

REPORT

TO: Chief Executive

FOR: Council meeting – 7 December 2016

FROM: Craig Friedel – Strategy and Policy Planner
Catherine Nichol – Strategy and Policy Planner

DATE: 14 November 2016

SUBJECT: **Plan Change 49 – Decision on how to consider the plan change request received from Z & S Croft and J K Williams**

1. RECOMMENDATION

That in respect to Plan Change 49 to the Selwyn District Plan lodged by Z & S Croft and J K Williams, Council resolves:

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

2. PURPOSE

This report assesses the Z & S Croft and J K Williams ('the applicant') plan change request ('PC 49') 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.

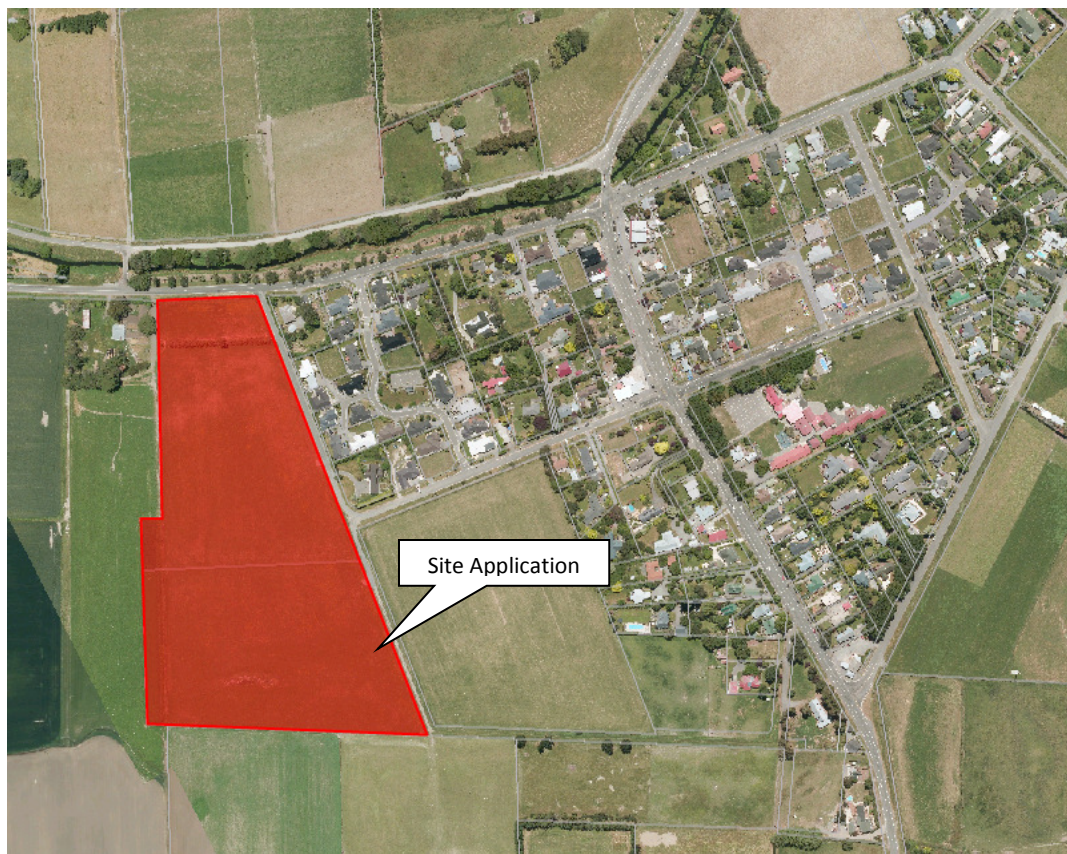
4. HISTORY/BACKGROUND

A plan change request from the applicant was initially lodged with Council on 13 September 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. A Request for Further Information was issued on 3 October 2016, the final revised proposal was received on 9 November 2016. Several 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 49.

The two sites are located along the western edge of Tai Tapu Township, with the properties being bordered by Lincoln Tai Tapu Road to the north and Hauschids Road to the east (Refer to [Figure 1: Site plan](#)). The site has a total area of approximately 8.1 hectares, is held on two existing titles (537135 and 537136) and is legally described as Lot 1 DP 436571 and Lot 2 DP 436571. There are no existing dwellings established on either of the two properties. The land is flat with a small shelterbelt within the northern portion of the site.

Figure 1: Site plan



PC 49 seeks to rezone the site to a Living 3 zone to accommodate approximately 16 rural residential households with lot sizes generally between 2,700m² to 8,500m², with an average density of 5000m² per lot. The rule framework being sought by PC 49 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 14 in Council's adopted Rural Residential Strategy (RRS14).

Attachment 1 includes the Outline Development Plan for PC 49, with access to the full request having been forwarded to Councillors and made available to members of the public on Council's website.

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.

5. OPTIONS

Option 1 - Reject the request

The grounds for rejecting PC 49 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 49 request is broadly consistent with the criteria and outcomes set out in Council's adopted RRS14 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

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

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 PC49 and proceeding with public notification accords with sound resource management.

Is the request consistent with Part 5 of the RMA?

PC 49 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 request is generally consistent with the recently operative National Policy Statement on Urban Development Capacity, which supports the provision of additional land for housing and a range of housing typologies to meet the needs of the community.

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 and fully operative in May 2016.

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 49 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 49 as a resource consent. 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.

6. 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 effects of the proposal can be generally understood; and secondly that the request is not in direct conflict with other planning processes and statutory instruments.

This early assessment of the plan change has determined that there are no grounds to reject the plan change request. Accordingly, it is recommended that Council accept PC 49 for notification.²

It is noted that 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 submission and hearing process will also ensure public input can be received to inform the overall merits of the proposal.

7. AFFECTED PARTIES AND CONSULTATION

a) Consultation

The request identifies that the applicant has consulted Selwyn District Council and Environment Canterbury in preparing PC 49. PC 49 is subject to the statutory RMA submission process where opportunity for public involvement is mandatory.

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

The recommendation to accept the request for notification will require Council to publicly notify PC 49 and serve notice on all directly affected parties and organisations, who then have the opportunity to participate in the ongoing process.

b) Maori Interests

Mahaanui Kurataiao Limited, who represent Tangata Whenua interests, have reviewed the request and provided preliminary comments following engagement by the applicant.

8. RELEVANT POLICY/PLANS

The request aligns with the strategic principles set out in Council's RRS14 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.

9. NEGATIVE IMPACTS

Any potential adverse environmental effects of this proposal will be identified and addressed through the formal process of the RMA

10. LEGAL IMPLICATIONS

The private plan change request process is set out in the RMA under Schedule 1. Council's decision under clause 25 of schedule 1, for PC49 can be appealed to the Environment Court. The reports recommendation is to support accepting the request for public notification so an appeal is unlikely.

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



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ENDORSED FOR AGENDA

Nicola Rykers
TEAM LEADER STRATEGY AND POLICY

Tim Harris
ENVIRONMENTAL SERVICES MANGER

APPENDIX 1: PC49 OUTLINE DEVELOPMENT PLAN

