceed because of the very uncertain outcome & the huge risk in terms of money & officers' time & effort involved.

The latest bout started because of advice given by officers that the Council should discuss in Public-Excluded Business their proposal to consider the rezoning of the land in question as "Business 2".

In New Zealand it is unheard of that a Planning decision of this sort is discussed without the public being present & without the public being allowed to hear the arguments let alone being able to appraise the advice given by officers on the matter. It is equally unheard of to prejudice the consideration of a planning matter by giving instructions on the outcome - in this case, that the rezoning should be "Business 2" as requested by the property-owner.

I also draw your attention to the following account of matters which was prepared by a Committee member of the Creswick Valley Residents' Association (CVRA) & which was sent to Mr Garry Poole at about the time he was leaving the Council:

"There have been repeated meetings between CVRA and the WCC planners, but CVRA received the final draft only at the end of Friday 16 November. The officers informed CVRA that no opportunity to amend this document was available before the SPC meeting. It was Iona Pannett who contacted CVRA and insisted that the only opportunity to amend the report would be before the meeting.

"CVRA met with the planners and Cr Pannett immediately before the SPC met. The planners resisted any changes. In every case there were 'very good reasons' why the planning officers have ignored every suggested or requested change made by CVRA. During that meeting the planners also rejected the suggestion made by Cr Pannett that it was a serious error for a junior officer to have made a decision to completely ignore a published planning document. (..... had alerted Cr Pannett to the two maps within the Outer Green Belt Management Plan May 2004 that show as "future initiatives" the inclusion of this site and several others within the area within Open Space).

" have been informed that the planners returned from this meeting extremely angry that a councillor had upset their plans to prevent any changes being made to the document and discovered that officers simply ignore published policy decisions with which they happen not to agree.

"The most recent meeting was on Monday evening and all of the CVRA members present emerged with a far clearer understanding of the extent to which the residents and elected representatives have been repeatedly and deliberately misled. The planning officers have consistently misquoted Transpower to justify this rezoning and developed a zoning that, while apparently offering a range of protections for residents, actually does not prevent the developer with applying to proceed with his

plans for a Mitre 10 Mega store. Iona Pannett was present at the meeting when the planner, Andrew MacLeod, conceded that the whole exercise had been largely academic.

"It is now clearly understood that the officers within WCC are determined to deliver a business zoning for this site to Aharoni and that the residents will have to fight this through the RMA process."

It is this same 'determination' by Council officers which is leading the Council into the unnecessary & likely fruitless expense to which I object.

With very kind regards,

Michael Gibson

16/ The remedy I seek is the withdrawal of Proposed District Plan Change 77 - Curtis Street Business Area.

17/ I am a person representing a relevant aspect of the public interest. My grounds for saying this are included in my evidence to the High Court in the Judicial Review which found against both the Council & the property-owner in their earlier attempts to rezone part of Curtis Street.

18/ I am also a person who has an interest in the proposal that is greater than the interest of the general public. My grounds for saying this include my interest as a resident at this address for some forty years & the recognition by the Council of my status as a person with such an interest.

I wish to be heard in support of this further submission.

SIGNED

Michael Gibson

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Northland

Wellington 6012