

Agreement to fund district plan submission to change land zoning and a private plan change application

Urban Estates Limited

Jeffery Elliott Heyl and Alison Therise Winter

Alexandra Green and David Hugh Freeman Green

Patrick Remington Millar and Mark Alfred Odlin

Brad Nathan Petrowski and Rosemary Ann Petrowski

Weatherby Estate Limited

Scott Howard Loeffler and Eva Lidwina Gertrudis Marie Huismans

Scott Richard Boyce and Angela Jane Boyce

John Graham Harrison

Selwyn 564 Limited

Agreement to contribute to funding a district plan submission to change land zoning and a private plan change application

Dated:

Parties

Urban Estates Limited a development company having an interest in land in the vicinity of Selwyn Road and Lincoln Rolleston Road, Selwyn District.

Jeffery Elliott Heyl and Alison Therise Winter the registered owner of 3/554 Selwyn Road - Lot 3 DP 350871

Alexandra Green and David Hugh Freeman Green the registered owner of 1/572 Selwyn Road - Lot 2 DP 337894

Patrick Remington Millar and Mark Alfred Odlin the registered owner of 2/572 Selwyn Road - Lot 3 DP 337894

Brad Nathan Petrowski and Rosemary Ann Petrowski the registered owner of 4/572 Selwyn Road - Lot 4 DP 337894

Alexandra Jane Wooleyy and Larence John Wooley as directors of Weatherby Estate Limited the registered owner of 5/572 Selwyn Road - Lot 5 DP 337894

Scott Howard Loeffler and Eva Lidwina Gertrudis Marie Huismans the registered owner of 6/572 Selwyn Road - Lot 6 DP 337894

Scott Richard Boyce and Angela Jane Boyce the registered owner of 7/572 Selwyn Road - LOTS 44-45 DP 574617

John Graham Harrison the registered owner of 582 Selwyn Road - LOT 1 DP 337894

Robin Anthony Schulz as sole director of Selwyn 564 Limited the registered owner of 564 Selwyn Road - LOT 1 DP 59909

Collectively known as "the Parties".

Background

- A. The Parties wish to enter into an agreement to fund the preparation and presentation of a submission, with supporting information, reports, plan and so on, on the Selwyn District Plan Review (**DPR**) and an application to the Selwyn District Council (**Council**) for a private plan change.
- B. The Parties have determined that there is a benefit in seeking to rezone, under the DPR or by private plan change, the combined area of their individual land holdings. Primarily, this relates to the ability to present the Council hearings panel with a comprehensive development proposal that justifies rezoning the Parties' Land for residential development.
- C. This agreement sets out the tasks that are to be funded by the Parties and how payments will be collected. Details as to the nature of those tasks and initial estimates for the costs of preparation have been provided in separate documents **attached** as appendices to this agreement.
- D. The Parties have held discussions based on those initial fees estimates but acknowledge and understand that those fees may exceed the estimates depending on how the DPR and private plan change proceeds.
- E. The Parties also acknowledge that, as a contestable and quasi-judicial process, it is not possible to guarantee the outcome of the DPR or the private plan change.

Operative part

1. Definitions and interpretation

1.1. **Definitions:** In this agreement, unless the context otherwise requires:

- 1.1.1. **The Land** means all the land holdings of participating landowners that will form part of the proposed re-zoning and comprising a combined total area of 62.434 hectares more or less.
- 1.1.2. **Council** means the Selwyn District Council, a Territorial Authority responsible for the operation and review of the Selwyn District plan.
- 1.1.3. **DPR** means the Selwyn District Plan Review which was notified on or about 5 October 2020 with a closing date for submissions of 11 December 2020 (at 5pm).
- 1.1.4. **Fees** means any bills received from experts and consultants in relation to the preparation and presentation of the submission including the supporting evidence, reports, plans and any other documents prepared for the submission. Fees includes the one-off consultancy fee of Urban Estates limited.

- 1.1.5. **Private plan change** means an application to the Council under clause 21 of the first schedule to the Resource Management Act to also achieve the rezoning the parties seek.
- 1.1.6. **Submission** means the request to the Council that the land be rezoning from rural inner plains to Residential Z.
- 1.2. **Defined expressions:** expressions defined in the main body of this Agreement have the defined meaning in the whole of this Agreement including the background.
- 1.3. **Headings:** section, clause and other headings are for ease of reference only and will not affect this Agreement's interpretation.
- 1.4. **Parties:** reference to parties are references to parties to this Agreement and includes their nominees, successors and assigns.
- 1.5. **Plural and singular:** words indicating the singular include the plural and vice versa.

2. Agreement

- 2.1. The Parties agree to fund the following:
 - 2.1.1. The initial submission to the DPR seeking the rezoning of the Land and providing reasons for the rezoning.
 - 2.1.2. Any expert input required to inform and support the Parties' submission.
 - 2.1.3. The preparation and presentation of expert reports as evidence for the DPR hearings. These may include and, depending on requirements, may not be limited to:
 - 2.1.3.1. Legal submissions.
 - 2.1.3.2. A planner's report.
 - 2.1.3.3. An infrastructure/services report.
 - 2.1.3.4. An integrated transport assessment.
 - 2.1.3.5. A geotechnical assessment.
 - 2.1.3.6. A preliminary site investigation on soil contamination.
 - 2.1.3.7. A design statement, draft Outline Development Plan (**ODP**) and details of any proposed staging.
 - 2.1.4. Any investigations, including site investigations required for the preparation of the above reports. This includes access to carry out any site investigations.
 - 2.1.5. A one-off consultancy fee to Urban Estates Limited of \$50,000.00 plus GST.

- 2.2. Urban Estates Limited will engage and instruct the relevant experts based on the collective interests of all the Parties.
- 2.3. Urban Estates Limited will provide regular updates to the landowners and consult as required before any significant decisions, such as confirming the ODP or the details of any proposed staging.
- 2.4. However, the Parties agree that Urban Estates Limited is authorised to make final decisions as to the details of the proposal as the Agent for the Parties, and in the collective best interests of all the Parties.
- 2.5. The Parties agree that Urban Estates Limited will invoice for payment of Fees on a regular interim basis, based on actual billings received from the experts, which will be provided all to the Parties in the interest of transparency and full disclosure.
- 2.6. The Parties agree that the first Fees payment will be invoiced on 20 January 2021 and will include all bills rendered up to that date that are specifically related to the DPR submission and report preparations.
- 2.7. All Fees including the consultancy fee will be invoice on a pro rata, per hectare basis. In other words, the total amount of Fees will be divided by the area of the Land and invoiced according to each of the landowner Party's land holding within the Land.
- 2.8. The Parties acknowledge and agree that should any Landowner decide to sell their land holding to Urban Estates Limited, that Landowner will be reimbursed any Fees paid to that point as part of the purchase price for their land holding.

3. General provisions

- 3.1. In entering into this Agreement, each Party represents and agrees that it has the full power and authority necessary to validly enter into this Agreement in the capacities detailed and perform all of their respective obligations under this Agreement.
- 3.2. No amendment to this Agreement shall be effective unless it is in writing and signed by all the Parties.
- 3.3. The Parties agree to act with good faith generally and when performing their obligations under this Agreement.
- 3.4. This Agreement is effective once the Parties have signed and delivered (including by email) a signed copy of the Agreement to the other Party.
- 3.5. Each Party shall at the request of another Party sign any documents and permissions and do anything else which may reasonably be required for the purpose of giving effect to the matters referred to in this Agreement.

Signed as an agreement

Signed for and on behalf of
Urban Estates Limited by two of its
directors

Director

Director

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed by **Jeffery Elliott Heyl** and
Alison Therise Winter {Title in
"title" case}

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed by **Alexandra Green and
David Hugh Freeman Green**

in the presence of

Signature of witness

Gillian Roper

Full name of witness

Clinical Psychologist

Occupation of witness

Christchurch

City/Town of residence of witness

Signed by **Patrick Remington Millar
and Mark Alfred Odlin**

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed by **Brad Nathan Petrowski
and Rosemary Ann Petrowski**

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed for and on behalf of
Weatherby Estate Limited by two
of its directors

Director

Director

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed by **Scott Howard Loeffler and
Eva Lidwina Gertrudis Marie
Huismans**

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed by **Scott Richard Boyce and
Angela Jane Boyce**

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed by **John Graham Harrison**

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Signed for and on behalf of
Selwyn 564 Limited by its sole
director

Director

in the presence of

Signature of witness

Full name of witness

Occupation of witness

City/Town of residence of witness

Landowners who have agreed to be part of a consortium seeking rezoning of their land for residential purposes (now known as Plan Change 78 to the Selwyn District Plan)

127 Lincoln Rolleston Road – Vivian & Roger Hubbard
391 Lincoln Rolleston Road – Keith & Julia Saulsbury
548 Selwyn Road – Elizabeth & Michael O'Connor
2/554 Selwyn Road – Melissa & Nicholas Brooks
3/554 Selwyn Road – Jeffrey Heyl & Alison Winter
572 Selwyn Road (lot 6) – Scott Loeffler
572 Selwyn Road (lot 4) – Brad & Rosie Petrowski
1/572 Selwyn Road (lot 2) - Alex Green
2/572 Selwyn Road (lot 3) – Patrick Millar
582 Selwyn Road – John Harrison
554 Selwyn Road – Youngman-Levels Trustees Ltd
564 Selwyn Road – Robin Schultzhave agreed to