

REPORT

TO: Chief Executive

FOR: Council Meeting – 11 December 2019

FROM: Strategy and Policy Planner

DATE: 22 November 2019

SUBJECT: **PLAN CHANGE 60 KIRWEE – DECISION ON HOW TO CONSIDER THE PRIVATE PLAN CHANGE REQUEST RECEIVED FROM KIRWEE CENTRAL PROPERTIES LTD**

RECOMMENDATION

‘That, in respect to Plan Change 60 to the Operative Selwyn District Plan lodged by Kirwee Central Properties 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 Kirwee Central Properties Ltd (the applicant) plan change request (PC 60) 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 was formally received by Council on 9 May 2019. The request relates to land on the eastern side of the Kirwee township. The location is indicated on the aerial photograph in Figure 1 overleaf.

The request seeks to rezone approximately 18 hectares of land from Living 2A to Living 1.

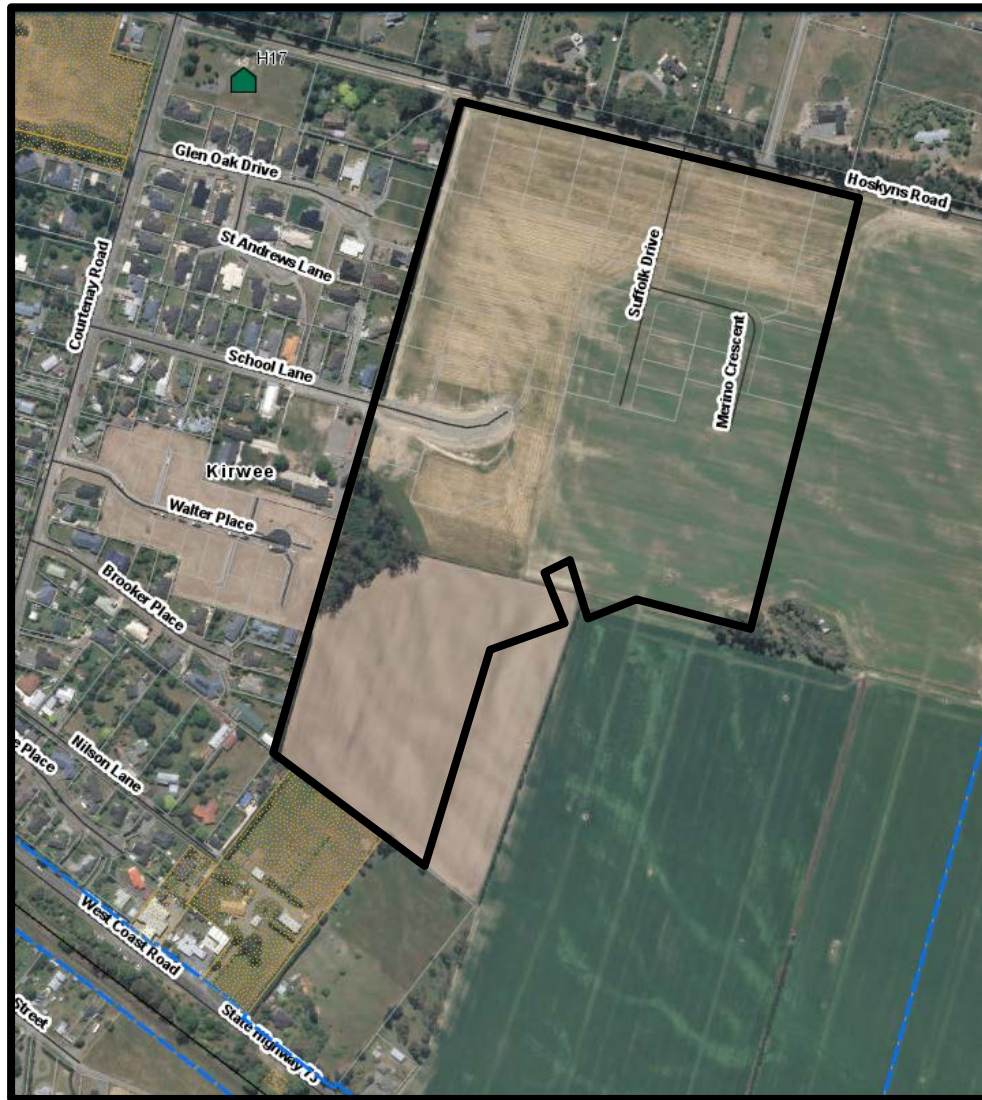


Figure 1 - Aerial photograph of site (Source: Selwyn District Council Maps)

Since lodgement, the plan change request has been reviewed in terms of adequacy of the information provided. A Request for Further Information (RFI) was issued on 31 May 2019, with the applicants response received in full on 18 November 2019. The plan change request, along with the response to the RFI, has been peer reviewed, with comments having been received on traffic, infrastructure servicing, and geotechnical investigations. Several amendments have been made to the plan change request in response to the above peer reviews.

PC 60 proposed to utilise the existing Living 1 minimum average site sizes in the Operative District Plan, which provide for residential sections with an average minimum allotment size of 800m². The requested change would largely adopt the provisions in the Operative District Plan but would seek to incorporate an Outline Development Plan (ODP) for the area, to provide guidance as to the proposed location of key internal roads and open space connections.

Part of the plan change request area is currently being developed in accordance with consents to undertake a subdivision creating 45 sites. These sites range in size from 900m² to 5,000m², with the average being around 1,000m². While PC 60 will principally affect the

plan change area not already developed, there is the potential for future division of larger sites within the existing subdivision.

Attachment 1 contains the proposed ODP for PC 60. 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 60.

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 60 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.

The content of PC 60 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 plan change request.

The substance of the request has not been considered within the last two years, either by Council or by the Environment Court.

To fully determine if the request is of sound resource management practice, the merits of the application need to be assessed. However, as the area subject to PC 60 is located within the township boundary and is currently zoned for residential development, albeit at a lesser density, the plan change request appears to accord with sound resource management practice.

PC 60 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 60 encompasses matters that are within the scope of the district plan and has addressed all the requirements of relevant national policy statements.

The District Plan was made fully operative in May 2016, therefore the two year moratorium has lapsed.

As such, it is considered that there are no sound reasons to reject the request under the current set of circumstances.

Option 2: Adopt the Plan Change request

Under Clause 25(2)(a), Council may adopt the request, in whole or in part, as its own. Adopting the request means that the Council effectively takes over the plan change request so that it becomes a council-initiated plan change rather than a private plan change. Adopting PC 60 would imply that Council generally supports the proposal.

Council should only consider adoption if the change has a strategic benefit, a substantial community benefit, a cost element which might require negotiations to occur between the council and the applicant or involves a complex issue or a number of land owners that would benefit from Council coordinating the plan change process.

The area of the plan change request is identified in *Malvern 2031: Malvern Area Plan Mahere-ā-Rohe* as undeveloped residential land. The Area Plan also identifies that there is sufficient residential land available, at existing densities, to accommodate the projected population growth and demand for housing out to 2031. Therefore, there is no strategic benefit to Council to intensify the development of this area at this time.

PC 60 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. However, this would not be considered substantial.

PC 60 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.

PC 60 is not particularly complex and only involves one land owner.

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

Accepting PC 60, under Clause 25(2)(b), would enable the plan change request 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 request.

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 proposed 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 60 as a resource consent.

While the request would largely rely on the existing provisions in the District Plan, the request seeks to include an ODP for the area, to guide the consideration of future subdivision and land use applications. In the absence of content of this nature, any resource consent for subdivision or land use would be assessed against the generic provisions of the Operative District Plan, which do not provide the same level of focus or control.

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

Recommended Option:

Option 3, to accept PC 60 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 the content and implications of the proposal can be generally understood and 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 60 for notification.

As the RMA affords the opportunity for the applicant to request changes to the District Plan, the recommended option to accept PC 60 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 private plan change 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 a later stage. 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

If the recommendation to accept the request for notification is adopted, the content of PC 60 will be subject to the statutory consultative provisions of the RMA where the opportunity for public involvement is mandatory. Council will be required to publicly notify PC 60 and serve notice on all directly affected parties and organisations who then have the opportunity to participate in the process.

(b) Consultation

The request identifies that the applicant has consulted with Selwyn District Council and Environment Canterbury in preparing PC 60.

As outlined above, the recommendation to accept PC 60 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

Mahaanui Kurataiao Limited who represent Tangata Whenua interest 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.

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. Comments received from the Asset Managers formed the basis of the RFI. The applicants response to the matters raised in the RFI were further considered by the Asset Managers and the current version of the request has been amended to reflect this input.



Jocelyn Lewes
STRATEGY AND POLICY PLANNER

Endorsed For Agenda



Tim Harris
ENVIRONMENTAL SERVICES MANAGER

ATTACHMENT 1: OUTLINE DEVELOPMENT PLAN



Legend

- ODP Boundary
- Parcel
- Primary Road
- Secondary Road
- Residential
- Recreation Reserve
- Pedestrian/ Cycleway Green Link
- Utility Allotment (Water)
- Pedestrian

Kirwee

Scale	1:1000 @A1
Date	05 Jun 2019
Design	EL
Drawn	EL
Review	SE

A	20/06/19	Legend Amendments
B	14/08/19	Match the latest Boundary amendment

Rev.	Date	Amendment
Revision	B	

Sheet 1