


## 6. MEMORIAL RUSSLEY HAWTHORNDEN AREA PLAN



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### PURPOSE OF REPORT

1. To update the Board, further to the memo to them of 16 July 2004, on the outcome of appeals to the Environment Court relating to Blocks A, B and C of the Memorial-Russley-Hawthornden Area Plan (map **attached**) and to advise that work on the Area Plan is resuming.

### EXECUTIVE SUMMARY

2. In its decision on Block B, the Environment Court has ruled out any living zonings including low density residential development between the 50 and 55 dBA Ldn airport noise contours. Other non-noise sensitive land use options may still be possible in this area. A full range of zonings is still possible between Hawthornden Road and the 50 dBA Ldn contour, subject to considerations other than airport noise being properly addressed.
3. The Environment Court has rezoned Block C to Rural 5 and directed that the Council remove all reference to the Living 1C Zone in the Proposed City Plan. It has at the same time provided for limited additional development on three lots at the edges of the block. Any further subdivision and houses will be non-complying activities under the Proposed City Plan.
4. The appeal seeking alternative zonings for Block A has been withdrawn, and Block A will continue to be rezoned Rural 5, although the appellant still has a submission on Variation 86 (Retail Distribution) seeking Business Retail Park zoning for this land.
5. Resolution of the zoning appeals clears the way for Council staff to resume work on the Area Plan. The landowners and occupiers within and immediately adjoining the study area, and organisations with an interest in it, will be advised of the above following this meeting. The additional information on the Council's website concerning the MRH Area Plan will also be updated.

### FINANCIAL AND LEGAL CONSIDERATIONS

6. This report does not have financial implications or contain recommendations on expenditure or revenue.

### STAFF RECOMMENDATION

It is recommended that the information be received.

### CHAIRMAN'S RECOMMENDATION

That the above recommendation be adopted.

## **COURT DECISION**

### **Block B Decision C41/2005:**

7. National Investment Trust sought Living 1 zoning outside the 50 dBA Ldn airport noise contour and 2000m<sup>2</sup> Living 1A zoned sites between the 50 and 55 dBA Ldn contours. The Court decided that all of this land should remain zoned Rural 5 at this stage. It said that Proposed City Plan policies, and in particular Policy 6.3.7, discourage any increase in residential densities between the 50 and the 65 dBA Ldn contours, i.e. that 2000m<sup>2</sup> sites are not appropriate. With regard to the land outside the 50 dBA Ldn contour, the Court said, however, that generally speaking the land is appropriate for more intensive use than rural land, but at this stage the infrastructure is not in place. It indicated a prime concern with issues relating to roading, water supply and sewerage infrastructure, and said that these concerns were exacerbated by the lack of any outline development plan to show how these issues might be addressed. It concluded that a better method to achieve and implement appropriate zonings for all of the land under consideration would be to allow for the Council's investigations into alternatives to be properly undertaken and completed.
8. This means that while the Court has ruled out any living zoning including low density residential development between the 50 and 55 dBA Ldn contours, other non-noise sensitive land use options may still be possible in this area, and a full range of zonings are still possible between Hawthornden Road and the 50 dBA Ldn contour. Any rezoning from Rural 5 to some alternative will not occur however, unless and until considerations other than airport noise are properly addressed.

### **Block C Decisions C18/2005 and C22/2005:**

9. These two decisions were issued orally during the hearing in February. Before the hearing the appeals had been narrowed to consideration only of the appropriate zoning for the land at 3 Westall Lane and appeals on a proposed subdivision on the land at 435A Avonhead Road, as all legal parties to the other appeals had either withdrawn their interest in the zoning of the remainder of the block or had agreed that it should be rezoned to Rural 5.
10. The Court considered the Avonhead Road site as if it was still zoned proposed Living 1C, and decided that a subdivision on this land providing for a total of three lots and houses could be approved. Following this it rezoned the whole of the block except 3 Westall Lane to Rural 5, with an exception provision to allow for one house to be built on the property at 60 Westgrove Avenue. Lastly it decided that three additional lots and houses could be approved on 3 Westall Lane south of a building line and that this land should also be rezoned to Rural 5. It then directed the Council to remove all reference to the Living 1C Zone from the Proposed City Plan.
11. This means that any further subdivision and houses on Block C other than the above will be non-complying activities under the Proposed City Plan, as all of the lots in Block C are less than 4 ha, which is the minimum size for subdivision in the Rural 5 Zone.

### **Block A:**

12. Following release of the Block B decision the appellant (National Investment Trust) reassessed its position on its appeal seeking living zoning outside of the 55 dBA Ldn contour and travellers accommodation inside it. It decided to withdraw this appeal, thus leaving the Rural 5 zoning of the land in the Proposed City Plan unchallenged. However NIT still has a submission on Variation 86 (Retail Distribution) to the Proposed City Plan, seeking Business Retail Park zoning for this land. The Council hearing of submissions on Variation 86 is expected to take place towards the end of this year, after which appeals to the Environment Court are possible.
13. This means that although Block A will continue for the time being to be zoned Rural 5 in the Proposed City Plan, the submission on Variation 86 may still afford NIT a further opportunity to seek a zoning enabling bulk retail development on this land.

## **PROGRESS ON THE AREA PLAN**

14. The way is now clear for staff to resume work on the Area Plan. It is necessary to continue work on the Area Plan because the Environment Court signalled the need for this in its Block B decision. The possibility of an Environment Court hearing next year or thereafter concerning bulk retail on Block A is also an incentive to make faster progress on the Area Plan, to provide a comprehensive and integrated assessment of alternative zonings for this and the other blocks of land. So is the fact that once the Proposed City Plan is operative later this year, private plan changes can be sought, although the Council has the statutory discretion to reject these requests for a period of two years after the Plan becomes operative. However, the Council's inability to service Blocks A, B and D for sewage disposal until approximately 2012 due to lack of capacity in the Riccarton Interceptor and Southern Relief sewer, means that no operative urban zonings could be achieved until after this later date, even if such zonings were determined appropriate.
15. The Project Control Group – Future Planning have now agreed that the Memorial-Russley Area Plan will be one of four Priority 1 Area Plans and will be resourced accordingly. Staff intend in due course to consult further with landowners and occupiers both within and adjoining the study area, and organisations with an interest in it.