

REPORT

TO: Chief Executive

FOR: Council meeting – 18 April 2018

FROM: Ben Rhodes - Strategy and Policy Team Leader

DATE: 9 April 2018

SUBJECT: **PLAN CHANGE 54 – DECISION ON HOW TO CONSIDER THE PLAN CHANGE REQUEST RECEIVED FROM BALLYMENA HOLDINGS LTD**

RECOMMENDATION

‘That in respect to Plan Change 54 to the Selwyn District Plan lodged by Ballymena Holdings Ltd, Council resolves to accept the request for notification pursuant to Schedule 1, Clause 25(2)(b) of the Resource Management Act 1991’

1. PURPOSE

This report assesses the Ballymena Holdings Ltd (‘the applicant’) plan change request (‘PC54’) 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 after a request has been received along with receipt of any subsequent additional information necessary to enable a reasonable understanding of what is being proposed.

2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

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

3. HISTORY/BACKGROUND

A plan change request from the applicant was lodged with Council on 30th October 2017. Since lodgement the application has been reviewed in terms of the adequacy of the information provided regarding landscape, soil contamination, geotechnical hazard risk, transport, servicing, and the request’s consistency with statutory plans. A Request for Further Information (‘RFI’) was issued on 5th February, with the applicant’s response received on 16th March 2018. Several amendments have been made to the application in response to the RFI, with in particular additional analysis provided on natural hazard risk. 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 PC54.

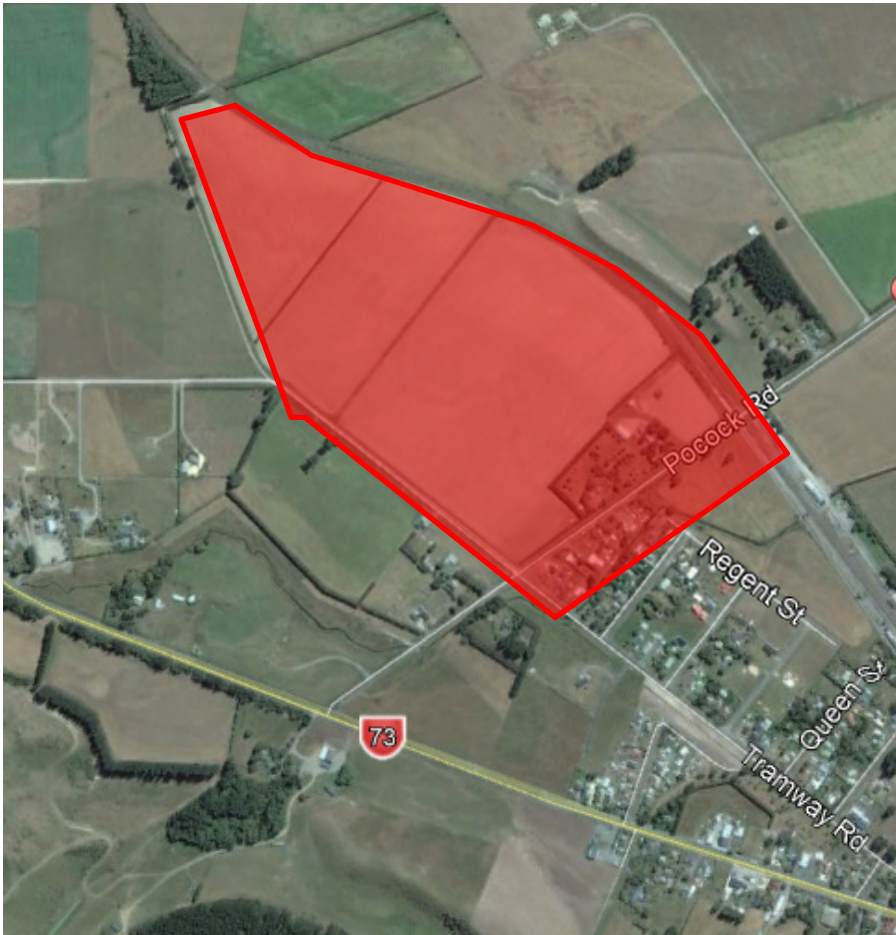
The site is located on the western edge of Springfield Township, with the property bordered by Pocock Road and Annavale Road. The northern boundary of the site adjoins the Midland rail corridor (Refer to Figure 1: Site Plan). The site has a total area of some 31.3 hectares and is legally described as Lots 1 and 2 DP 400509. Lot 1 (1 ha) is in the ownership of a third party that the applicant has advised is supportive of the plan change request. The larger Lot 2 (30.3ha) is comprised of generally flat pasture bounded by shelterbelts and with farm utility buildings and amenity plantings located in the north eastern corner.

PC54 seeks to rezone the site from an Outer Plains Rural Zone (minimum 20ha per dwelling) to a Living 2 Zone to accommodate 15 new lots plus the retention of the existing dwelling to give 16 lots in total. The lots are to have an average size of 2 ha, with no individual lot to be less than 1ha in area. The rule framework being sought by PC54 relies on the existing Living 2 Zone provisions, with amendments being limited to site-specific matters. No amendments are sought to the District Plan's objective and policies beyond the inclusion of a site-specific reference in a single policy regarding site coverage. The request is accompanied by an Outline Development Plan that gives guidance as to the general size and location of lots, associated vehicle access routes and key features such as a proposed 80m setback for dwellings from the boundary of the Midland Rail Corridor to manage amenity outcomes.

The subject site is located outside of the Greater Christchurch area that is subject to the Council's adopted Rural Residential Strategy 2014 and therefore is not subject to that document. The site is identified in the Council's adopted Malvern Area Plan 2031 as a 'preferred future development area' for Springfield Township.

Attachment 1 includes the Outline Development Plan for PC54, with access to the full request having been forwarded to Councillors and made available to members of the public on Council's website.

Figure 1: Site Plan Below



4. PROPOSAL

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 PC54 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

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

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 site is located outside of the Greater Christchurch portion of the District and therefore is not subject to the Rural Residential Strategy 2014 or the Living 3 Zone provisions that were incorporated into the District Plan via the Land Use Recovery Plan actions. The substance of the request in a site-specific context has not therefore been considered by the Council in the past two years.

A resource consent application to develop the site into 20 rural residential lots was considered (and declined) by the Environment Court in 2007 (Decision No. C100/2007) however this is well outside the two year period.

Does the request accord with 'sound resource management'?

Overall, it is considered that accepting PC54 and proceeding with public notification accords with sound resource management. The application and associated RFI response includes a comprehensive assessment of the proposal against the requirements of s.32 RMA and the relevant statutory plans including the Canterbury Regional Policy Statement, relevant Regional Plans, and the Mahaanui Iwi Management Plan. The detailed merit of the proposal and its consistency with the higher order statutory framework is a matter that is appropriately considered through the submission and hearings process.

Is the request consistent with Part 5 of the RMA?

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 s.32 assessment accompanying the application considers that the request is consistent with Part 5 RMA.

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 effectively takes over the application so that it becomes a council-initiated plan change rather than a private application. 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. This is more likely to be done where there are greater public interests in the plan change outcome, rather than predominantly private interests as is the case here.

It is not recommended that the Council adopt the request for the above reason.

Option 3: Accept the Plan Change request

Accepting PC54 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 PC54 as a resource consent. The outcomes sought through the request of converting 31 ha of Outer Plains zoned farmland to 16 rural residential lots are matters best addressed through a comprehensive plan change process rather than a resource consent application. The plan change process enables a more fundamental assessment of what the most appropriate zoning (and associated environmental outcome) for the site is as an identified future growth area, whereas a resource consent has to be considered against the policy framework and environmental outcomes anticipated for the Outer Plains Zone.

Processing the request as a resource consent is not therefore considered appropriate.

6. VIEWS OF THOSE AFFECTED / CONSULTATION

The request identifies that consultation has been undertaken with Selwyn District Council officers, Kiwirail (which has resulted in the proposed 80m dwelling setback from the rail corridor), the third party owner of the existing residential dwelling (in support), Chorus and Orion as service providers (confirmation that servicing is plausible), and Canterbury Regional Council (with specific reference only to water supply matters). No specific consultation on the proposal has been undertaken with the Canterbury Regional Council on wider policy and natural hazard management matters.

No specific consultation has been undertaken with Ngai Tahu. The applicant has advised that they are happy to rely on the opportunity for these parties to provide submissions through the statutory notification and submission process provided under the RMA.

7. **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.

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Ben Rhodes
STRATEGY AND POLICY TEAM LEADER

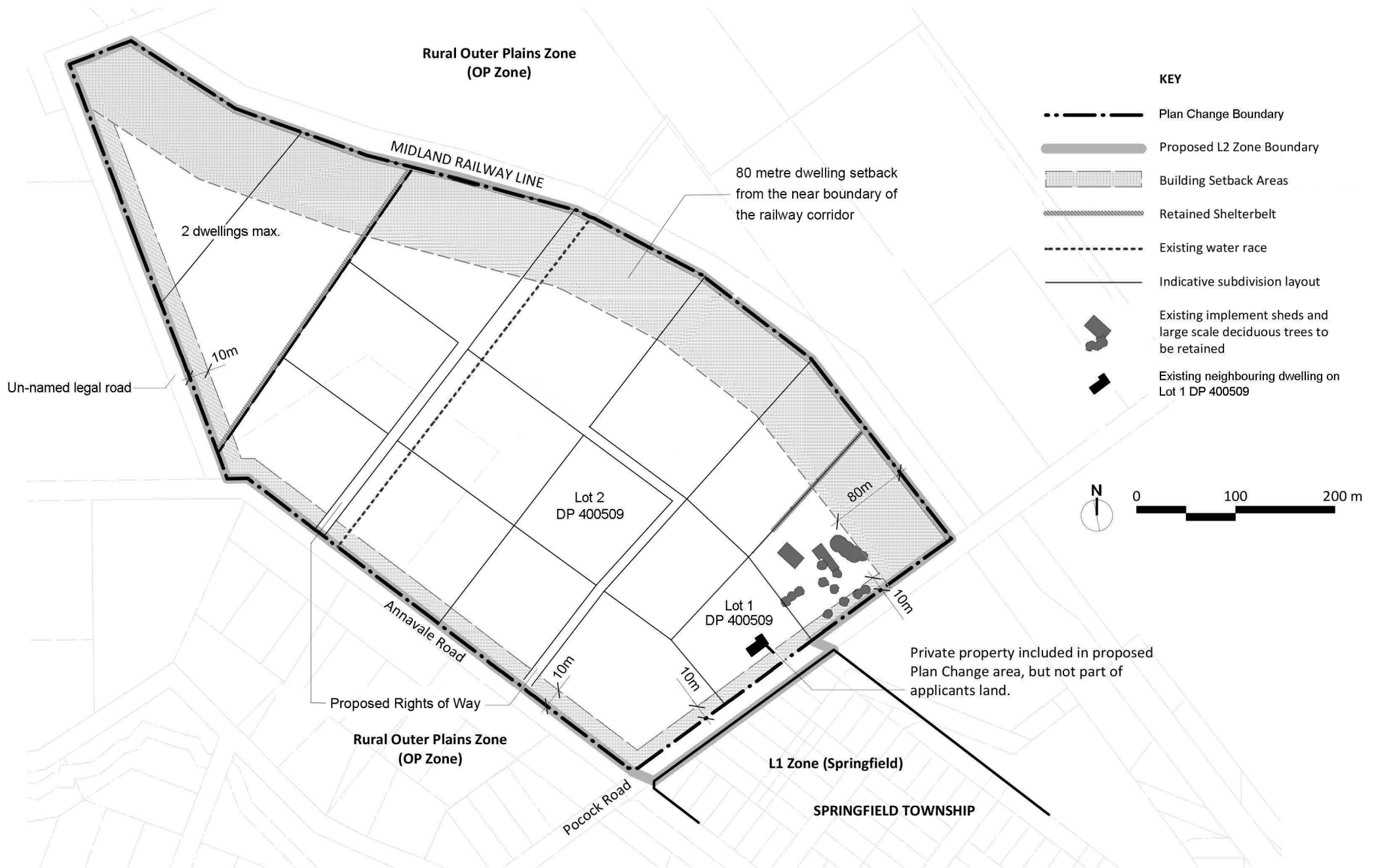
Endorsed For Agenda

A handwritten signature in black ink, appearing to read 'Tim Harris', with a stylized 'H' and a small flourish at the end.

Tim Harris
ENVIRONMENTAL SERVICES MANAGER

ATTACHMENT 1

PC54 OUTLINE DEVELOPMENT PLAN



Outline Development Plan Living 2 Zone - Springfield