

# REPORT

**TO:** Chief Executive

**FOR:** Council Meeting – 9 December 2020

**FROM:** Senior Strategy and Policy Planner - Jessica Tuilaepa –

**DATE:** 30 November 2020

**SUBJECT: PLAN CHANGE 66 ROLLESTON – DECISION ON HOW TO CONSIDER THE PRIVATE PLAN CHANGE REQUEST FROM ROLLESTON INDUSTRIAL DEVELOPMENTS LTD**

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## RECOMMENDATION

*‘That, in respect to Plan Change 66 to the Operative Selwyn District Plan lodged by Rolleston Industrial Developments 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 Rolleston Industrial Developments Limited (the applicants) plan change request (PC 66) 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 PC 66 request was formally received by Council on 8 October 2020. PC 66 relates to land on the south side of Maddisons Road, adjoining the eastern boundary of IPort, as shown in the aerial photograph below. The request seeks to rezone approximately 27.2755 hectares of land from Rural Inner Plains to Business 2A.



The site is not identified within the Canterbury Regional Policy Statement as a priority greenfield area, but is located within the Project Infrastructure Boundary. The rezoning would be contrary to the CRPS as it currently stands. However, the government released the new National Policy Statement on Urban Development (NPS-UD) in July 2020. This has provided a policy framework to allow developments providing 'significant capacity' to be accepted even when that development conflicts with the existing RPS direction. It is on the basis of the direction of the NPS-UD that the applicants have applied for the rezoning. The direction of the NPS-UD is discussed further below in Section 5.

Since lodgement, PC 66 has been reviewed in terms of the adequacy of the information provided. A Request for Further Information (RFI) was issued on 4 November 2020, with the applicant's response received on 9 November 2020. The PC 66 request, along with the response to the RFI, has been peer reviewed by relevant the relevant internal SDC staff or external consultants to check the adequacy of information provided. There is currently one matter outstanding, relating to water and wastewater peakflows on the site, but the applicant has engaged a consultant to provide the requested information, and it is not considered to be a matter that affects the decision on whether to accept the request for notification. Some minor amendments have been made to the application in response to the RFI.

PC 66 would largely adopt the provisions in the Operative District Plan applicable to the Business 2A Zone, while incorporating an Outline Development Plan for the area which indicates future road connections and areas where boundary landscaping is required.

Attachment 1 contains the proposed ODP for PC 66. Access to the full request has been forwarded to Councillors and made available to members of the public on Council's [website](#).

#### 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 66 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; or
- e. The District Plan has been operative for less than two years.

The content of PC 66 is not considered to be frivolous or vexatious. The request seeks a change to the zoning to facilitate the type of development enabled under the Business 2A framework. It is common practice for plan changes to seek rezonings to enable such development.

In terms of (b) and (e), the substance of the request has not been considered by the Council or the Environment Court in the last two years and the District Plan was made fully operative in May 2016, meaning that it has been operative for more than two years.

In terms of (c) and (d), the proposal is considered to be generally consistent with Part 5 of the RMA, which relates to standards, policy statements and plans. However, s75(3)(c) requires the district plan to give effect to any regional policy statement. On initial assessment, PC 66 would generally give effect to the RPS. However, as acknowledged in the application, it would be inconsistent with the direction in the CRPS to provide for new industrial activities in identified greenfield priority areas, as the site is not included in Map A of Chapter 6 of the CRPS. Generally, a change that would be contrary to the CRPS would not be considered to accord with sound resource management practice and would result in the District Plan being inconsistent with one of the provisions in Part 5 of the RMA.

However, with the introduction of the NPS-UD in July 2020, this consideration is not so straightforward, as the NPS-UD provides for consideration of ‘unanticipated’ or ‘un-sequenced’ development, where a plan change would add significantly to development capacity; if that development capacity would also contribute to a well-functioning urban environment, is well-connected along transport corridors and meets specified criteria. This is considered to provide an avenue for developments to be considered for processing even where there is a conflict with the RPS.

While not specific to this plan change request, the Council received legal advice on the conflict between the NPS-UD and the existing RPS and the provisions for rejection of the plan change request under clause 25(4). The advice outlined that Council need not rely on the RPS to reject a plan change under Clause 25 simply because the site of the

plan change is outside of the 'greenfield' development areas identified on Map A of the RPS.

For the reasons set out below (refer to Option 3), the plan change application is considered to align with the NPS-UD in terms of providing for significant development capacity that would contribute to a well-functioning urban environment, and in a location that is well-connected to transport routes.

Given the alignment of the proposal with the NPS-UD, there are not considered to be any sound reasons to reject PC 66 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 PC 66 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 66 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 landowners that would benefit from Council coordinating the plan change process.

PC 66 will have some economic benefit to the wider community, through providing construction and employment opportunities and flow-on benefits of additional development occurring within the district. PC 66 may involve a cost to Council where services (roading, water, sewer and stormwater) are 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 66 is not particularly complex and only involves one landowner.

There also remains a number of merit-based matters to consider at the substantive hearing stage, with the potential that other matters may be raised by 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 66, 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 view 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 PC 66. 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.

As mentioned, in Option 1 above, PC 66 is located outside of the 'greenfield' development areas identified on Map A of the CRPS, but the NPS-UD provides for consideration of 'unanticipated' or 'un-sequenced' development, where a plan change would add significantly to development capacity; if that development capacity would also contribute to a well-functioning urban environment, is well-connected along transport corridors and meets specified criteria.

The application states that the proposal will contribute to a well-functioning urban environment, because the way such an environment is defined under the NPS-UD includes that it provides good accessibility for all people between housing, jobs, community services, natural spaces, and open space. It is agreed that the plan change achieves this. In addition, it is noted that the definition of a well-functioning urban environment also includes that it has or enables a variety of sites suitable for different business sectors in terms of location and size, and that it support the competitive operation of land and development markets. The plan change is considered to contribute to both of these. The plan change is also well-connected to transport corridors, including both the road and rail network.

In terms of the criteria, the NPS-UD directs that the RPS include criteria for determining what plan changes will be considered as adding significantly to development capacity. However, as the NPS-UD has come into force recently, and after development of the CRPS, the CRPS does not yet contain such criteria. These criteria are being developed by Greater Christchurch Partnership local authorities, but it is only at very early stages. In the absence of this criteria plan change proponents can apply, and rely on the NPS-UD policy direction, to have plan changes accepted even where they do not comply with Chapter 6 of the RPS. In absence of the criteria, the applicant has provided the following reasons as to why they consider the proposal provides significant development capacity:

- The plan change site will increase the Business 2A zoning by 8%, and increase the combined area of both Business 2 and Business 2A zoned land in Rolleston by 7% and across the District by 6%.
- The rezoning will provide an 84% increase on the Business 2A zoning that has a common boundary with Lyttelton Port's Midland Port. There is great logistical efficiency and significant cost-savings for enterprises to locate within the Business 2A zoned land that has an open boundary to Lyttelton Port's Midland Port, meaning that containers can be moved by heavy port vehicles that are not legally allowed to operate on the road.
- The application site is the only land that can provide an extension to the three rail sidings of Lyttelton Port's Midland Port. This is because containers can only be efficiently loaded and unloaded on the straight portion of the rail siding. The potential extension for the rail siding, utilising the application site is 563m. This would allow for the use of longer trains, lowering transport costs and reducing containers transported on the roading network.

Taking the above into account, and given that the Midland Port is considered under the CRPS to be 'strategic infrastructure' and 'regionally significant infrastructure', it is agreed that that rezoning would provide a significant increase in development capacity, particularly in relation to the Port.

The NPS-UD direction does not mean that every development providing capacity is appropriate. A plan change proponent must firstly demonstrate how a proposed development will add significantly to development capacity and meet the direction of the NPS; and while the Council must have “particular regard” to the development capacity provided, the Council may still determine that the proposal is not the most appropriate course of action, and any plan change will still need to be considered on its merits overall. This includes that PC 66 must still meet RMA section 32 and Part 2 tests and be subject to a substantive assessment of these through the Schedule 1 process.

It is considered that the merits of the plan change proposal overall, including the weight and consideration that should be given to the development capacity provided by the proposal, are best tested through the submission and hearing process.

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 66 as a resource consent.

The application seeks to enable the type of development facilitated by a Business 2A zoning across a large landholding. However, at this stage, a specific development is not proposed. A resource consent would be more appropriate if a specific development were proposed.

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

#### **Recommended Option:**

**Option 3**, to accept PC 66 for further consideration, is recommended.

The consideration of the request at this stage is limited to a coarse scale assessment of the contents of PC 66 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. Therefore the most appropriate course of action is to accept PC 66 for notification.

As the RMA affords the opportunity for the applicant to request changes to the District Plan, the recommended option to accept PC 66 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, then the content of PC 66 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 66 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 in preparing PC 66.

As outlined above, the recommendation to accept PC 66 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 application states the applicant has been assessed against the Mahaanui Iwi Management Plan and that consultation with local rūnanga was undertaken, via Mahaanui Kurataiao Limited, for an earlier iteration of the Plan Change, that sought to establish a Dairy Processing Management Area overlay on the same site. They state that the outcomes of that consultation are equally applicable to the current plan change. The rūnanga have made three recommendations, relating to landscaping, sediment and erosion controls and the inclusion of an Accidental Discovery Protocol.

In addition, the submission process allows for a submission to be made by rūnanga.

### **(d) Climate Change considerations**

Aspects of PC 66 that are relevant to climate change include:

- Consolidated Urban Form – PC 66 sits within Rolleston’s infrastructure boundary.
- The rezoning would provide for additional employment opportunities for people living in or near to Rolleston.

## **7. FUNDING IMPLICATIONS**

If PC 66 is accepted for processing then the applicant is responsible for the costs associated with processing a private plan change request, with Council costs being recoverable. Council would be responsible for the cost of defending its decision should it be appealed to the Environment Court.

## **8. INPUT FROM OTHER DEPARTMENTS**

The contents of the request, including relevant technical reports, were circulated to Council's Asset Managers for review. Queries received from the Asset Managers were included in the RFI.

As stated above, there is currently one matter outstanding, relating to water and wastewater peak flows on the site, the applicant has engaged a consultant to provide the requested information, and it is not considered to be a matter that affects the decision on whether to accept the request for notification, however, the application will not proceed to notification until the information is received and the outstanding issue has been resolved.

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Jessica Tuilaepa  
**SENIOR STRATEGY AND POLICY PLANNER**

***Endorsed For Agenda***

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Tim Harris  
**GROUP MANAGER ENVIRONMENTAL AND REGULATORY SERVICES**