

REPORT

TO: Chief Executive

FOR: Council Meeting – 8 September 2010

FROM: David Smith – Team Leader Strategy & Policy

DATE: 31 August 2010

SUBJECT: **Recommendation of the Commissioner for Private Plan Change 3 – Rezoning 85ha of existing urban zoned land in West Melton to a new Living WM (West Melton) zone.**

1. RECOMMENDATION

That in respect of Private Plan Change 3 (PC3) 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 30/7/10 as its decision on PC3.**
- (ii) To serve on every person who made a submission on PC3 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 Planning Manager 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 Mountfort that Plan Change 3 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

Gillman Wheelans lodged a privately requested plan change with the Council in June 2008. The purpose of the request was to "*enable comprehensive residential development of undeveloped land currently zoned 'Living 1 Deferred', 'Living 2 Deferred' and 'Living 1'*" located to the north of State Highway 73 (West Coast Road), west of Weedons Ross Road and North of State Highway 73 at West Melton.

On 27 August 2008 the Council considered this privately requested plan change and resolved to reject the request as a whole. The Council's decision was primarily on the basis that the District Plan had been operative for less than two years (its operative in part date is 10 June 2008) but also that the densities proposed in the original application were inconsistent with Council's decision to limit growth at West Melton to areas currently zoned for residential development.

Gillman Wheelans appealed the Council's decision to the Environment Court.

The Environment Courts decision on this preliminary legal issue was appealed to the High Court by both Gillman Wheelans and the Council. The High Court proceeding did not ending up proceeding as Council accepted a modified Plan Change at its meeting on 9 December 2009.

The Plan Change was notified on 3 February 2010 with the proposed plan change following the notification and hearing requirements of the RMA. A hearing was held on 24 June 2010.

5. PROPOSAL AND STATUTORY FRAMEWORK

Commissioner Mountfort made the recommendation to approve PC3 subject to a number of amendments on 30 July 2010. This recommendation assessed the submissions received and made decisions on each point. The amendments to PC3 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 3 February 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 PC3 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 PC3 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 PC3 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. Costs of processing the Plan Change are borne by the applicant.

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

Council departments have been involved throughout the processing of PC3.



David Smith
TEAM LEADER STRATEGY & POLICY

ENDORSED FOR AGENDA



Tim Harris
PLANNING MANAGER



John Christensen
ENVIRONMENTAL SERVICES MANAGER