

REPORT

TO: Chief Executive

FOR: Council Meeting – 11 August 2021

FROM: Strategy and Policy Planner, Jon Trewin

DATE: 22 July 2021

SUBJECT: PRIVATE PLAN CHANGE 61 – REZONING OF LAND IN DARFIELD (EAST)

RECOMMENDATION

‘That the Council:

- a. accepts the recommendation of the independent Commissioner in regards to Plan Change 61 from Rupert and Catherine Wright to rezone land in Darfield;*
- b. pursuant to Clause 29(4) of the First Schedule of the Resource Management Act 1991, approves Plan Change 61 subject to the modifications described and for the reasons given in the Commissioner’s recommendation dated 7 July 2021;*
- c. approves the public notification of Council’s decision that establishes that the Operative Selwyn District Plan is deemed to have been amended in accordance with the decision in (b) above from the date of the public notice in accordance with Clause 11 of the Resource Management Act;*
- d. delegates the Team Leader Strategy and Policy to take any steps necessary to give effect to recommendation (b) and (c) above; and*
- e. delegates the Team Leader Strategy and Policy to take any steps necessary to give effect to make Plan Change 61 operative at the conclusion of the appeal period where no appeals are filed.’*

1. PURPOSE

This report seeks a decision from Council that Plan Change 61 be approved in accordance with the Commissioner’s recommendation dated 7 July 2021 (**Attachment 1**) and that it be confirmed for inclusion in the Operative Selwyn District Plan.

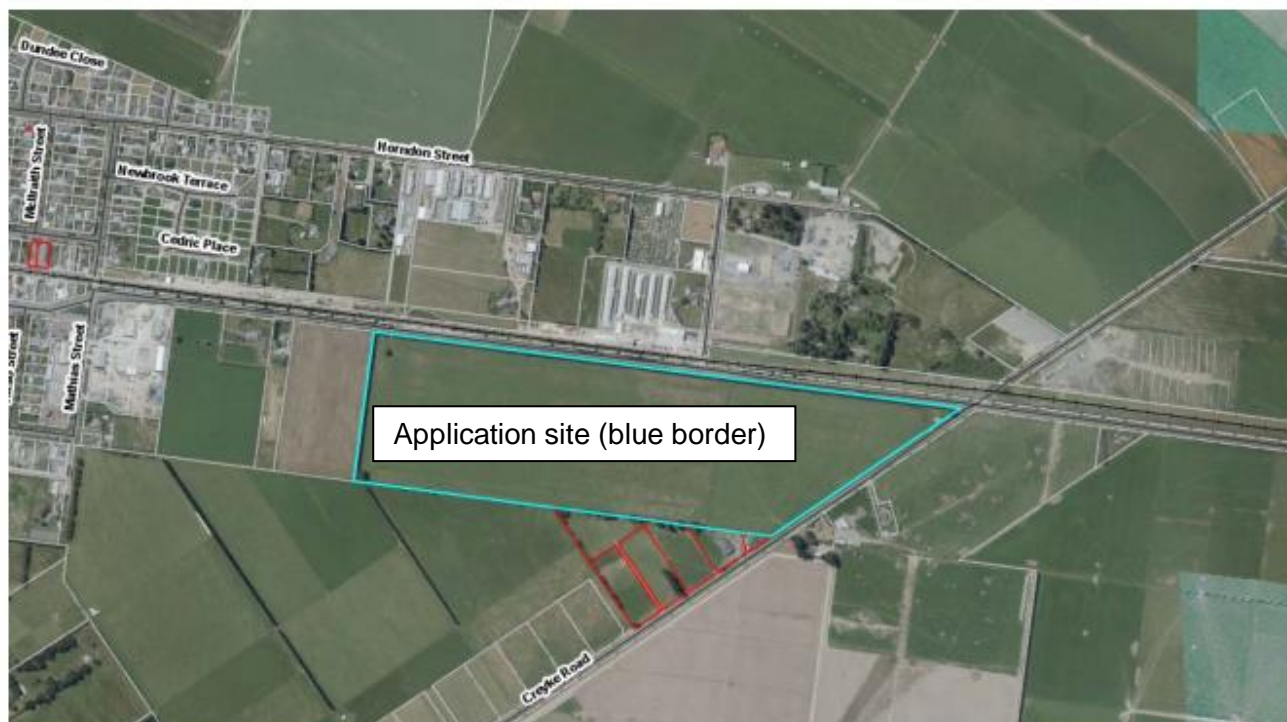
2. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

This report does not trigger the Council’s Significance Policy. Considering to accept the Commissioner’s recommendation as Council’s decision is a procedural requirement of the Resource Management Act 1991 (the Act).

3. HISTORY/BACKGROUND

The request relates to rurally zoned land on the east side of Darfield. The request sought to rezone approximately 30.76 hectares of Rural Outer Plains zoned land to a mix of Business 2 and a Living 1 (Darfield East) zone. Its location is indicated on the aerial photograph in **Figure 1** below. The site is bound by SH73 (West Coast Road) to the north, Creyke Road to the east, the Ascot Park (Silverstream) development to the south and Living 2A deferred zoning to the west. The site is identified as suitable for low density residential, or a mix of low density/business, in the Malvern Area Plan 2016.

Figure 1 Aerial photograph of the site



The following is the general timeline of the Plan Change's progress so far through the statutory process:

- Received by Council on 13 August 2019.
- Accepted by Council on 13 May 2020.
- Publically notified on 1 July 2020.
- Hearing held on 16 April 2021.
- Hearing formally closed on 13 May 2021.
- Hearing Commissioner's recommendation provided on 7 July 2021.

The plan change application was subject to requests for further information on landscaping, roading, alignment with national policy and air quality (request made 6 September 2019) and, separately, the provision of water and disposal of sewage and ability to connect to a future Darfield reticulated wastewater network (request made 7 January 2021). These requests for further information were responded to satisfactorily.

Following notification on 1 July 2020, the plan change attracted eight submissions and no further submissions. One of these submissions was subsequently withdrawn and another was withdrawn in part.

Since the initial lodging of the plan change application, amendments to the Outline Development Plan were sought by the applicant on 11 February 2021. These changes were deemed to be within scope of the original application and did not need to be re-notified. The changes included amending the proportion of Business 2 and Living 1 land within the application site as well as a mix of Living 1 densities.

4. PROPOSAL

An independent Planning Commissioner, Mr Dean Chrystal, was appointed to consider all the relevant material in respect of the plan change and to make a recommendation to the Council on the plan change and the submissions received.

This recommendation relates to whether the plan change should be approved, approved with modification (in accordance with the scope provided by the plan change) or declined. The final decision on whether or not this recommendation and, as a consequence the plan change, should be adopted is the responsibility of the Council.

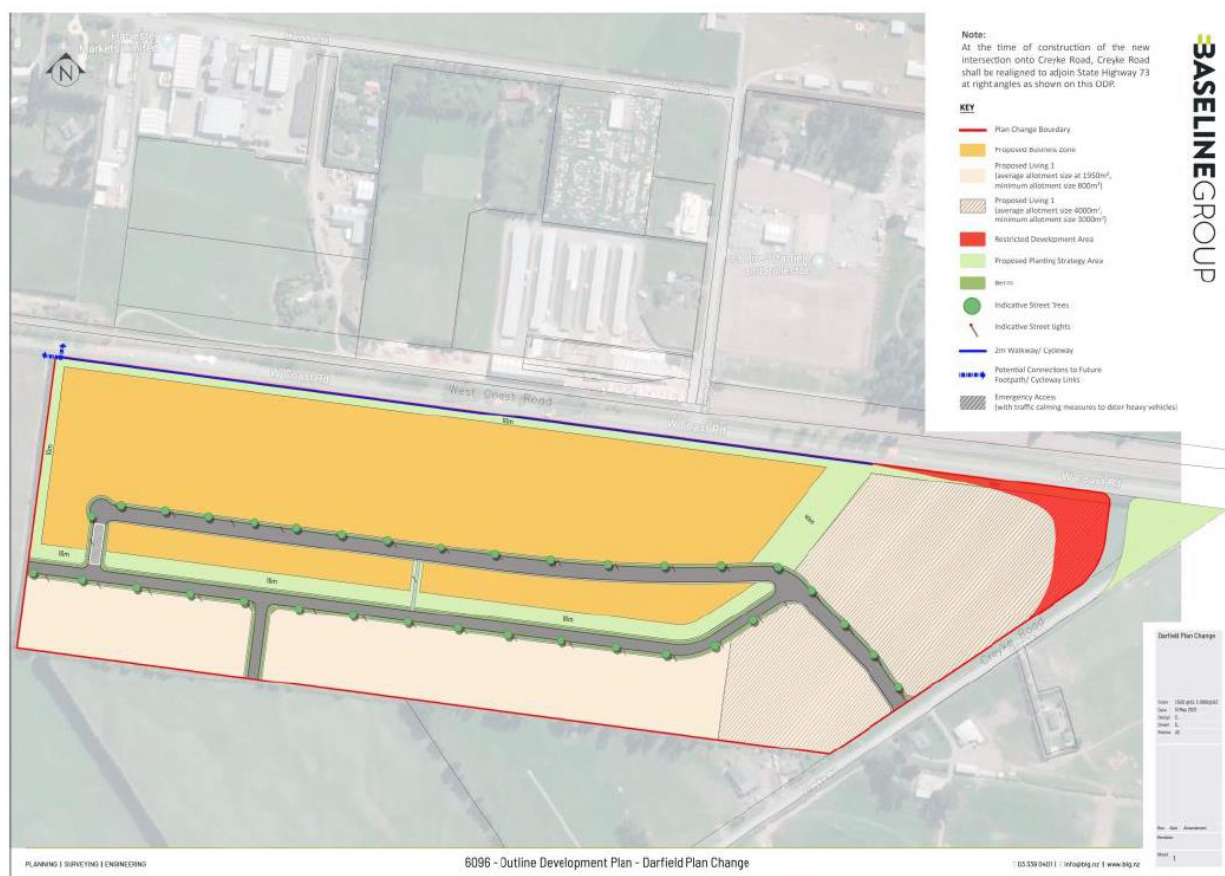
The officer's report (S42a report) to the hearing (available for viewing on Council's website) recommended that the application be declined on the basis of a likely increase in traffic at the SH73/Creyke Road intersection with corresponding safety issues and the lack of walking and cycling provision. Following discussions between the developer, Council and Waka Kotahi/NZTA prior to the close of the hearing, these outstanding issues were deemed by the Commissioner to have been satisfactorily addressed.

For the reasons set out in his recommendation, the Commissioner recommends that Plan Change 61 be approved subject to the modifications set out in his recommendation and that the matters raised in submissions are accepted, accepted in part or rejected.

In summary, the changes sought to be made to the District Plan through the Commissioner's recommendations include:

- Introducing a new Outline Development Plan for the application site area (see **Figure 2** below)
- Rezone the application site area from Rural Outer Plains to Business 2 and Living 1 consistent with the Outline Development Plan.
- Introducing a restricted development area in the north east portion of the Outline Development Plan to enable a future upgrade of the SH73/Creyke Road intersection.
- Rules to require setbacks and landscaping to avoid conflicts between different uses within and adjacent to the site.
- Providing for two different densities in the Living 1 Zone with average lot sizes of 1950m² (minimum 800m²) and 4000m² (minimum 3000m²).
- A rule requiring the upgrade of the SH73/Creyke Road intersection in consultation with Waka Kotahi/NZTA prior to the development of Business 2 Zone.
- A rule requiring potable water supply to be available (part of the site is subject to a groundwater protection zone from a new Council bore to the east of Creyke Road).
- A rule requiring provide adequate walking and cycling connections prior to the development of Business 2 Zone.
- A requirement to consider flood risk and mitigation as assessment matters.

Figure 2 Proposed Outline Development Plan



5. OPTIONS

In accordance with Clause 29(4) of the First Schedule of the Act, Council may decline, approve, or approve with modifications, the plan change.

a. Approve

Through the Resource Management Act processes, the Commissioner has considered that Plan Change 61 is generally appropriate in terms of the s32 tests and meets the purpose and principles set out in Part 2 of the Act in promoting sustainable management. Specifically, the Commissioner considered that the plan change incorporates appropriate methods to ensure any future land uses are appropriate and will result in a number of positive social, economic and environmental outcomes.

However, the Commissioner considered that modifications are necessary in order to achieve good planning practice. This is discussed below.

b. Approve with modifications

The Commissioner's recommendation is that Plan Change 61 be approved, subject to the modifications described in his recommendation. The primary modifications are the inclusion of a restricted development area in the north east of the outline development area to enable a future intersection upgrade on SH73/Creyke Road, the inclusion of rules requiring the provision of walking and cycling access to the township, modifications to internal setbacks and new flooding assessment matters. The

Commissioner considered that, subject to the specified modifications, the plan change will implement the policies, and is appropriate in achieving objectives, of the District Plan.

As such, it would be inappropriate for the Council to amend any of the findings contained in the Commissioner's recommendation in the absence of hearing the submissions and considering the substantive material that has been considered.

c. Decline

It is considered that it would be inappropriate for the Council to decline the plan change, as this would be contrary to the recommendation of the independent Commissioner who has determined, through the statutory processes, that the plan change is appropriate.

Recommended Option:

It is recommended that Council accepts the Commissioner's recommendation and approve Plan Change 61 subject to the modifications set out in the recommendation.

If the Council accepts the Commissioner's recommendation and approves Plan Change 61, then Plan Change 61 will continue along the statutory RMA process, with the decision being publicly advertised and notice being served on all submitters. A 30 day appeal period is provided to lodge an appeal against the decision to the Environment Court. If no appeal is received within this timeframe then Plan Change 61 will be deemed to be operative and the District Plan amended accordingly.

6. VIEWS OF THOSE AFFECTED / CONSULTATION

(a) Views of those affected

These matters are addressed in the recommendation of the Commissioner, with the mandatory public notification, serving of the notice of the request on potentially affected parties and submissions processes required under the RMA having provided appropriate opportunity for interested parties to participate in the private plan change process.

(b) Consultation

The mandatory public notification and submissions processes required under the RMA has provided the wider public an opportunity to participate in the private plan change process

(c) Māori implications

No wahi tapu or wahi taonga sites of cultural significance within the plan change area have been identified. No submissions were received from Mahaanui Kurataiao Ltd who act on behalf of local runanga on environmental and resource management matters.

(d) Climate Change considerations

Plan Change 61 will assist in responding to climate change by enabling development in Darfield that is a logical extension to the existing township boundaries and provide pedestrian and cycle linkages to existing services and community infrastructure.

7. FUNDING IMPLICATIONS

The funding implications are limited to any appeal proceedings. All costs incurred in notifying the decision are on-charged to the private plan change proponent.

8. PROPOSED DISTRICT PLAN

Council approved the notification of the Proposed District Plan at the meeting on 23 September 2020. The submission period commenced on 5 October 2020 and ran until 4 December 2020.

As the plan change is not yet approved, the area of the plan change request has been zoned as General Rural Zone under the Proposed District Plan. As this proposed zoning is inconsistent with the requested plan change, the plan change proponent has made a submission to have the plan change area rezoned to reflect a zoning pattern more consistent with the plan change.

It is noted that, in the early stages of a district plan change process, the objectives and policies of the Operative District Plan hold greater weight. The Proposed District Plan is afforded greater weight the further through the process it is. It is considered that the private plan change is not inconsistent with the Proposed District Plan as the plan change area is identified as an area of urban growth in the Proposed District Plan and is consistent with urban growth objectives and policies.

Jon Trewin

STRATEGY AND POLICY PLANNER



Endorsed For Agenda

Tim Harris

GROUP MANAGER ENVIRONMENTAL AND REGULATORY SERVICES