

REPORT

TO: Chief Executive

FOR: Council Meeting – 14 June 2017

FROM: Michael Rachlin, Strategy and Policy Planner

DATE: 4 May 2017

SUBJECT: **Recommendation of the Commissioner for Plan Change 48 – Rezoning of land at Creyke Road and Telegraph Road, Darfield from Living 2A (deferred) to Living 2**

1. RECOMMENDATION

That the Council approves:

- (a) Pursuant to Clause 10 (1) of the First Schedule of the Resource Management Act (RMA), to accept the recommendations contained in the Commissioner's report dated 27th April 2017 as its decision on Plan Change 48**
- (b) The public notification of Council's decision that establishes that the Selwyn District Plan is deemed to have been amended in accordance with that decision from the date of the public notice in accordance with Clause 10 (4)(b) of the RMA**
- (c) The serving on every person who made a submission on Plan Change 48 a copy of the public notice and a statement specifying the timeframe for lodging an appeal, as required by Clause 11 (1) of the RMA**
- (d) The Team Leader Strategy and Policy the delegation to take any steps necessary to give effect to recommendations (b) and (c) above**
- (e) The Team Leader Strategy and Policy the delegation to take any steps necessary to give effect to make Plan Change 48 operative at the conclusion of the appeal period where no appeals are filed**

2. PURPOSE

This report seeks a decision from the Council that Plan Change 48 be approved with modification in accordance with the Commissioner's recommendation (**Attachment 1** of this report) and that it be confirmed for inclusion in the Operative Selwyn District Plan.

3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This report does not trigger the Council's Significance Policy. Considering to accept the Commissioner's recommendation as Council's decision is a procedural step that is required to be followed under the RMA.

4. HISTORY/BACKGROUND

Judith Pascoe requested a change to the Selwyn District Plan to rezone the site to Living 2, which provides for average lot sizes of 5000sqm. The request relied on the existing Living 2 zone rules framework with amendments being limited to site specific matters. The specific amendments were proposed to manage adverse noise effects from the Darfield Gun Club; located on the southern quadrant formed by the Creyke Road and Telegraph Road intersection.

The site is located on the northern quadrant of the Creyke Road and Telegraph Road intersection and is currently zoned Living 2A Deferred in the Selwyn District Plan (Refer to Figure 1: Site plan for location). The site has a total area of approximately 13.5 hectares held in three existing titles (370020, CT33A/1134 and 370019) legally described as Lot 2 DP 56210, Lot 2 DP 391581, Lot 1 DP 56120 and Lot 1 DP 391581.

There are three existing dwellings established on the properties, with the balance of the land consisting of open grassed paddocks, shelter belts and a hazelnut orchard on one of the blocks.

Figure 1 – Site Plan



Plan Change 48 was publicly notified on the 13 September 2016, with submissions closing on the 11 October 2016. Further submissions were publicly notified on the 25 October, closing on the 8 November 2016. Two submissions were received and there were no further submissions. A hearing took place on the 28 February 2017. This was adjourned until the 31 March 2017 to enable discussions between the applicants, submitters and Council regarding amending

the Outline Development Plan to incorporate a change to the road layout. This amended ODP is included in the Hearing Commissioner's recommendation to Council (**Attachment 1** of this report).

The appropriateness of the rezoning, and the specific rules considered necessary to manage any subsequent effects arising from development occurring within this additional Living 2 zone, are set out in the Commissioner's recommendation.

5. PROPOSAL

An independent Planning Commissioner (David Mountfort) was appointed to hear submissions on Plan Change 48. The Commissioner's role is to conduct the hearing and, having considered all relevant material in respect of the plan change, make recommendations to the Council on the plan change and the associated submissions.

These recommendations relate to whether the plan change should be: (a) accepted; (b) accepted with modifications (in accordance with the scope provided by the Plan Change and submissions made on it); or (c) rejected. The final decision on whether or not this recommendation, and as a consequence the plan change, should be adopted is the responsibility of the Council.

For the reasons set out in the Commissioner's recommendation (**Attachment 1** of this report), the Commissioner recommends that Plan Change 48 be accepted with modification and that the submissions are accepted, accepted in part or rejected.

6. OPTIONS

Council can either **accept** or **reject** the Commissioner's recommendation.

If Council accepts the recommendation, then Plan Change 48 will continue along the statutory RMA process, with the decision being publicly advertised, served on all submitters and the 30 working day period provided to submitters to lodge an appeal to the Environment Court. If no appeal is received within this timeframe then Plan Change 48 will be deemed to be operative and the District Plan amended accordingly.

If Council rejects the Commissioner's recommendation, then the plan change must be subject to a new hearing process. It would be inappropriate for the Council to amend any of the findings contained in the Commissioner's recommendation in the absence of hearing the submissions and considering the substantive material that has been considered.

7. VIEWS OF THOSE AFFECTED/CONSULTATION

a) Views of those affected

These matters are addressed in the recommendation of the Commissioner, with the mandatory public notification, serving of the notice of the request on potentially

affected parties and submissions processes required under the RMA having provided appropriate opportunity for interested parties to participate in the private plan change process.

b) Consultation

The mandatory public notification and submissions processes required under the RMA has provided the wider public an opportunity to participate in the private plan change process.

c) Maori implications

Mahaanui Kurataiao Limited (MKT) who represent Mana Whenua interests have reviewed the request and provided preliminary comments following engagement by the applicant. The applicant sought to address these comments in the plan change. No submissions were received from MKT.

8. RELEVANT POLICY/PLANS

The rezoning of the land is consistent with the following Policies and Plans:

- Chapter 5 to the Canterbury Regional Policy
- Selwyn 2031
- The Malvern Area Plan

9. COMMUNITY OUTCOMES

Although the plan change was promulgated by the land owner, the development of the land to Living 2 zone densities will provide greater housing choice to people wanting to live within the community of Darfield.

10. NEGATIVE IMPACTS

The Commissioner's recommendation addresses any negative impacts, potentially adverse effects and determines what mitigation measures through District Plan controls are necessary to achieve a sustainable Living 2 zone environment.

11. LEGAL IMPLICATIONS

Submitters to Plan Change 48 have rights under the RMA to appeal any Council resolution to accept the Commissioner's recommendation as its decision.

12. FUNDING IMPLICATIONS

The funding implications are limited to any subject appeal proceedings. All costs incurred in notifying the decision is required to be on-charged to the private plan change proponent.

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

Council's Assets Department has been involved throughout the private plan change process in respect to the infrastructure servicing requirements, which are addressed in the Commissioner's recommendation.



MICHAEL RACHLIN
STRATEGY AND POLICY PLANNER



BENJAMIN RHODES
TEAM LEADER STRATEGY AND POLICY

ENDORSED FOR AGENDA



TIM HARRIS
ENVIRONMENTAL SERVICES MANAGER

ATTACHMENT 1: COMMISSIONER'S RECOMMENDATION ON PLAN CHANGE 48