

# **REPORT**

**TO:** Chief Executive

**FOR:** Council Meeting – 7 December 2010

**FROM:** David Smith – Team Leader Strategy & Policy

**DATE:** 24 November 2010

**SUBJECT:** **Recommendation of the Commissioner for Plan Change 18 – Protected Trees**

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## **1. RECOMMENDATION**

**That in respect of Plan Change 18 (PC18) to the Selwyn District Plan, Council resolves:**

- (i) Pursuant to Clause 10 (1) of the First Schedule of the Resource Management Act (RMA), to accept the recommendations tabled in the attached Commissioner's report dated November 2010 as its decision on PC18.**
- (ii) To serve on every person who made a submission on PC18 a copy of its decision and notice specifying the timeframe for lodging an appeal, as required by Clause 11 (1) of the RMA.**
- (iii) To give public notice of the fact that Council has made its decision and that the District Plan is deemed to have been amended in accordance with that decision from the date of the public notice in accordance with Clause 10 (3) of the RMA.**
- (iv) To delegate to the Team Leader Strategy & Policy the authority to take any steps necessary to give effect to recommendations (i) to (iii) above.**

## **2. PURPOSE**

The purpose of this report is for Council to accept the recommendation of Commissioner Dovey that Plan Change 18 should be approved subject to amendments as outlined in the attached report. This report also seeks Council's resolution to accept these recommendations as its decision, which will require the public advertisement and serving notice of this decision in accordance with the First Schedule of the Resource Management Act (RMA).

## **3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT**

N/A. This Plan Change is subject to the provisions of the Resource Management Act.

## **4. HISTORY/BACKGROUND**

Plan Change 18 arose in response of various issues relating to the existing District Plan provisions. These issues included errors in descriptions, lack of background information regarding the evaluation of trees, provisions that did not ensure adequate protection and a need to protect additional trees in the District. The preferred option adopted by the Council involved developing a tree evaluation process and applying it to currently protected and newly nominated trees, introducing new objectives and policies into the Plan, defining tree and protected trees, introducing a suite of

rules relating to protected trees, replacing the existing schedule of trees and amending the relevant planning maps. Change 18 seeks to Change both the Township and Rural volumes.

The Change was notified on 29 April 2010. Seven submissions (four in support, three seeking amendments) and eleven further submissions were received.

A hearing was held on 19 October 2010.

## **5. PROPOSAL AND STATUTORY FRAMEWORK**

Commissioner Dovey made the recommendation to approve PC18 subject to a number of amendments. This recommendation assessed the submissions received and made decisions on each point. The amendments to PC18 as notified are detailed in the Commissioners recommendation (**Attachment 1**).

Clause 10 (3) of the RMA's First Schedule requires a local authority to make a decision on a proposed plan change within two years of the public notification of the change. Council technically has until 19 October 2012 to publicly notify and serve notice of its decision.

## **6. OPTIONS**

Council is required to accept or reject the Commissioner's recommendations pursuant to Clause 10 (1) of the Act's First Schedule.

If Council accepts the recommendation the Plan Change would continue along the statutory RMA process, with the decision being sent out to all the submitters. Submitters will have 30 working days (from the date of receiving the decision) in which they can appeal the decision to the Environment Court. If there are no appeals PC18 is deemed to be operative and the Selwyn District Plan will be amended to reflect this.

If Council rejects the Commissioners recommendation, the Plan Change would be subject to a new hearing process.

## **7. VIEWS OF THOSE AFFECTED/CONSULTATION**

### **a) Public Notices and Statutory bodies**

The Council followed the prescribed public notification process as detailed in the RMA, and advertised the Plan Change in The Press and on the Council's website and in the Council Call section of the local newspapers. Public notices and a full package of the information was also sent to adjoining Local Authorities, Ngai Tahu and the Ministry for the Environment.

### **b) Maori implications**

No implications for Maori are anticipated. Ngai Tahu was consulted with through the statutory process outlined above.

## **8. RELEVANT POLICY/PLANS**

The acceptance of the Commissioner's recommendation will result in Council adopting this decision as its own and will formalise PC18 into the District Plan.

## **9. COMMUNITY OUTCOMES**

N/A

**10. NEGATIVE IMPACTS**

N/A. This is purely a procedural process as required by the Resource Management Act.

**11. LEGAL IMPLICATIONS**

Submitters to PC18 may appeal Council's decision to accept the Commissioner's recommendation.

**12. FUNDING IMPLICATIONS**

The funding implications are limited to any subsequent appeals to the Environment Court and the costs incurred in notifying the decision in accordance with Clause 11 of the First Schedule.

**13. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?**

Council departments have been involved throughout the Plan Change process.



David Smith  
**TEAM LEADER STRATEGY & POLICY**

**ENDORSED FOR AGENDA**



Tim Harris  
**PLANNING MANAGER**



John Christensen  
**ENVIRONMENTAL SERVICES MANAGER**