

REPORT

TO: Chief Executive, Selwyn District Council

FOR: Council Meeting – 13 February 2019

FROM: Strategy and Policy Planner, Rachael Carruthers

DATE: 22 January 2019

SUBJECT: **PLAN CHANGE 59 – DECISION ON HOW TO CONSIDER THE PRIVATE PLAN CHANGE REQUEST RECEIVED FROM G W WILFIELD LTD**

RECOMMENDATION

‘That in respect to Plan Change 59 to the Selwyn District Plan lodged by GW Wilfield Ltd, Council resolves to accept the request for notification pursuant to Clause 25 (2)(b) of the Resource Management Act 1991.’

1. PURPOSE

This report assesses the GW Wilfield Ltd (‘the applicant’) plan change request (‘PC 59’) 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.

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

The plan change request from the applicant was formally received by Council on 12 November 2018. Since lodgement the application has been reviewed in terms of adequacy of the information provided, with peer review comments having been received on traffic, infrastructure servicing, landscape and visual impact assessment, market commentary and planning matters. Several minor amendments have been made to the application in response to the above peer reviews.

The request relates to existing residential zoned land on the south side of West Melton known as ‘Wilfield’. The request seeks to rezone approximately 73.5 hectares of Living 2 and 2A zoned land to a Living WM South Zone. Its location is indicated on the aerial photograph in Figure 1 overleaf:

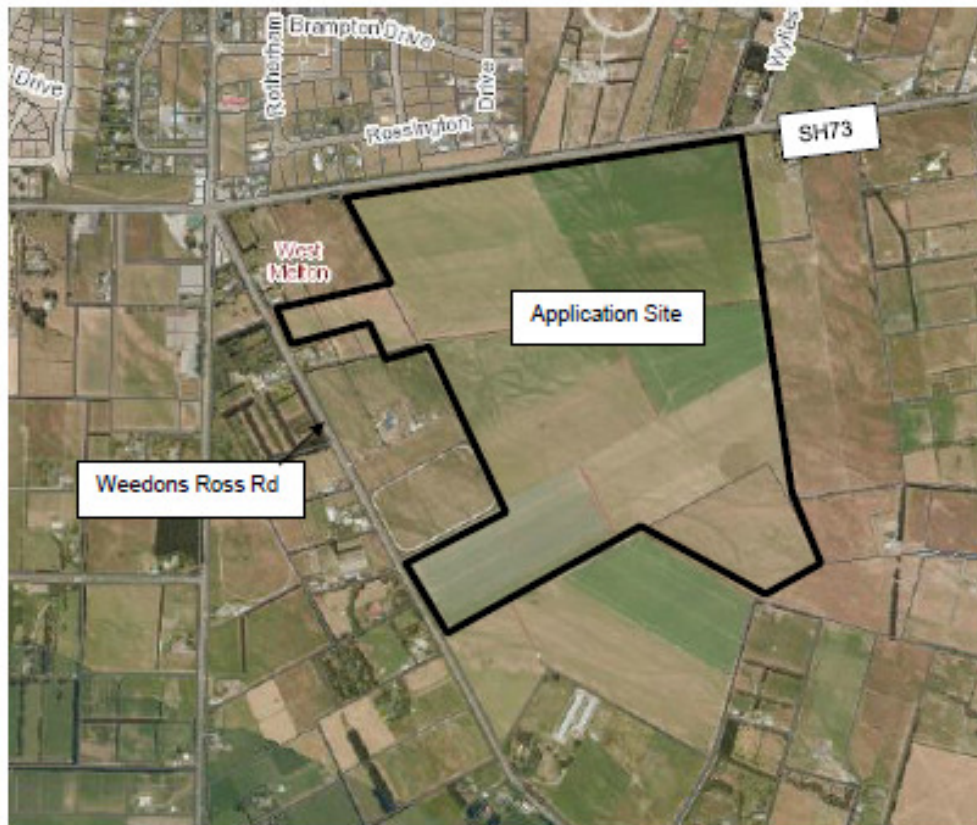


Figure 1: Aerial photograph of site (Source: Canterbury Maps)

The site subject to PC 59 is 73.5 hectares of land located on the south side of West Coast Road/State Highway 73, bounded by Weedons Ross Road to the west.

The requested changes provide for:

- A residential density in the Living 2 Zone that reflects the existing urban environment and;
- A greater density of development, than that currently permitted, in the Living 2A Zone.

PC 59 relies on existing objectives and policies for the Living 2A zone but proposes a number of amended rules which will specifically relate to development within the site.

PC 59 will principally affect the areas that are not already more intensively developed. The proposal is to reduce the minimum permitted lot size in this area from the current 5000m² – 1ha to allow the creation of 1100m² – 3000m² lots. The proposal reflects what has already occurred in the northern half of the site and provides for an additional 70 or so lots in the south-eastern portion of the site.

Attachment 1 contains the requested changes to the district plan, while Attachment 2 contains the proposed Outline Development Plan. Access to the full request has been forwarded to Councillors and made available to members of the public on Council's website.

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 59.

4. PROPOSAL

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.

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

5. OPTIONS

Option 1 - Reject the request

Under Clause 25(4), the grounds for rejecting PC 59 outright are that:

- a. That the request is frivolous or vexatious
- 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

Section 18 of the Greater Christchurch Regeneration Act 2016 ('the GCRA') provides an additional ground for rejecting a request for a plan change. Council may reject the request in whole or in part on the ground that, within the last two years, the substance of the request or part of the request has been considered and given effect to, or rejected, under the Canterbury Earthquake Recovery Act 2011.

Is the request frivolous and/or vexatious?

The content of PC 59 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, under either the RMA or the GCRA.

The Wilfield site has been the subject of multiple subdivision and land use consents since 2014. Those resource consents have collectively provided for a residential form that is denser than originally envisaged for the Living 2 Zone at West Melton, but remains of a lower density than is typically found in the West Melton Living 1 zone.

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

The site subject to PC 59 is currently zoned Living 2 and Living 2A. The plan change application seeks to provide for a greater density of development in the Wilfield Living 2A Zone than is currently permitted. It should be noted that PC 59 does not generally seek to increase the existing developed density of residential development in the current Living 2 zone, except that part of the zone that adjoins a proposed reserve associated with the high voltage transmission line corridor and is currently undeveloped.

This would be resolved with the insertion of an ODP into the district plan as proposed by PC 59, and reverse sensitivity effects would be 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 59 consistent with Part 5 of the RMA?

PC 59 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 59 encompasses matters that are within the scope of the district plan and has addressed all the relevant requirements of national policy statements

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.

Has the request been considered previously under the Canterbury Earthquake Recovery Act 2011?

The scope and substance of the PC 59 request has not been considered and given effect to, or rejected, under the Canterbury Earthquake Recovery Act 2011.

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 PC 59 implies that Council generally supports the proposal. Under Council's Private Plan Change Policy, Council will consider adoption only if the change has:

Strategic benefit

PC 59 does not give effect to any adopted strategic vision of the Council.

Substantial community benefit

PC 59 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 on the site. This would not be considered substantial.

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

PC 59 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 would be responsible for the operation and ongoing maintenance of the systems. Overall the cost to Council from any infrastructure vested would be minimal and in line with similar private plan change proposals.

Involves a complex issue

PC 59 is not particularly complex.

A number of landowners

There is only one land owner currently – the developer – GW Wilfield Ltd.

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 59 would 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, would 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 would 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 59 as a resource consent. The request seeks to rezone land already zoned Living 2 and 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.

Recommended Option:

Option 3, to accept PC 59 for further consideration, is recommended.

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 59 for notification.

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 59 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.

6. VIEWS OF THOSE AFFECTED / CONSULTATION**(a) Views of those affected**

The content of PC 59 will be subject to the statutory consultative provisions of the RMA where the opportunity for public involvement is mandatory. The recommendation to accept the request for notification will require Council to publicly notify PC 59 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 with Selwyn District Council staff in the preparation of the proposal for PC 59. As outlined above, the recommendation to accept PC 59 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) Māori implications

The applicant has initiated consultation with local runanga via Mahaanui Kurataiao Ltd, who have provided initial comments.

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.

8. 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.



Rachael Carruthers
STRATEGY AND POLICY PLANNER

Endorsed For Agenda



Tim Harris
ENVIRONMENTAL SERVICES MANAGER