

Mayor and Councillors  
**COUNCIL**

**16 DECEMBER 2010**

Meeting Status: Public

Purpose of Report: For Decision

## COMMISSIONERS' RECOMMENDATIONS REPORT FOR PLAN CHANGE 77 – ŌTAKI RESIDENTIAL REVIEW

### **PURPOSE OF REPORT**

- 1 This report seeks a decision from the Council on the Commissioners' Recommendation on Plan Change 77: Ōtaki Residential Review. Council initiated Plan Change 77 in response to community concerns. It aims to protect the character of Ōtaki by increasing the lot size for controlled activity subdivisions in the residential zone.

### **SIGNIFICANCE OF DECISION**

- 2 The significance policy is not triggered by this report.

### **BACKGROUND**

- 3 In 2003, extensive consultation was undertaken with the community, to identify matters of value (or outcomes) for the District as a whole and for specific areas (local outcomes). This process was part of the Council's responsibilities under the Local Government Act 2002, and is referred to as the *Kāpiti Coast: Choosing Futures* process. The District Plan was identified as one means of implementing the outcomes from this process.
- 4 The Greater Ōtaki Vision Statement was then developed by the community and the Ōtaki Community Board. It identified particular values for Ōtaki Beach and Town including the need to retain its low key 'old fashioned' beach feel and the separate, single, low rise housing character.
- 5 This concern from residents and the Community Board about the erosion of Ōtaki's low density character then led to a review of District Plan provisions. The focus was on pulling back in some areas from the density levels provided for in the current District plan to a smaller area around the two commercial centres. This approach meant that there were opportunities for smaller sections around these centres while protecting the larger lot sizes in the wider area.
- 6 The objective of Plan Change 77: Ōtaki Residential Review is to remove the ability to create lots less than 450m through subdivision as a discretionary activity in areas located away from Ōtaki's commercial areas. Plan Change 77 also proposes to increase the average lot size requirements for controlled activity subdivision of the residentially zoned areas across Ōtaki. The protection of Ōtaki's low density character is strengthened by the provisions recommended for Plan Change 77. The approach does not preclude the ability to seek higher

densities but ensures the tests about impacts on character and amenity are made stronger.

- 7 A draft plan change proposal was sent to households (including property owners and occupiers) in September 2007. There were a total of 58 responses received to the proposal with a range of suggestions made including support for the proposals, suggested modifications such as the inclusion of design guides, and support for retaining the existing planning provisions. There was general support for changing the subdivision rules to make subdivision of lots smaller than 450m<sup>2</sup> a Non-Complying Activity. The proposed plan change was amended prior to notification to include average lot sizes instead of minimums.
- 8 In August 2008 the Environment and Regulatory Committee approved Plan Change 77 for notification.
- 9 The Plan Change was notified on 11 August 2008 and 41 submissions were received (including 3 late submissions). Further submissions were received from nine submitters when the summary of submissions was advertised.
- 10 The main issues raised in submissions were:
  - support for Plan Change 77 to protect the existing character and amenity of Ōtaki
  - concern that character was not related to lot sizes and other rules or methods should be used instead
  - concern that the plan change would have a negative impact on property values
  - concern that the plan change would increase property prices in Ōtaki making them unaffordable
  - concern that properties purchased as investments with an intention to subdivide would now be unable to
  - suggestions to defer restrictions to allow existing owners to subdivide but prevent future owners from doing so
  - concern the rules are too restrictive and would prevent efficient land use
  - requests to extend the area where discretionary activity subdivision can occur, particularly around the Ōtaki Railway commercial area
  - concern that consultation undertaken prior to notification did not reach all out of town owners
- 11 A plan change process generally takes approximately 12 months, but due to workloads on the planning team generated by the expressway, and other plan changes, the period for this plan change has been longer.

### Plan Change Hearing

- 12 Councillor Diane Ammundsen (Chair), Councillor Hilary Wooding and Mr Adrian Webster were appointed as Commissioners under delegated authority under Section 34A of the *Resource Management Act 1991*.
- 13 The Commissioners conducted a Hearing on 23 August 2010. Ten submitters were heard.

- 14 The following sections of this report outline the main elements of the Commissioners' recommendations.

## CONSIDERATIONS

### Issues

- 15 The attached Commissioners' Report includes information on the background to the Plan Change, the submissions, and evidence that was presented both at the hearing and in the submissions period. The report also assesses the plan change both in relation to the submissions and in relation to the relevant statutory and non-statutory documents. Having heard the evidence, the Commissioners have recommended that Plan Change 77 be adopted, with some alterations.
- 16 The Commissioners recommend that the Plan Change be amended from the originally notified version to extend the area where discretionary activity subdivision can occur around the Ōtaki Railway Commercial/Retail area.
- 17 The Commissioners' recommended provisions are included in Schedule 1 to the Commissioners' Report.
- 18 The Commissioners have prepared this report for the Council's consideration prior to adopting the plan change. Appendix A of the Commissioners' Report provides a summary of the submissions and further submissions received on Plan Change 77. Appendix B of the Commissioners' Report includes a Section 32 Report. Appendix C of the Commissioners' Report includes a full copy of the notified provisions of Plan Change 77.

### Options

- 19 There are three options for the Council to consider in regards to the Commissioners' Recommendations on Plan Change 77:
- adopt the Commissioners' recommendations as set out in Schedule 1 of the Commissioners' Report (Attachment 1 to this report); or
  - dismiss the Commissioners' recommendations and hear all the evidence and submissions again as a full Council and reach a decision; or
  - withdraw the Plan Change (see paragraph 22).
- 20 The Commissioners will be available at the Council meeting to answer questions about the Commissioners' Report and recommendations.

### Financial Considerations

- 21 Plan Change 77 is a public plan change and all costs (including the cost of defending it against any appeals) will be met from existing budgets.

### Legal Considerations

- 22 Part I of the First Schedule of the *Resource Management Act 1991* outlines the process for managing public plan changes. If the Council wishes to alter the recommendation so that it is contrary to the Commissioners' recommendations,

then the principles of natural justice and fairness would require that the Council rehear the request and the submissions, and provide detailed reasons in support of its decision, or the Council can withdraw the plan change.

- 23 Following the release of the Council's decision, submitters have 30 working days (six weeks) to lodge an appeal with the Environment Court if they do not agree with the decision.

### Delegation

- 24 The Council has authority to make decisions on plan changes under clause 10(1) of the first schedule of the *Resource Management Act 1991*.

### Consultation

- 25 Full public notification and involvement has occurred during the processing of the plan change as required by the *Resource Management Act 1991*. Appendix Two of the Commissioners' Report summarises the submissions and further submissions received.
- 26 Iwi were sent a copy of Plan Change 77 for comments, and were involved in consultation leading up to the drafting of the plan change. No concerns were raised with the Council.

### Policy Implications

- 27 The plan change was fully assessed against the key outcomes of the Long Term Council Community Plan (LTCCP), the objectives and policies of the District Plan, and other statutory plans, and took into account the community consultation and community outcomes developed under the LTCCP process and the Development Management Strategy. The Commissioners consider that Plan Change 77 is consistent with these documents.

### Publicity Considerations

- 28 There are no major publicity considerations to consider in relation to Plan Change 77. However, a public notice will be placed in the local paper to advise of the Council's decision, and a notice will be served on every person who made a submission on the plan change.

### Other Considerations

- 29 There are no other considerations.

## **RECOMMENDATIONS**

- 30 That the Council, being satisfied as to the matters in section 32 of the *Resource Management Act 1991*, adopts Plan Change 77: Ōtaki Residential Review, as set out in Schedule 1 of the attached Commissioners' Report; and
- 31 That all submissions and further submissions made in respect of Plan Change 77: Ōtaki Residential Review are accepted, accepted in part or rejected for the reasons given in the attached Commissioners' Report and Summary of Submissions.

**Report prepared by:**

**Approved for submission by:**

**James Kilbride**

**Gael Ferguson**

**Policy Planner**

**Group Manager, Strategy and  
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**ATTACHMENTS:** Appendix 1: Commissioners' Recommendations