

# REPORT

**TO:** Chief Executive

**FOR:** Council meeting – 29 July 2015

**FROM:** Andrew Mactier, Strategy and Policy Planner

**DATE:** 13 July 2015

**SUBJECT:** **Plan Change 46 - Decision on how to consider the plan change request received from Mrs Gillian Logan – Bangor Road Darfield**

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## 1. RECOMMENDATION

**That in respect to Plan Change 46 to the Selwyn District Plan lodged by Mrs Gillian Logan, Council resolves to accept the request for notification pursuant to Clause 25 (2)(b) of the Resource Management Act 1991.**

## 2. PURPOSE

This report assesses Mrs Gillian Logans ('the applicant') plan change request ('PC 46') against the relevant Resource Management Act 1991 (RMA) provisions. This assessment has been provided to assist Council to make a decision on how to process the request. This is a mandatory decision that must occur within 30 working days of receiving the request and any subsequent additional information necessary to enable a reasonable understanding of what is being proposed.

## 3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This report does not trigger the Council's Significance Policy. This is a procedural requirement of the RMA.

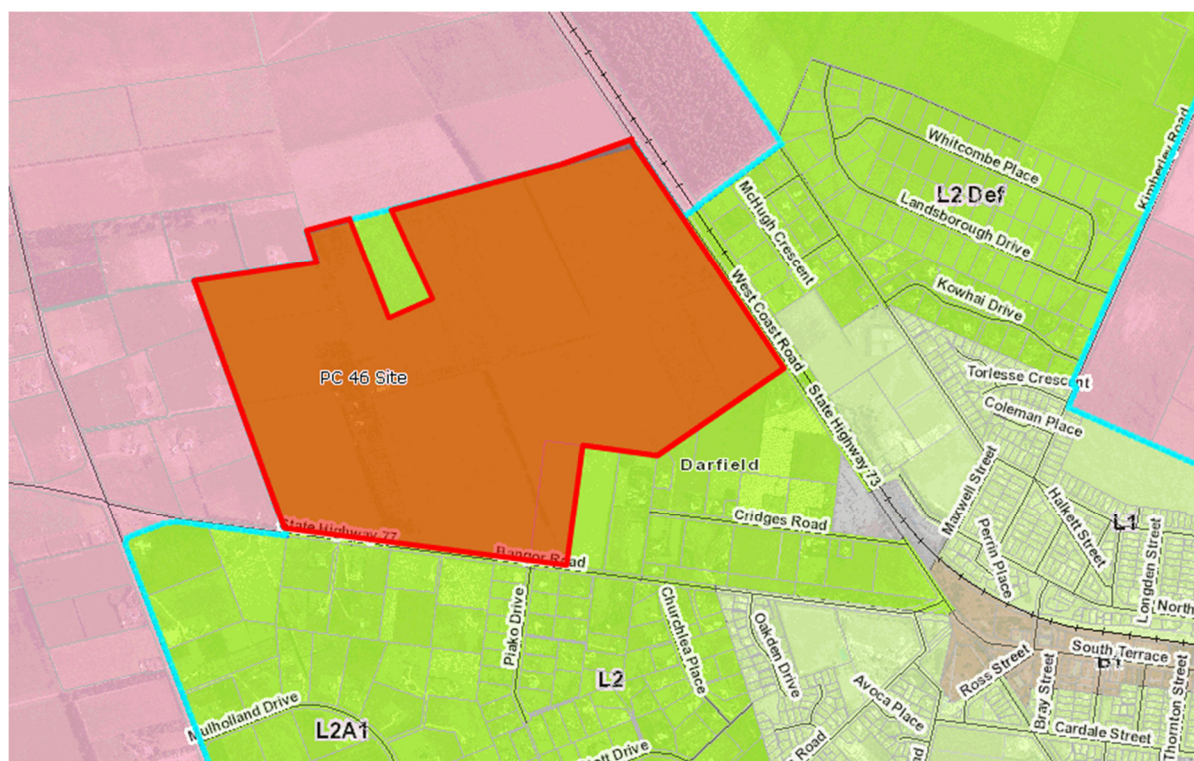
## 4. HISTORY/BACKGROUND

The plan change request from the applicant was formally received by Council on 10 April 2015. Since lodgement the application has been reviewed in terms of adequacy of the information provided, with peer review comments having been received on traffic, urban design, infrastructure servicing and planning matters. Several minor amendments have been made to the application in response to the above peer reviews. Officers' conclusions are that all the information necessary to understand the request has now been provided and that a decision can be made on how to process PC46.

The site subject to PC46 is approximately 130 hectares of land currently zoned Living 2A (Deferred) and is located between Bangor Road (SH77) and West Coast Road (SH73) on the northern outskirts of Darfield. The property has a physical address of 160 Bangor Road and a legal description of Section 2 Survey Office Plan 438759 and Lot 2 DP 81020. Most of the site is currently covered in pastoral grass however there are also areas planted in crops, with numerous established shelterbelts as well as two forestry blocks. Large established

grounds surround a 1920's villa, attached double garage, a store room, swimming pool and tennis courts, while the wider site also contains buildings typical of a farming operation (refer to Figure 1 below for a site plan).

**Figure 1: Site plan**



The applicant is proposing a change to the District Plan to lift the deferred status over the site to provide for subdivision down to an average of 1 hectare, subject to consistency with an Outline Development Plan (ODP) which will also be inserted into the District Plan. PC43 relies on existing objectives and policies for the Living 2A zone but proposes a number of new and amended rules which will specifically relate to development within the site.

**Attachment 1** contains the Outline Development Plan for PC43, with access to the full plan change request having been provided to councillors and available to members of the public on Council's website.

## 5. PROPOSAL

### Statutory Requirements

Any person may request a change to a District Plan and Council must consider that request. Under Clause 25 of the First Schedule to the RMA, Council must either reject, accept or adopt the request, or process it as a resource consent<sup>1</sup>.

An assessment of each of these 'Options' is considered in the following section of this report.

## 6. OPTIONS

### Option 1 - Reject the request

Under Clause 25(4), the grounds for rejecting PC 46 outright are summarised:

- (a) That the request is frivolous or vexatious

<sup>1</sup> Pursuant to Clause 25 of the 1<sup>st</sup> Schedule - RMA

- (b) The substance of the request has been considered by the Council or the Environment Court in the last two years
- (c) The request does not accord with sound resource management practice
- (d) The request would make the District Plan inconsistent with Part 5 of the RMA
- (e) The District Plan has been operative for less than two years

*Is the request frivolous and/or vexatious?*

The content of the plan change is not considered to be frivolous or vexatious. The request would have to be serving no serious purpose or value to be rejected on these grounds, which is not the case given the comprehensive nature of this application.

*Has the substance of the request been dealt with in the last two years?*

The substance of the request has not been dealt with by Council in the last two years.

*Does the request accord with 'sound resource management practice'?*

The site subject to PC46 is currently zoned Living 2A (Deferred). The District Plan recognises that the deferral can be uplifted once the following criteria are met:

- A potable water supply is available; and
- The insertion of a detailed Outline Development Plan into the District Plan; and
- The provision of mitigation measures to address potential reverse sensitivity issues.

The limiting factor of water has been resolved with the construction of two wells located on Council owned land adjoining the site subject to PC46. The second limitation will be resolved with the insertion of an ODP into the District Plan as proposed by PC46, and reverse sensitivity effects have been addressed through the design of the ODP which includes a number of mitigation measures.

Given this it is considered that the proposed plan change accords with sound resource management practice.

*Is PC 46 consistent with Part 5 of the RMA?*

PC 46 is broadly consistent with the provisions of Part 5 – Standards, Policy Statements and Plans and the need for any District Plan change to give effect to the higher order Regional Policy Statement. PC 46 encompasses matters that are within the scope of the District Plan and has addressed all the relevant requirements of national policy statements and environmental standards, with the request containing contaminated land and geotechnical assessments to satisfy the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health. The plan change is also considered to be broadly consistent with the Recovery Strategy for Greater Christchurch.

*Has the District Plan been operative for less than two years?*

This matter for rejecting private plan change requests is not applicable as the District Plan was made partially operative in June 2008, with the two year moratorium having lapsed some time ago.

In conclusion, there are considered to be no sound reasons to reject the request under the current set of circumstances.

## **Option 2: Adopt the Plan Change request**

Adopting the request means that the Council effectively takes over the application so that it becomes a council-initiated plan change rather than a private application. Adopting PC46 implies that Council generally supports the proposal. Under Councils Private Plan Change Policy, Council will consider adoption only if the change has:

**Strategic benefit:** PC 46 does not give effect to any adopted strategic vision of the Council.

*Substantial community benefit*

PC46 proposes community benefit through positively impacting on the wider community economically (i.e. providing increased population, providing construction). The Plan Change could result in increased population and employment through construction of the site. This would not be considered substantial.

*A cost element which might require negotiations to occur between the landowner and the applicant*

PC46 may involve a cost to Council if the services (roading, water, sewer and stormwater) are ever vested in Council. This is likely to occur, in line with similar plan changes, and Council will be responsible for the operation and ongoing maintenance of the systems.

Overall the cost to Council from any infrastructure vested will be minimal and in line with similar private plan change proposals.

*Involves a Complex Issue*

PC 46 is not particularly complex.

*A Number of Landowners*

There is only one land owner.

Overall to adopt the request, Council would need to be fully supportive of the proposal. This is not currently the case given that there remains a number of merit-based matters to consider at the substantive hearing stage, with the potential that other matters may be raised by other interested parties through the submissions process. Adopting the request would result in Council having to fund the remainder of the process, thereby relinquishing the ability to recover costs from the applicant. It is not recommended that the Council adopt the request for the above reasons.

**Option 3: Accept the Plan Change request**

Accepting PC 46 will enable the application to be publicly notified and for the request to be subject to the participatory processes provided under the RMA. This in turn, will provide Council with a more informed understanding of the community's stance on this specific proposal. Council retains the right to lodge submissions or further submissions to ensure there is sufficient scope to support amendments that may address any concerns with the potential plan change. No direct costs will be incurred by the Council or rate payers in accepting the request, although the preparation of any Council submission could not be on-charged.

Accepting the plan change request is the recommended option under the current set of circumstances.

**Option 4: Convert to a Resource Consent Application**

The final option open to the Council is to process PC 46 as a resource consent. The request seeks to uplift the deferred status of land already zoned Living 2A, and to amend a number of site specific rules to guide future development in accordance with an ODP. These are matters best addressed through a comprehensive plan change process rather than reliance

on resource consent applications which may not provide the outcomes anticipated by the District Plan. Processing the request as a resource consent is not therefore considered appropriate.

## **7. RECOMMENDATION**

The consideration of the request at this stage is limited to a coarse scale assessment of the contents of the plan change to ensure that firstly, the content and implications of the proposal can be generally understood; and secondly that the request is not in direct conflict with other planning processes and statutory instruments.

There are not considered to be sufficient grounds to reject the plan change request when assessed against the statutory powers available to Council under the RMA. The most appropriate course of action is to accept PC 43 for notification<sup>2</sup>.

The RMA affords the opportunity for the applicant to request changes to the District Plan and prescribes the timeframes that Council must adhere to in processing the request. The recommended option to accept PC 46 for notification will enable the request to be publicly notified, submissions and further submissions received and for the substantive merits of the proposal to be considered at a public hearing.

Accepting the request for notification does not signal that Council necessarily supports the proposal. The opportunity remains for Council to recommend that the request be supported, amended or opposed at the subsequent hearing through a formal submission or further submission. The benefit in accepting the request is that public input can be received to inform the overall assessment of the merits of the proposal.

## **8. VIEWS OF THOSE AFFECTED/CONSULTATION**

### **a) Views of those affected**

The content of PC46 will be subject to the statutory consultative provisions of the RMA where opportunity for public involvement is mandatory. The recommendation to accept the request for notification will require Council to publicly notify PC 46 and serve notice on all directly affected parties and organisations, who then have the opportunity to participate in the ongoing process.

### **b) Consultation**

The request identifies that the applicant has consulted Selwyn District Council, the New Zealand Transport Agency (NZTA) in preparing PC 46 along with adjoining neighbours and service providers (Chrous & Orion NZ). As outlined above, the recommendation to accept PC 46 will advance the request to the point where members of the public and interested parties can participate in the process through submissions, further submissions and the hearing.

### **c) Maori implications**

The applicant has consulted with local iwi who were supplied with a copy of the overall development plan and a description of the plan change proposal. The application notes that no response from Ngai Tahu was received identifying any interests or concerns. In accordance with Clause 3(1)(d) of the 1<sup>st</sup> Schedule of the RMA Council has also consulted on the proposal with MKT who represent local iwi interests

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<sup>2</sup> Pursuant to Clause 25 (2)(b) of the 1<sup>st</sup> Schedule, RMA

## **9. RELEVANT POLICY/PLANS**

Relevant Plans and Policies include:

- Selwyn District Council Private Plan Change Policy (adopted 26 February 2008);
- Selwyn District Plan;
- Canterbury Regional Policy Statement;
- Recovery Strategy for Greater Christchurch

The extent to which the request is consistent with the relevant policies, plans and strategies will form part of the substantive consideration of the proposal at the hearing.

## **10. LEGAL IMPLICATIONS**

The private plan change request process is set out in the RMA. Council's decision can be appealed to the Environment Court.

## **11. FUNDING IMPLICATIONS**

The applicant is responsible for the costs associated with processing a private plan change request, with Council costs being fully recoverable. Council would be responsible for the cost of defending its decision should it be appealed to the Environment Court.

## **12. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?**

The contents of the request, including relevant technical reports were circulated to Council's Asset Managers for review and comment.

Andrew Mactier  
**STRATEGY AND POLICY PLANNER**

**ENDORSED FOR AGENDA**

Cameron Wood  
**TEAM LEADER: POLICY  
AND STRATEGY**

Jesse Burgess  
**PLANNING MANAGER**