

**QLDC Council
30 June 2015**

Report for Agenda Item: 12

Department: Planning & Development

Plan Change 49 Earthworks – Ratification of Commissioner Decision

Purpose

- 1 The purpose of this report is to provide the Commissioner recommendation on submissions to Plan Change 49 Earthworks (PC 49) and to seek ratification as a Council decision for notification.

Recommendation

That Council:

1. Note the contents of this report;
2. Agree to adopt the Commissioner recommendation as a Council decision, and;
3. Direct staff to notify the decision in accordance with the 1st schedule of the Resource Management Act 1991.

Prepared by:



Senior Planner (Policy)

29/05/2015

Reviewed and Authorised by:



General Manager,
Planning and Development

15/06/2015

Background

- 2 Council resolved to notify PC 49 in a meeting dated 22 May 2014.
- 3 The purpose of PC 49 is to simplify the District Plan for earthworks matters by stripping the current provisions from a number of chapters and introducing a new standalone chapter. This will streamline the Plan and reduce the number of consents required for earthworks, which are an anticipated factor in development.
- 4 PC 49 was notified, district wide, for submissions on 02 July 2014 and for further submissions on 24 September 2014. 58 Submissions and 2 further submissions were received. A hearing was held on 03 / 04 December 2014.

Comment

- 5 The fundamental matter for the Commissioner to determine is whether PC 49 should proceed. The Commissioner has considered PC 49, submissions and further submissions (including submissions and evidence presented at the hearing), the Section 32 evaluation and the Section 42A report and attachments. The Commissioner has concluded that the proposed plan change is appropriate, subject to minor amendments.

Options

- 6 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

- 7 Option 1 Accept the Commissioner's recommendation

- 8 Advantages:

- The submission and hearing process gave people the opportunity to either support or oppose the proposal.
- The Commissioner had the benefit of submissions and further submissions as well as professional assistance (in the form of the officer's recommendation) to reach his decision.
- Should Council feel that some aspects of the recommendations are inappropriate, Council remains in the position to undertake a variation to the Plan Change or become a Section 274 party to an appeal (should any be made).

- 9 Disadvantages:

- The Commissioner has made amendments to the version of the plan change as approved for notification by Council.

- 10 Option 2 Reject the Commissioner recommendation

- 11 Advantages:

- Council will reserve the right to reopen the hearing process.

12 Disadvantages:

- Council cannot make changes to the Commissioner recommendation as they have not heard the evidence presented at the hearing or read the submissions. To change the recommendations would not demonstrate fairness or natural justice to the submitters.
- All submitters will need to be re-heard at another hearing.
- Additional Council and submitter resources will be required to re-hear the plan change.
- There would be delays and additional costs associated with this option.

13 This report recommends Option 1 for addressing the matter.

Significance and Engagement

14 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because it will not impact on Council's capability and capacity, is not inconsistent with existing policy and strategy, and will not affect significant numbers of the community.

Risk

15 This matter relates to the strategic risk SR1 "Current and future development needs of the community (including environmental protection)", as documented in the Council's risk register. This is due to the fact that the matter relates to the District Plan. The risk is classed as high as a result of the fact that the District Plan is a critical document for the social, economic and environmental wellbeing of the District.

16 The recommended option considered above, allows Council to mitigate the risk by simply tolerating the level of risk.

Financial Implications

17 There are no additional operational budget implications. Council Policies, Strategies and Bylaws

18 This matter is included in the 10-Year Plan/Annual Plan as it is aligned with several desired community outcomes.

Local Government Act 2002 Purpose Provisions

19 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of

regulatory functions in a way that is most cost-effective for households and businesses by simplifying and streamlining the District Plan.

- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies.

Consultation: Community Views and Preferences

20 The persons who are affected by or interested in this matter are the residents and ratepayers of the District.

21 The Council has correctly consulted through RMA procedures.

Legal Considerations and Statutory Responsibilities

22 The matter is subject to the process contained within Schedule 1 RMA.

Attachments

A Report and Recommendations of Independent Commissioner Plan Change 49 Earthworks: 29 May 2015 (circulated separately)