

## REPORT

**TO:** Chief Executive Officer

**FOR:** Council Meeting – 24 March 2021

**FROM:** Strategy and Policy Planner, Jocelyn Lewes

**DATE:** 4 March 2021

**SUBJECT:** PRIVATE PLAN CHANGE 62 – REZONING OF LAND IN LEESTON

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### RECOMMENDATION

*‘That the Council:*

- a. accepts the recommendation of the independent Commissioner in regards to Plan Change 62 from D Marshall, L Martin and A Formosa, M and T Saunders, B Hammett, and J and S Howson to rezone land in Leeston;*
- b. pursuant to Clause 29(4) of the First Schedule of the Resource Management Act 1991, approves Plan Change 62 subject to the modifications described and for the reasons given in the Commissioner’s recommendation dated 3 March 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 62 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 62 be approved in accordance with the Commissioner’s recommendation dated 3 March 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

Plan Change is a privately initiated plan change by D. Marshall, L. Martin & A. Formosa, M. & T. Saunders, B. Hammett and J. & S. Howson (the proponents).

As proposed, the plan change sought to uplift the present deferred zoning of 5.3ha of Living 1 and 22.8ha of Living 2 zoned land, rezone some 22.8ha of Living 2 to Living 1, and rezone to Living 1 and Living 2 some 31.2ha of Rural (Outer Plains) zoned land on the western side of Leeston. The request sought to delete one policy (Policy B4.3.55) and make several changes to, including the addition of, rules and include an Outline Development Plan (ODP) for the site.

The site of the plan change as proposed is shown below in Figure 1. The majority of the site is bound by High Street to the south, Harmans Road to the west, Leeston Dunsandel Road to the north and existing residential development and Ellesmere College to the east. The balance of the site is located north of Leeston Dunsandel Road.



**Figure 1 – Aerial photograph of area of original request, outlined in white**

*(Source: Selwyn District Council Maps)*

Plan Change 62 was publicly notified on 21 January 2020. The plan change attracted 18 submissions and four further submissions. A hearing was held on 15 September 2021.

#### **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.

For the reasons set out in his recommendation, the Commissioner has recommended that Plan Change 62 be approved subject to the modifications, and that the matters raised in submissions be accepted, accepted in part or rejected.

#### **5. OPTIONS**

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

##### **a. Approve**

The Commissioner concluded that the plan change in its fullness, including the rural component, had the potential to generate adverse effects; was inconsistent with the preferred growth direction in the Area Plan; was not appropriate in terms of the s32 tests; and overall did not meet the purpose and principles set out in Part 2 of the Act in promoting the sustainable management of natural and physical resources.

However, the Commissioner considered that this was not so for the deferred land on its own and therefore considered that modifications were necessary in order to achieve good planning practice. These are discussed below.

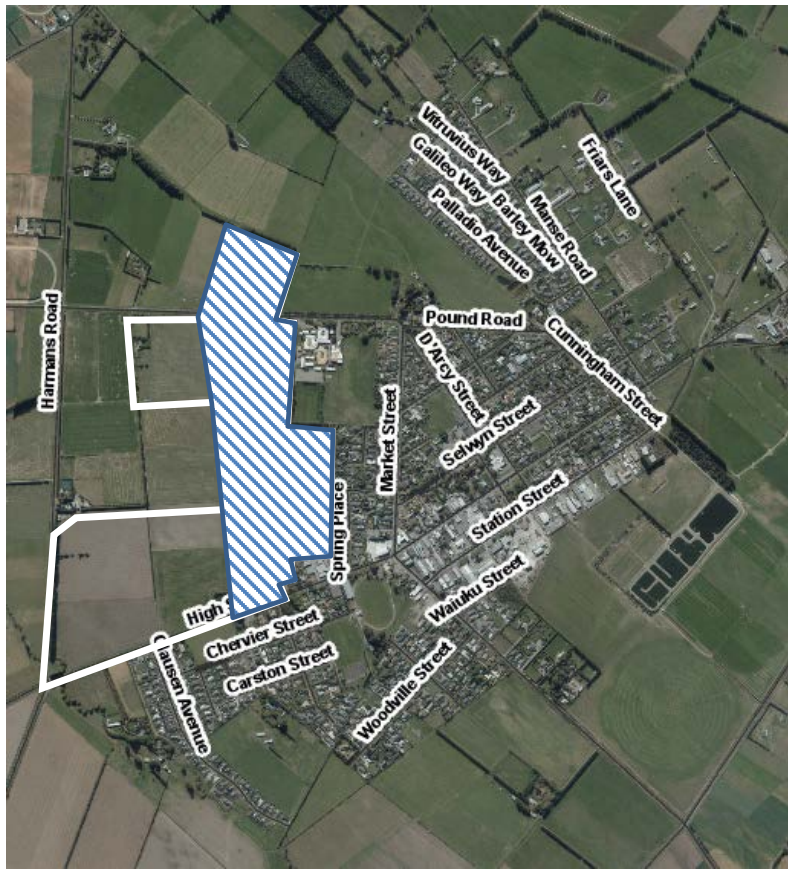
##### **b. Approve with modifications**

The Commissioner reached the conclusion that it would not be appropriate to decline the Plan Change in its entirety and so has recommended that the request be approved, subject to modifications.

The Commissioner's recommendation contains two parts: That Council:

1. rejects that part of Plan Change 62 seeking to rezone Rural (Outer Plains) land, apart from 149 High Street; and
2. approves that part of Plan Change 62 which seeks to uplift the present deferred Living zonings, and rezone these Living 1 (with the exception of 31 Leeston Dunsandel Road which would be Living 2), along with 149 High Street, and amends the Operative District Plan in accordance with the amendments set out in Appendix B of his recommendation.

The extent of the area supported by the Commissioner is shown below in Figure 2.



**Figure 2 – Aerial photograph of site, showing modified area supported by Commissioner shaded, with the original area indicated by dashed line. (Source: Selwyn District Council Maps)**

In terms of 149 High Street, the Commissioner supported the inclusion of this site in the Living 1 zone on the basis that it is historical and below the minimum subdivision standards for the Rural zone and, as such, it was logical to include it as part of the Living 1 zone and within the ODP. It is also noted that the land owners were party to the plan change.

In regards to 31 Leeston Dunsandel Road, the Commissioner has recommended that this property remain zoned as Living 2, only with the deferred status being uplifted. While the effect of this would be to leave the property largely surrounded by more intensive Living 1 development, the Commissioner considered that, as it is beyond the scope of the plan change and was not the subject of a submission, there was no ability for him to alter this. It is considered that the same limits of the process that prevented the Commissioner from amending this also extend to the Council in regards to its decision on the plan change.

The Commissioner has recommended that, in addition to an ODP for the area, a number of site specific provisions be included in the plan which address the potential reverse sensitivity effects at the rural/urban and the residential/business interface

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

As the Commissioner's recommendation is to approve the request as modified, it is considered that it would be inappropriate for the Council to amend any of his findings in the absence of hearing the submissions and considering the substantive material that has been presented.

**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, as modified, is appropriate.

**Recommended Option:**

It is recommended that Council accepts the Commissioner's recommendation and approve Plan Change 62 subject to the modifications set out in his recommendation.

If the Council accepts the Commissioner's recommendation and approves Plan Change 62 as modified, then Plan Change 62 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 62 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**

Mahaanui Kurataiao Limited, who provide mana whenua environmental services that are endorsed by local Rūnanga, have reviewed the plan change, and this review formed a component of the notified version of the plan change. The review did not identify any wahi tapu or wahi taonga sites of cultural significance within the plan change area.

**(d) Climate Change considerations**

Plan Change 62 will assist in responding to climate change by providing for a consolidated urban form, and providing pedestrian and cycle linkages to 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 proponents.

**8. PROPOSED DISTRICT PLAN**


Council notified the Proposed District Plan (PDP) on 5 October 2020. Submissions have closed and these are currently being summarised.

Under the PDP, the deferred status of the land has been proposed to be uplifted, but the underlying zoning/density remains unchanged. The area of the plan change request is proposed to be zoned a combination of Low Density Residential, Large Lot Residential and General Rural Zones. One of the plan change proponent has made a submission seeking that the zoning in the PDP reflect the intent of the plan change as originally proposed, namely rezoning land between High Street, Harmans Road, Leeston Dunsandel Road and the existing built form of Leeston to a combination of residential densities between 450 m<sup>2</sup> and 2,000 m<sup>2</sup>, such as Large Lot Residential, General Residential or similar.

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 PDP is afforded greater weight the further through the process it is. It is considered that the private plan change request, as modified by the Commissioner's recommendation, is not inconsistent with the objectives and policies of the PDP in that it provides for residential activity, albeit a differing density.



Jocelyn Lewes  
**STRATEGY AND POLICY PLANNER**



Robert Love  
**TEAM LEADER STRATEGY AND POLICY**

***Endorsed For Agenda***



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