

REPORT

TO: Chief Executive

FOR: Council meeting – 13 April 2016

FROM: Craig Friedel – Strategy and Policy Planner

DATE: 31 March 2016

SUBJECT: **Plan Change 47 – Decision on how to consider the plan change request received from MJ Stratford**

1. RECOMMENDATION

That in respect to Plan Change 47 to the Selwyn District Plan lodged by M J Stratford, Council resolves:

To accept the request for notification pursuant to Clause 25 (2)(b) of the RMA91.

2. PURPOSE

This report assesses the MJ Stratford ('the applicant') plan change request ('PC 47') 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

A plan change request from the applicant was initially lodged with Council on 4 March 2016. Since lodgement the application has been reviewed in terms of the adequacy of the information provided, with peer review comments having been received on landscape, soil contamination, geotechnical, transport, infrastructural, Iwi Management Plan 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 PC 47.

The site is located on the western side of Prebbleton adjoining the Kingcraft Drive Existing Development Area and the Anderson Trens Road Living 3 Zone. The property is bounded by Shands Road to the west (Refer to [Figure 1: Site plan](#)). The property address is 631 Shands Road. The site has a total area of approximately 16 hectares, is held in one existing title (CB31B/383) and is legally described as Lot 1 DP 53113. There is one existing dwelling and associated accessory buildings established on the property, with the balance of the land consisting of open grassed paddocks, shelter belts and a horse training area.

Figure 1: Site plan



PC 47 seeks to rezone the site to a Living 3 zone to accommodate approximately 26 rural residential households with lot sizes generally between 0.25 to 1ha. The rule framework being sought by PC 47 relies on the existing Living 3 zone, with amendments being limited to site specific matters. The request does not propose to make any changes to the operative Living 3 zone objectives or policies. The subject site is identified as Preliminary Location Area 5 in Council's adopted Rural Residential Strategy (RRS14).

[Attachment 1](#) includes the Outline Development Plan for PC 47, with access to the full request having been forwarded to Councillors and made 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. Council must either reject, accept or adopt the request, or process it as a resource consent¹.

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

6. OPTIONS

Option 1 - Reject the request

The grounds for rejecting PC 47 outright are:

- (a) That the request is frivolous or vexatious
- (b) The substance of the request has been dealt with by the Council or the Environment Court in the last two years
- (c) The request does not accord with sound resource management
- (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 request 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 PC 47 request is broadly consistent with the criteria and outcomes set out in the adopted Rural Residential Strategy and the Living 3 Zone framework inserted into the District Plan through Land use Recovery Plan Action 18. The substance of the request in a site-specific context has not been considered by the Council or the Environment Court in the past two years.

Does the request accord with 'sound resource management'?

The property that this request relates to is identified in Council's adopted RRS14 and the proposal satisfies the other prerequisites for rural residential proposals set out in this Strategy. The location and site specific qualifiers in the Canterbury Regional Policy Statement (Chapter 6 Policy 6.3.9) have been met.

Overall, it is considered that accepting PC47 and proceeding with public notification accords with sound resource management.

¹ Pursuant to Clause 25 of the 1st Schedule - RMA

Is the request consistent with Part 5 of the RMA?

PC 47 is consistent with the provisions of Part 5 – Standards, Policy Statements and Plans as it accords with the Land Use Recovery Plan and would enable the District Plan to give effect to the higher order Regional Policy Statement should it be approved.

The request incorporates 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 consistent with the *Mahere Haumanutanga o Waitaha*/Recovery Strategy for Greater Christchurch and has had regard to Mahaanui: Iwi management Plan.

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 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 takes over the application so that it becomes a council-initiated plan change rather than a private application. In order for Council to adopt the request, Council would need to be fully supportive of the proposal. This is not currently the case given that there remain a number of merit-based matters to consider at the substantive hearing stage, with the potential that other matters of interest 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 47 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 zone change. No direct costs will be incurred by the Council or rate payers in accepting the request, although the preparation of any 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 47 as a resource consent. The request seeks to amend the current zoning densities and development controls to guide the consideration of future land use and subdivision applications. These are matters best addressed through a comprehensive plan change process rather than a resource consent application.

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 47 for notification.² 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 47 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.

² Pursuant to Clause 25 (2)(b) of the 1st Schedule - RMA

8. VIEWS OF THOSE AFFECTED/CONSULTATION

a) Views of those affected

The future provision of rural residential development, either by way of a council initiated plan change or private plan change request, is 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 47 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 and Environment Canterbury in preparing PC 47. As outlined above, the recommendation to accept PC 47 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

Mahaanui Kurataiao Limited who represent Tangata Whenua interests have reviewed the request and provided preliminary comments following engagement by the applicant. This assessment forms a component of the current version of the request that will be available to the public should the plan change be accepted for notification.

9. RELEVANT POLICY/PLANS

The request aligns with the strategic principles set out in Council's Rural Residential Strategy and the criteria that have been developed to assist in identifying optimal Living 3 zone locations in the District.

The request is also consistent with the locational criteria set out in the Chapter 6 of the Regional Policy Statement. The extent to which the request is consistent with other relevant policies, plans and strategies will form part of the substantive consideration of the proposal at the hearing.

10. NEGATIVE IMPACTS

This request is required to be considered under the mandatory consultation processes of the RMA, which will enable any interested parties to lodge submissions, further submissions and attend a public hearing.

11. LEGAL IMPLICATIONS

The private plan change request process is set out in the RMA. Council's decision can be appealed to the Environment Court, although this is unlikely given that the recommendation is to support accepting the request for public notification.

12. 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.

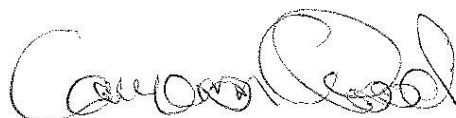
13. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?

The contents of the request, and the preferred option to accept the request for processing, have been discussed with the Strategic Asset Managers and their comments incorporated.

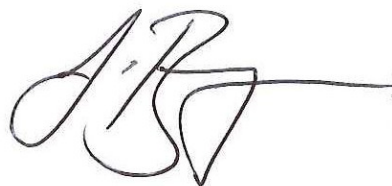


Craig Friedel
STRATEGY AND POLICY PLANNER

ENDORSED FOR AGENDA



Cameron Wood
TEAM LEADER STRATGY AND POLICY



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PLANNING MANAGER

APPENDIX 1: PC47 OUTLINE DEVELOPMENT PLAN

