

## 22. PROPOSED SELWYN DISTRICT PLAN APPEALS

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### PURPOSE OF REPORT

1. The purpose of this report is to seek the City Council's agreement to settle on two appeals on the Proposed Selwyn District Plan, which the Council is party to. The two affected parcels of land identified on the map in Appendix 1, are known as the Mair block and the Shaw block. Both are located in proximity to the city's south-west boundary, on the north-west side of Prebbleton, and Springs Road. The Council's interests revolve around consistency between plans of adjoining territorial authorities, maintaining the rural-urban boundary, maintaining rural character, and urban consolidation.

### EXECUTIVE SUMMARY

2. The settlement agreement on the Mair block endorses a graded residential density from a higher density nearer Prebbleton, to a lower density nearer the city boundary. The registration of an encumbrance instrument in favour of the Council on the lower density lots on the outer boundary of the block means the zoning could not be altered without the City Council's consent.
3. For the Shaw block a similar proposal is being pursued.
4. There are sound reasons for the Council to agree to limited and finite development on these two parcels of land. This will ensure a separation of development from the city boundary, maintain rural-urban separation, and maintain consistency with City Plan objectives and policies on urban growth.
5. There is some urgency in resolving these appeals as the Environment Court judge wishes to deal with all Selwyn District Plan appeals as expeditiously as possible.

### FINANCIAL AND LEGAL CONSIDERATIONS

#### Mair Block (McFarlane Developments Ltd)

6. See Appendix 1 for location. Area approximately 23.5 ha.  
  
ENV C 250E / 04 Canterbury Regional Council v Selwyn District Council  
ENV C 274 / 04 Prebbleton Community Association v Selwyn District Council
7. Christchurch City Council is a Section 274 party to both of these appeals.
8. Since the Environment Court issued its decision on township growth policies for the Proposed Selwyn District Plan, the appeal parties have been involved in negotiations on rezoning matters. As a result, agreement has been reached, subject to this Council agreeing, and subject to the leave of the Court.
9. The settlement agreement proposed for the Mair block addresses several important matters, in particular subdivision density near the city boundary. This agreement involves retaining the Living 2A zoning of the block, but with specific rules, including an outline development plan, a mixed density residential development of the zone, a rule requiring the registration of a legal instrument, preventing further subdivision of the seven lots on the outer (north and north-east) boundaries of the zone, and specific rules as to roading and access.
10. If the settlement agreement is endorsed by the Council, a rule will be inserted in the Proposed Selwyn District Plan. This will require an encumbrance instrument to be registered on the seven boundary lower density lots in the Mair block. The encumbrance will contain terms that will prevent the land owner from further subdividing the site, unless the Christchurch City Council gives its prior consent. Beyond these lots, the rural (Inner Plains) zone remains with its 4 ha minimum subdivision standard.
11. The balance of the Mair block, closer towards Prebbleton, contains a range of lots from 2,200m<sup>2</sup> – 8,700m<sup>2</sup> compatible with the lower density Living 2A zone rules.

## **Shaw Block**

12. See Appendix 1 for location. Area approximately 20 ha.  
ENV C 282B / 04 JH & JG Shaw v Selwyn District Council
13. Both Christchurch City Council and Environment Canterbury are Section 274 parties to this appeal.
14. At this point, the details of the settlement agreement for the Shaw block are not as far advanced as that for the Mair block, because legal counsel acting for the owner of this block has not been available to finalise the terms of the agreement. However, agreement has been reached in principle on key matters.
15. It has been agreed (in principle) that the part of the Shaw block closest to the city boundary will have an encumbrance instrument registered against the relevant land titles. The outer boundary of the appellant's land will be kept as rural (Inner Plains) zoning, with a minimum lot area of 4 ha. The encumbrance instrument will be registered against these rural titles. The encumbrance will contain terms that will prevent the land owner from further subdividing the site, unless the Christchurch City Council gives its prior consent.

## **CONCLUSION**

16. The effect of entering settlement agreements for both the Mair and Shaw blocks of land, is that the Christchurch City Council has the opportunity to control future subdivision density on the land that is the subject of this appeal and close to its boundary. Consequently these restrictions will maintain separation of Christchurch City and Prebbleton urban areas, maintain a rural-urban contrast, and rural character. Such a result is unlikely to be attained if these matters go to a fully contested Environment Court hearing.
17. Entering into these settlement agreements will resolve the Council's issues and the Council can also withdraw its appeals. Such agreements would also avoid the expense of a fully contested Environment Court hearing.

## **STAFF RECOMMENDATIONS**

It is recommended that the Council agree to the signing of two encumbrance instruments in favour of the Christchurch City Council on the Mair and Shaw blocks, and to withdrawing its appeals.

## BACKGROUND ON PROPOSED SELWYN DISTRICT PLAN APPEALS

18. The Council has been involved in the review process of the Selwyn District Plan, (Volume 1 Rural Section, and Volume 2 Townships Section) over an extensive period. The Council's interests are as an adjoining territorial authority. Provisions of the Resource Management Act allow for local authorities, in preparing their plans, to have regard to consistency with plans of adjacent territorial authorities. It is however, at the discretion of each council as to how it views and practices this relationship. The key interest for the Christchurch City Council is cross boundary issues and the impact of effects across territorial boundaries.
19. As the Proposed Selwyn District Plan review began some time ago, the process did not have the benefit of or support of the Urban Development Strategy which is now working towards setting an agreed settlement pattern and process for development of small communities around the city fringe.
20. The growth of Prebbleton Township is of particular interest to the Council as it is located close to its boundary. Council submissions have been concerned with consistency of both plans - objectives, policies and zoning pattern, consolidation of urban areas, maintaining rural character, rural-urban separation, and subdivision densities around townships. Some matters have been taken on to appeal at the Environment Court or are subject to mediation.
21. As a result of Judge Smith's determination in January 2006 on Prebbleton Growth appeals, he required Selwyn District to amend its objectives and policies on Residential Density, Residential and Business Development, Town Form Policy, and, Prebbleton preferred growth option. This process then became entwined with these rezoning requests.
22. The Court directed all parties provide comments on the above objective and policy changes. Although Council staff did not consider the objectives and policies provided much of an issue in themselves, it was their application within the two blocks of land proposed to be rezoned that were of concern.
23. McFarlane Developments Ltd, owners of the Mair block to the north west side of Prebbleton on the corner of Blakes and Shands Roads, originally appealed the wording of objectives and policies relating to residential density and Prebbleton growth. This appellant also sought rezoning of this land to low density residential development. Following on from this, they prepared a development plan. This plan shows a transition between higher density lots closer to Prebbleton and lower (transitional) density on the periphery (a minimum subdivision area of 1.5 ha) adjoining rural zoned land towards the city boundary. This development plan has been discussed with Council staff.
24. Council staff considered this a satisfactory solution to resolving the cross boundary issue with separation of urban development at Prebbleton from Christchurch City, and maintaining a rural character between the two urban areas in accordance with the Judge's decision on this matter.
25. In the Shaw case, where land lies closer to Springs Road and the city boundary, the interpretation of objectives and policies, and the rezoning proposal were also to allow, in effect, urban development closer to the city boundary than is currently the situation. As with the Mair block, the land closest to the city boundary is to be maintained at a rural density ie minimum subdivision area of 4 ha. The Council is also seeking this rural land be subject to an encumbrance agreement. That would appear agreeable to the appellant.
26. The alternative is that the Christchurch City Council takes its opposition to residential rezoning to appeal. However, it would appear most unlikely the Council would achieve a different solution. In his decision on objectives and policies in relation to Prebbleton, the Environment Court judge considered such negotiated boundaries in his decision. The judge also wished to see all Selwyn District appeals resolved as quickly as possible.