

## Section 171 Resource Management Act 1991



Report pursuant to s. 42A of the Resource Management Act 1991 recommending whether or not a notice of requirement should be:

- Confirmed, modified, have conditions imposed, or be withdrawn.

**Author:** Jane Anderson

**Position:** Consultant Planner

**Resource Consent Number:** D210002

<b>REQUIRING AUTHORITY:</b>	Selwyn District Council
<b>PROPOSAL:</b>	To designate the site as a 'water treatment facility'.
<b>LOCATION:</b>	213 Pocock Road, Springfield
<b>LEGAL DESCRIPTION:</b>	Legal Road Parcel (Kowai River Road)
<b>ZONING:</b>	The site is zoned Rural Outer Plains under the provisions of the Operative District Plan (Rural) Volume.

## Introduction

1. The Selwyn District Council (the Requiring Authority) has lodged a Notice of Requirement (NOR) with the Selwyn District Council (the Council), pursuant to s.168 of the Resource Management Act 1991 (RMA), for a designation for a new water reservoir facility within the Legal Road Parcel of Kowai River Road, Springfield.

## Background

2. The existing Springfield Treatment Plant (designation ID D160 under the operative Selwyn District Plan) was upgraded in 2017 to provide UV disinfection and filtration, and chlorination. These works were undertaken to improve the quality of the water and to provide safe and clean drinking water in the Springfield Water Scheme (this includes Springfield Township, Kowai Bush and Annat).
3. During high rain events affecting the Kowai River basin, the turbidity of the river exceeds the capacity of the existing treatment plant. Further, when peak demand periods coincide with low flows in the river, the existing intake is hydraulically limited and faces difficulty in supplying sufficient capacity for the township.
4. In order to address these matters, the Selwyn District Council is proposing to construct a reservoir to provide additional storage for treated water to address capacity issues, and to provide for peak demand and future growth in the township.
5. The land is currently leased out by the Selwyn District Council for grazing. As a condition on the lease, a public access strip 10m wide is required to be maintained. The Selwyn District Council, as Requiring Authority, has confirmed that there will still be approximately 30m width on the site for public access upon completion of the water treatment facility. The Requiring Authority has confirmed that the lease will be amended and the public access strip will be amended to ensure public access is maintained.

# Notice of Requirement Proposal

## Purpose of the NoR

6. The Selwyn District Council has given notice of its requirements for a new designation for the site of the proposed reservoir, as detailed in **Figure 1** below. The purpose of the NoR is to provide for a “water reservoir facility”.



**Figure 1 Proposed extent of the designation and location of the existing designation**

## The proposed works associated with the NOR

7. Details of the proposed works are outlined in Section 2 of the AEE. In summary, the proposal seeks to construct a reservoir will have a total capacity of approximately 500m<sup>3</sup> and will consist of either one large tank or multiple smaller tanks. The area of land subject to the designation is approximately 600m<sup>2</sup>.
8. The area surrounding the tank/s will consist of loose chip gravel and a vehicle access and a turning area will be provided on site for routine inspections and maintenance. A soak pit will also be provided on site for any tank over flow.
9. The requiring authority requests that the requirement for an Outline Plan under s.176A of the RMA is waived for the proposed reservoir.
10. A number of conditions are proposed to manage operational effects and construction works and to maintain public access along the paper road. A landscape plan is proposed to address visual amenity. Conditions proposed include noise management, and the provision of a Dust Management Plan and an Erosion and Sediment Control Plan.

## Description of the Existing Environment

11. The application site is located within the legal road parcel of Kowai River Road, adjacent to 213 Pocock Road, Springfield. The site is flat and is currently leased by the Selwyn District Council (as land owner) to a local farmer for pastoral activities.
12. The site and surrounding environment is zoned Outer Plains in the operative Selwyn District Plan. The surrounding environment is predominantly characterised by rural-residential activities. The Kowai River is located approximately 350 metres north of the site. There is a water race that runs parallel to Kowai River Road, along the southern side of the subject site.
13. There are three dwellings located within close proximity of the application site, one dwelling on 213 Pocock Road, located approximately 130m northeast of the site; and two dwellings on 654 Frasers Road, located approximately 25m and 100m from the site respectively.

## Matters to be Considered

### Section 171 Recommendation by Territorial Authority

14. Section 171 of the Resource Management Act 1991 sets out the matters which Selwyn District Council must have regard to in considering the effects on the environment of allowing a notice of requirement. In this case the relevant matters are:
  - a. a regional policy statement or proposed regional policy statement (s. 171(1)(a)(iii))
  - b. a plan or proposed plan (s. 171(1)(a)(iv))
  - c. whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if either the requiring authority does not have an interest in the land sufficient for undertaking the work; or it is likely that the work will have a significant adverse effect on the environment (s. 171(1)(b))
  - d. whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought (s. 171(1)(c))
  - e. any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement (s. 171(1)(d))
  - f. any positive effects on the environment to offset or compensate for any adverse effects that may result from the activity enabled by the designation (s. 171(1B)).
15. All matters listed in s. 171 (1) are subject to Part 2 of the Act, which contains its purposes and principles.

## Assessment of Environmental Effects

16. The actual and potential adverse effects of the proposal relate to character and amenity, traffic and construction effects.

### Permitted baseline

17. In determining whether the adverse effects of a proposal are more than minor, section 149ZCE allows the Council to disregard the adverse effects of permitted activities. The site is zoned Outer Plains.
18. In the Outer Plains Rural zone, any activity that is not a residential activity shall be a permitted activity, subject to the following conditions:
  - Road boundary building setback of 10m and internal boundary setback of 3m;
  - Site coverage restricted to 35% or 500m<sup>2</sup>, whichever is the lesser;
  - Maximum building height of 8m,

- No more than two full time equivalent staff employed on the site live off site;
  - Maximum gross floor area of any building of 100m<sup>2</sup>; and
  - Maximum vehicle movements of 60 per day.
19. The proposed new water treatment plant will meet the bulk and location requirements of the Outer Plains Rural zone.

#### Character and amenity, and visual effects

20. Non-residential and non-rural activities establishing within rural areas have the potential to result in adverse effects on rural coherence, character and amenity. Effects on character and amenity occur as a result of development that is not compatible with a residential environment and that detract from the pleasantness or attractiveness of the area.
21. The site is located within the road reserve of Kowai River Road, Springfield. The nearest dwelling is located approximately 25 metres to the south of the site (654 Frasers Road), and a second dwelling approximately 100 metres away at 214 Pocock Road.
22. The proposal seeks to install a water reservoir on the site to a height of approximately 4.5m, and has identified a location to the east of the initial storage for a second water reservoir of the same height. The area surrounding the tanks is proposed to consist of loose chip gravel, and a vehicle access and turning area. A new fence is proposed to be erected around the compound for the reservoir structures, along with landscaping around the majority of the boundary of the site.
23. It is considered that the scale and design of the proposed infrastructure is not unsympathetic to the area. The NoR provides a landscape plan that includes a variety of native plantings to be established around the compound area. The applicant has stated that they are willing to agree to a condition that the proposed landscaping around the reservoir site will achieve a minimum 4.5 metre in height. It is considered that the proposed landscaping will provide adequate screening of the site when viewed from adjacent residential dwellings and from the road.
24. The original NoR application notes that the owners / occupiers of 654 Frasers Road had initially raised concerns about the proximity of the reservoir to their property and the potential adverse visual effects. In response to these concerns, the location of the reservoir was moved further to the south, within the unformed road area. It is considered that the relocation of the reservoir to the currently proposed location, along with the proposed landscaping, will ensure that there is no line of sight from this property to the water reservoirs.
25. Further, once the site is operative, the traffic generation is anticipated to be low and similar in intensity to residential traffic generation.
26. The assessment in the application states that the effects of the proposal on visual amenity will be less than minor given the rural location of the site, and proximity to surrounding dwellings and roads, and the landscaping proposed. Overall, I accept this assessment and consider that the detailed plans submitted and the proposed conditions are sufficient to ensure that any adverse effects on the character and amenity of the site and surrounding environment will be less than minor.

#### Traffic

27. Access to the site is provided via a single vehicle entry / exit point from Kowai River Road. There is sufficient space on site for the manoeuvring and parking of vehicles. No changes are proposed to the existing accessway. Parking and on-site circulation of vehicles is provided within the subject site. Vehicle movements to and from the site are restricted to routine maintenance inspections. On completion of the construction activities, the anticipated traffic generation from the subject site is anticipated to be low. It is considered that any adverse traffic effects resulting from the ongoing operation of the site will be less than minor.

#### Construction effects

28. In order to manage the potential effects of the construction phase, the Requiring Authority has proposed that the construction phase will be subject to Dust Management Controls, an Erosion and Sediment Control Plan and Construction Noise standards.



29. I consider that the proposed management conditions will ensure that any adverse effects associated with the construction phase for the proposed water treatment plant will be less than minor.

### **Summary – Assessment of Environmental Effects**

30. Overall, I consider that based on the above assessment, and subject to conditions, that the effects of the development will be less than minor.

## **Operative Selwyn District Plan**

31. The District Plan objectives and policies that I consider relevant are:

#### *Objective B2.2.2*

*Efficient use of utilities is promoted.*

#### *Objective B2.2.3*

*The provision of utilities where any adverse effects on the receiving environment and on people's health, safety and wellbeing is managed having regard to the scale, appearance, location and operational requirements of utilities.*

#### *Policy B2.2.6*

*Ensure the effects of utilities are compatible with the amenity values and environmental characteristics of the zone in which they locate, also having regard to operational, functional and economic constraints.*

32. The purpose of the designation and proposed treatment plant is to ensure that the Springfield Township is provided with a secure drinking water supply. It is considered that the scale and location of the reservoirs and the proposed landscaping will ensure that the water treatment facility is compatible with the amenity values of the surrounding environment.

33. It is considered that the proposal is consistent with the relevant utility objectives and policies of the District Plan.

#### *Objective B3.4.1*

*The District's townships are pleasant places to live and work in.*

#### *Objective B3.4.3*

*"Reverse sensitivity" effects between activities are avoided.*

#### *Policy B3.4.2*

*To provide for any activity to locate in a zone provided it has effects which are compatible with the character, quality of the environment and amenity values of that zone.*

34. The proposed designation of the subject site for water treatment facilities has been designed to be compatible with the existing character and amenity of the surrounding environment. The NoR includes a landscape plan that seeks to mitigate the future development of the site. Further, the Requiring Authority has confirmed that public access along Kowai River Road will be maintained. It is considered that subject to the landscaping and public access conditions, the water treatment facility will be compatible with the character, quality of the environment and amenity values of the surrounding environment.

35. It is considered that the proposal is consistent with the relevant character and amenity objectives and policies of the District Plan.

### **Summary – District Plan Objectives and Policies**

36. Overall, I consider the proposal to be consistent with the relevant objectives and policies.
37. I have read the NoR assessment of the above objectives and policies and agree with the conclusions reached that the NoR is consistent with them.

## Canterbury Regional Policy Statement

38. The Canterbury Regional Policy Statement (CRPS) objectives and policies that I consider relevant are:

### Chapter 5: Land use and Infrastructure

Objective 5.2.1 relates to location, design and function of the development of the entire region.

Objective 5.2.2 Integration of land-use and regionally significant infrastructure within the wider region.

Policy 5.3.2 Development conditions within the wider region.

Policy 5.3.5 Servicing development for potable water, and sewage and stormwater disposal (Wider Region)

Policy 5.3.6 Sewerage, stormwater and potable water infrastructure (Wide Region); and

Policy 5.3.9 Regionally significant infrastructure (wider region).

39. Objective 5.2.2 and Policy 5.3.2 recognise the importance of providing infrastructure that is regionally significant, whilst ensuring that any adverse effects from the development and operation of the infrastructure is avoided, mitigated or remedied. The Water Treatment Plant seeks to provide a secure potable water supply to the Springfield community. The site boundaries will be landscaped to ensure that the existing character and amenity of the surrounding environment is maintained.

40. Policy 5.3.6 seeks to enable the development of infrastructure required to manage sewage, stormwater and potable water, provided that any adverse effects are avoided, mitigated or appropriately controlled. The development will result in the co-location of the existing infrastructure with the new water treatment plant. As has been discussed, the proposed mitigation will ensure that the existing and proposed infrastructure will be consistent with Policy 5.3.6.

41. In summary, the proposed NoR is considered to be consistent with the CRPS.

## Greater Christchurch Regeneration Act 2016 and the Land Use Recovery Plan

42. The Greater Christchurch Regeneration Act (GCR Act) came into force on 19 April 2016 and replaces the Canterbury Earthquake Recovery Act 2011. The application site is outside Greater Christchurch, as defined by the Act (within Selwyn, Springs and Selwyn Central Wards). As such, the GCR Act needs not be considered in relation to this application.

43. The Land Use Recovery Plan (LURP) applies to the Greater Christchurch area. It was approved by the Minister for Canterbury Earthquake Recovery and gazetted on 6 December 2013. Although prepared under the Canterbury Earthquake Recovery Act 2011, the LURP is a Recovery Plan under s4 of the GCR Act and so needs to be considered in relation to this application.

44. The LURP considers the impacts of the earthquakes on residential and business land use, and provides a pathway for the transition from rebuild to longer term planning. The LURP sets a policy and planning framework necessary to:

- Rebuild existing communities
- Develop new communities
- Meet the land use needs of businesses
- Rebuild and develop the infrastructure needed to support these activities
- Take account of natural hazards and environmental constraints that may affect rebuilding and recovery.

45. The LURP identifies what needs to be done in the short and medium term to co-ordinate land use decision-making, identifies who is responsible and sets timelines for carrying out actions. It directs amendments to

be made to Environment Canterbury's Regional Policy Statement, the Christchurch City Plan, the Selwyn District Plan and the Waimakariri District Plan.

46. When considering a NoR, any person exercising powers or performing functions must not make a decision or recommendation that is inconsistent with the LURP (s60 of the GCR Act).
47. The required amendments to the Regional Policy Statement and the District Plan have been made, and so any application that is not inconsistent with these documents is also not inconsistent with the GCR Act and the LURP.
48. As outlined in earlier in this report, the application is consistent with the objectives and policies of both the District Plan and the Regional Policy Statement. As such, the application is consistent with the Greater Christchurch Regeneration Act 2016 and the Land Use Recovery Plan and may be considered for approval.

## **Alternative sites**

49. Under s. 171(1)(b) the Council must have particular regard to whether adequate consideration has been given to alternative sites or methods if the requiring authority does not have an interest in the land sufficient for undertaking the work, or it is likely that the work will have significant adverse effects on the environment.
50. The Requiring Authority is the owner of the application site, and the adverse effects of the proposal have been assessed as being less than minor. Therefore it is considered that there is no requirement to consider alternative sites under s.171(1)(b).

## **Necessity of the designation**

51. Section 171(1)(c) requires the Council to have particular regard to whether the designation is reasonably necessary to achieve the objectives of the requiring authority.
52. As set out in section 3 of the NoR, the proposed water treatment plant and other existing infrastructure is required to provide drinking water to the Township of Springfield and surrounding rural areas.
53. Once stated, it is not appropriate to question the Requiring Authority's choice or expression of objective for which the designation is said to be necessary. Therefore, the question becomes whether the designation, as a form of RMA approval, and the associated works are reasonably necessary to achieve the objective stated by the Requiring Authority, and whether the extent of land affected by the designation is reasonable necessary for achieving the objectives of the works.
54. Having considered the information provided in the NoR, the Requiring Authority's stated objective, the Requiring Authority has adequately demonstrated that the NoR is reasonably necessary for the provision of drinking water. Designation of the site for water treatment purposes will formally confirm the site's use in the District Plan, and confirms the certainty of the use of the site.

## **Section 176A Outline Plan**

55. Section 176A(2)(b) states that an Outline Plan need not be submitted to a territorial authority if the details of the proposed public work, project or work, are incorporated into the designation. The NoR provides details of the proposed works associated with the proposed water treatment facility in Section 3 of the application. It is considered that sufficient information has been provided to meet the requirement of s.176A(2)(b) and therefore a separate Outline Plan is not required.

## **Part 2 Resource Management Act 1991**

56. The purpose of the Resource Management Act 1991 is to promote the sustainable management of natural and physical resources. In summary enabling people and communities to provide for their well-being, while sustaining resources and addressing any adverse effects.
57. I agree with the assessment provided in section 8 of the NoR, and consider that the proposed designation will promote the sustainable use of land, building and infrastructure to provide a water supply to meet the

reasonably foreseeable needs of the Springfield community while avoiding, remedying or mitigating adverse effects on the environment. Therefore I consider that the proposal is in accordance with the purpose and principles of the Resource Management Act 1991.

## Conclusion

58. Having taken into account the matters that must be considered under s. 171 of the RMA, it is my conclusion that the NoR to designate the site as a 'water treatment facility' promotes the purpose of the RMA and is reasonably necessary to achieve the Requiring Authority's objectives.
59. The range of actual and potential adverse effects on the environment have been assessed and reviewed. Provided appropriate conditions are imposed in the NoR as recommended in this report, in my view any adverse effects caused by the construction and ongoing operation and maintenance of the infrastructure can be avoided, remedied, or mitigated and therefore will not be significant on the receiving environment.
60. The NoR is also considered to be consistent with the relevant statutory documents and is reasonably necessary in the context of the s.171 considerations.

## Recommendations

61. For the reasons set out in the foregoing assessment, I recommend that the Council recommend to the Selwyn District Council that the Notice Of Requirement D210002 be confirmed pursuant to s.171(2)(a) of the Resource Management Act 1991, subject to the following conditions, imposed under s.171(2)(c) of the Act:

### Purpose of Designation

To designate the site as a 'water treatment facility'

### General Accordance

1. The designation shall be implemented in general accordance with the details provided with the Notice of Requirement:
  - (a) the Align Landscape Package, drawing number SDC0001-DRG-LA-300, 301 and 310, dated 11 March 2021; and
  - (b) the proposed landscaping shall be maintained at a minimum height of 4.5 metres.

### Outline Plan

2. Works undertaken in accordance with the NOR will not require an Outline Plan.

### Public Access

3. A minimum 10 metre wide public access strip shall be maintained along Kowai River Road.

### Lapse Date

4. The designation shall lapse on the expiry of 10 years from the date on which it is included in the District Plan if it has not been given effect to before the end of that period.

**Advice Note:** For the avoidance of doubt, none of these conditions prevent or apply to works required for the ongoing operation or maintenance of the Project following construction, such as routine maintenance over time. Depending upon the nature of such works, Outline Plans or Outline Plan waivers may be required for any such works.

Conditions 5-10 **not** to be included in the Selwyn District Plan:



### Construction Works

5. Prior to the commencement of any construction works in accordance with the purpose of the designation, a dust management plan shall be provided to the Selwyn District Council Compliance Team.
6. Prior to any site works, an Erosion and Sediment Control Plan (ESCP) shall be submitted to Team Leader Compliance for certification. The ESCP shall be developed by a suitably qualified person and shall be developed in accordance with Environment Canterbury's Erosion and Sediment Control Guidelines (ESCG).
7. All construction noise on the site shall be planned and undertaken to ensure that construction noise emitted from the site does not exceed the noise limits outlined in Table 2 of NZS6803:1999 Acoustics – Construction Noise. Sound levels associated with construction activities shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.


### Landscaping

8. The proposed landscaping shall be established and maintained in accordance with the information and plans contained in Align Landscape Package, drawing number SDC0001-DRG-LA-300, 301 and 310, dated 11 March 2021.
9. All required landscaping shall be provided on site within the first planting season following the work being completed on site.
10. All landscaping required shall be maintained. Any dead, diseased or damaged landscaping is to be replaced immediately with plants of similar species. Where a tree is to be replaced, it shall be at least 2 metres in height at the time of planting.

### Advice Notes

#### Contaminated Soils

1. If at the time of construction any contaminated soils are discovered, the Selwyn District Council is advised that construction should cease so that the site can be assessed in accordance with relevant Ministry for the Environment Guidelines by a suitably Qualified Environmental Practitioner; and all relevant resource consents obtained in accordance with the provisions of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.

<b>Reported and recommended by</b>  <b>Jane Anderson</b> <b>Consultant Planner</b>	<b>Date: 20 April 2021</b>
---	----------------------------

That, having considered the notice of requirements and the above report, I adopt the findings of this report and recommend that the Selwyn District Council recommend the Selwyn District Council confirm the designation pursuant to s. 171 of the Resource Management Act 1991.

\



**Ken Lawn**  
**Commissioner**

**Date: 21 April 2021**