

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ

Decision No. [2024] NZEnvC 276

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First
Schedule of the Act

BETWEEN HORTICULTURE NEW
ZEALAND

(ENV-2023-CHC-102)

Appellant

AND SELWYN DISTRICT COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 6 November 2024

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Selwyn District Council is to amend the proposed Selwyn District Plan as set out in Appendix 1, attached to and forming part of this consent order;

¹ Resource Management Act 1991.



(2) the appeal otherwise remains extant.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Horticulture New Zealand ('HortNZ') against a decision of the Selwyn District Council concerning the Proposed Selwyn District Plan ('PDP'). The PDP is now referred to as the Partially Operative Selwyn District Plan.

[2] Part of HortNZ's appeal concerns provisions dealing with rural industry, artificial crop protection and crop support structures, wildfire management, and noise. I have read and considered the consent memorandum of the parties dated 17 October 2024 which details the agreement reached between the parties to resolve these aspects of the appeal. The agreement includes the following:

- (a) deletion of 'rural service activity' from the GRUZ-R8 heading so that the rule heading only refers to rural industry;
- (b) a carve out for a 'rural contractor's depot' in GRUZ-REQ6 (a rule requirement of GRUZ-R8) which provides for the unloading or loading of vehicles outside of 0700 to 1900 on any day;
- (c) a new definition of 'rural contractor's depot' included to support the carve out;
- (d) GRUZ-TABLE1 under GRUZ-REQ4 is amended so that:
 - (i) it clarifies that artificial crop protection structures and crop support structures less than 6m in height, and with black or green shade cloth on vertical faces fronting an internal boundary in different ownership or a road boundary, can be setback 3m from an internal boundary and 5m from a road boundary; and
 - (ii) where over 6m in height or using a colour other than black or

- green cloth on vertical faces fronting an internal boundary in different ownership or a road boundary, a 5m setback from an internal boundary and 10m from a road boundary is required;
- (iii) a setback of 10m from any boundary for visitor accommodation is deleted from GRUZ-R15. GRUZ-REQ4, GRUZ-TABLE1 is amended so that visitor accommodation will need to be set back from:
 - (1) an internal boundary by 30m;
 - (2) a road boundary that is a state highway or arterial road by 20m;
 - (3) a road boundary that is an 'other road' by 10m.
 - (e) a reference to GRUZ-REQ4 is added to GRUZ-R15;
 - (f) a new policy is added to the Noise chapter that provides for rural production activities that generate noise provided they are compatible with the character and amenity of the receiving zone.

[3] I have also read and considered the affidavit of Jonathan Trewin affirmed 16 October 2024. The affidavit explains the scope to make the changes sought and the rationale for the agreed changes in terms of s32AA RMA.

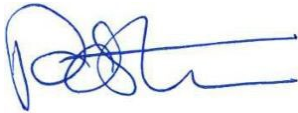
Other relevant matters

[4] Eight parties joined as interested parties to this appeal under s274 RMA. Of those, five parties advised that they did not have (or did not wish to pursue) any interest in matters being addressed at the mediation. Cockram Premises Limited, New Zealand Defence Force and Royal Forest and Bird Protection Society of New Zealand Incorporated attended mediation and have signed the consent memorandum setting out the relief sought.

[5] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[6] The court makes this order under s279(1) RMA, such order being by consent rather than representing a decision or determination on the merits pursuant to s297. The court understands for the present purposes that all relevant parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



Appendix 1

The additional text is shown in **bold underlined text** and deletions are shown in ~~strike through~~.

<u>Rural contractor's depot</u>	<u>means land and/or buildings and structures used for the purpose of storing equipment and goods associated with a rural contracting business which wholly serves primary production activities.</u>
--	--

<u>NOISE-P9</u>	<u>Provide for rural production activities that generate noise whilst ensuring that the noise levels from those activities are compatible with the character and amenity of the receiving zone.</u>
------------------------	--

GRUZ-R8 Rural Service Activity and Rural Industry		
SCA-RD1 SCA-RD4 SCA-RD5 SCA-RD6 SCA-RD7 (excluding PREC11 PREC12)	<p>Activity status: PER</p> <p>1. The establishment of a new, or expansion of an existing rural industry.</p> <p>Where:</p> <p>a. The area of land associated with the rural service activity industry is less than 200m².</p> <p>And this activity complies with the following rule requirements:</p> <p>GRUZ-REQ6 Hours of Operation</p> <p>GRUZ-REQ7 Full Time Equivalent Staff</p>	<p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of GRUZ-R8.1 is not achieved: DIS</p> <p>3. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirement.</p>
SCA-RD2 SCA-RD3	<p>Activity status: PER</p> <p>4. The establishment of a new, or expansion of an existing rural industry</p> <p>Where:</p> <p>a. The area of land associated with the rural industry is less than 500m².</p>	<p>Activity status when compliance is not achieved:</p> <p>5. When compliance with any of GRUZ-R8.4 is not achieved: DIS</p> <p>A. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirement.</p>

	And this activity complies with the following rule requirements: GRUZ-REQ6 Hours of Operation GRUZ-REQ7 Full Time Equivalent Staff	
PREC11	Activity status: PER 7. The establishment of a new, or expansion of an existing rural industry Where this activity complies with the following rule requirements: GRUZ-REQ6 Hours of Operation	Activity status when compliance not achieved: 8. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirement.
PREC12	Activity status: PER 9. The establishment of a new, or expansion of an existing rural industry Where this activity complies with the following rule requirements: GRUZ-REQ6 Hours of Operation GRUZ-REQ4A Outdoor Storage	Activity status when compliance not achieved: 10. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirement.

GRUZ-R15 Visitor Accommodation		
	Activity Status: PER	Activity status when compliance not achieved:

<p>1. The establishment of a new, or the expansion of an existing visitor accommodation</p> <p>Where:</p> <ul style="list-style-type: none"> a. Accommodation is offered to not more than five guests for reward or payment at any one time; and b. The registered proprietor resides permanently on-site; and c. The visitor accommodation is set back 10m from any boundary; and d c The visitor accommodation is not located within the Airport 50dB Noise Control Overlay. <p>And this activity complies with the following rule requirements:</p> <p><u>GRUZ-REQ4 Structure Setbacks</u></p> <p>GRUZ-REQ10 Sensitive Activity Setback from Intensive Primary Production</p> <p>GRUZ-REQ11 Sensitive Activity Setback from Mineral Extraction</p>	<p>2. When compliance with any of GRUZ-R15.1.a or GRUZ-R15.1.b. is not achieved: DIS</p> <p>2A. When compliance with GRUZ-R15.1.c is not achieved: NC.</p> <p>3. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant rule requirement</p> <p>Notification</p> <p>4. Absent its written approval, any application under GRUZ-R15.2A shall be notified to Christchurch International Airport Limited.</p>
--	---

GRUZ-REQ4 Structure Setbacks

GRUZ-TABLE1 Structure Setbacks

Structure type		Internal boundary	Road boundary with State Highway or arterial road	Road boundary with other road
Artificial crop protection structures and crop support structures	less than 6m in height where green or black cloth is used on any vertical faces <u>that fronts an internal boundary of a site in different ownership, or a road boundary.</u>	3m	5m	5m
	<u>more than 6m in height or where a colour other than green or black cloth is used on any vertical faces that fronts an internal boundary of a site in</u>	<u>5m</u>	<u>10m</u>	<u>10m</u>

	<u>different ownership or a road boundary.</u>			
Residential Units Seasonal worker accommodation <u>Visitor accommodation</u>	30m	20m	10m	

GRUZ-REQ6 Hours of Operation

1. The unloading or loading of vehicles (excluding within any rural contractor's depot) or the receiving of customers or deliveries only occurs between 0700 and 1900 on any day.

A. The receiving of customers or deliveries only occurs between 0700 and 1900 on any day.

Activity status when compliance not achieved:

2. When compliance with any of GRUZ-REQ6.1 or GRUZ-REQ6.A is not achieved: DIS

