

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

Decision No. [2024] NZEnvC 322

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN COCKRAM PREMISES LIMITED

(ENV-2023-CHC-116)

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 December 2024

CONSENT ORDER

A: Under s279(1)(b) of the 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 is otherwise dismissed.

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

REASONS

Introduction

[1] This proceeding concerns an appeal by Cockram Premises Limited 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] The appeal relates to the appropriate zoning and rule framework for approximately 11 ha of land south of Templeton. The original submission (which sought rezoning to General Industrial Zone) together with site specific standards) was amended prior to the Council hearing and was limited to an area of land comprising approximately 11ha which the appellant sought to be retained within the General Rural Zone ('GRUZ') but with a rural business precinct overlay.

[3] The Council's decision retained a GRUZ for the site, with a PREC12 Rural Business Precinct overlay, providing for activities already provided for within the GRUZ at a greater scale. Due to a concern that the definition of rural industry is overly restrictive and unnecessarily limits efficient utilisation of the area, the appellant sought amendments to provide for subdivision of the site into individual lots appropriate to facilitate permitted activities within that area, while seeking provision for an expanded range of land use activities.

[4] I have read and considered the consent memorandum of the parties dated 13 November 2024 which sets out the agreement reached by the parties to resolve the appeal. The agreement reached involves amendments to the subdivision, transport and GRUZ provisions, the amendments relating to controls on

subdivision, land use activities and vehicle movements.²

[5] I have also read and considered the affidavit of Jocelyn Lewes affirmed 24 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

[6] PREC12 is within the Airport 50 dB Ldn Noise Control Overlay. Christchurch International Airport Limited (‘CIAL’) joined the appeal as an interested party under s274 of the RMA due to concerns in relation to noise sensitive land uses, such as residential activities.

[7] Under the agreed amendments, the site is subject to a legal mechanism to prevent the establishment of a residential unit on site, and subdivision of the site is non-complying if that legal mechanism is not in place. CIAL has signed the memorandum setting out the relief sought.

[8] 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.

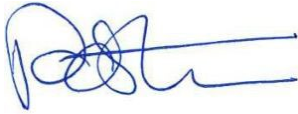
[9] No party seeks costs, all parties agreeing that costs should lie where they fall.

Outcome

[10] 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.

² SUB-P1 , SUB-R11 and SUB-REQ5, GRUZ-R8 and GRUZ-R8A, and TRAN-R4 and TRAN-R7.

[11] The court understands for 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 ~~strikethrough~~.

AMENDMENTS TO THE SELWYN PROPOSED-OPERATIVE DISTRICT PLAN

Key: Black text: notified version (based on most recent Appeals Version March 2024)
Underline and ~~strikethrough~~ text: Mediated provisions

Subdivision

SUB-Policies		
SUB-P1	<p>Avoid the creation of any site that cannot contain a residential unit as a permitted or controlled activity, unless the site:</p> <ol style="list-style-type: none"> 1. is in the General Rural Zone or Māori Purpose Zone, the overall residential density of the subdivision complies with the zone standard and a land use consent to establish or retain a residential unit on the site has been considered with the subdivision consent and granted; or 2. is within a Commercial and Mixed Use Zone, General Industrial Zone, Dairy Manufacturing Zone, Port Zone; or <u>2A. is in PREC12 – Rural Business Precinct and will not be for the purpose of a residential unit; or</u> 3. shall be used only for the provision of infrastructure, a reserve or for some other community purpose specified in the subdivision application; and that purpose will not result in the need for a residential unit; or 	
SUB-R11	Subdivision to Create Undersized Sites	
GRUZ DPZ MPZ	<p>Activity Status: RDIS</p> <ol style="list-style-type: none"> 1. Subdivision in the General Rural Zone where the size of any site does not comply with SUB-R2.1.a <u>or SUB-R11.7</u> 2. ... <p>Where: ...</p>	<p>Activity status when compliance not achieved:</p> <ol style="list-style-type: none"> 5. When compliance with any of SUB-R11.1., SUB-R11.2. or SUB-R11.3. is not achieved: NC 6. When compliance with any rule requirement listed in this rule is not achieved: Refer to SUB – Rule Requirements.
<u>PREC12</u>	<p>Activity status: RDIS</p> <ol style="list-style-type: none"> <u>7. Subdivision in PREC12 – Rural Business Precinct where the size of any site does not comply with SUB-R2</u> <p>Where: <ol style="list-style-type: none"> <u>a. any site (other than a site used exclusively for access, reserves, or infrastructure, or which is wholly subject to a designation) is subject</u> </p>	<p>Activity status when compliance not achieved:</p> <ol style="list-style-type: none"> <u>9. When compliance with any of GRUZ-R11.7 is not achieved: NC</u> <u>10. When compliance with any rule requirement is not achieved: Refer to the relevant rule requirement.</u>

	<p><u>to a legal mechanism to prevent the establishment of any residential unit on that site;</u></p> <p><u>And this activity complies with the following rule requirements:</u></p> <p><u>a. SUB-REQ2 Building Square</u></p> <p><u>b. SUB-REQ5 Number of Sites</u></p> <p><u>c. SUB-REQ6 Access</u></p> <p><u>d. SUB-REQ8 Corner Splay</u></p> <p><u>Matters of discretion:</u></p> <p><u>8. The exercise of discretion in relation to SUB-R11.7 is restricted to the following matters:</u></p> <p><u>a. All matters set out in SUB – Matters for Control or Discretion.</u></p> <p><u>b. NH-MAT3 Geotechnical considerations</u></p>	
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SUB-REQ5	Number of Sites	
	1. ...	
<u>PREC12</u>	<p><u>10. The total number of sites in PREC12 – Rural Business Precinct shall not exceed 12.</u></p> <p><u>This requirement shall not apply to sites used exclusively for access, reserves, infrastructure, or which are wholly subject to a designation.</u></p> <p><u>11. The total number of sites in PREC12 – Rural Business Precinct that are 5,000m² or smaller shall not exceed 4.</u></p> <p><u>12. No site within in PREC12 – Rural Business Precinct shall be smaller than 1,000m².</u></p>	<p><u>Activity status when compliance not achieved:</u></p> <p><u>13. When compliance with any of SUB-REQ5.10 or SUB-REQ5.12 is not achieved: NC</u></p> <p><u>14. When compliance with any of SUB-REQ5.11 is not achieved: DIS</u></p>

General Rural Zone

GRUZ-R8		
Rural Industry		
SCA-RD1 SCA-RD4 SCA-RD5 SCA-RD6 SCA-RD7 (excluding PREC11 PREC12)	Activity status: PER 1. The establishment of a new, or expansion of an existing rural industry. Where: a. The area of land associated with the rural industry is less than 200m ² . And this activity complies with the following rule requirements: GRUZ-REQ6 Hours of Operation GRUZ-REQ7 Full Time Equivalent Staff	Activity status when compliance not achieved: 2. When compliance with any of GRUZ-R8.1 is not achieved: DIS 3. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant Rule Requirement.
SCA-RD2 SCA-RD3
PREC111
PREC12	Activity status: PER 9. The establishment of a new, or expansion of an existing rural industry. And 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-R8A		
Rural Business Precinct Activities		
<u>PREC12</u>	Activity status: PER 1. <u>The establishment of a new, or expansion of an existing rural industry.</u> <u>And this activity complies with the following rule requirements:</u> <u>GRUZ-REQ4A Outdoor Storage</u>	Activity status when compliance not achieved: <u>2. When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant rule requirement.</u>

	<u>GRUZ-REQ6 Hours of Operation</u>	
<u>PREC12</u>	<p><u>Activity status: PER</u></p> <p>3. <u>The establishment of a new, or expansion of an existing yard-based activity</u></p> <p><u>Where:</u></p> <p>a. <u>The activity has a minimum of 50% of the area devoted to the activity, including any area set aside for sales or display, that is located within covered or uncovered external yard or forecourt space as distinct from within a secured and weatherproof building.</u></p> <p><u>And this activity complies with the following rule requirements:</u></p> <p><u>GRUZ-REQ4A Outdoor Storage</u></p> <p><u>GRUZ-REQ6 Hours of Operation</u></p>	<p><u>Activity status when compliance not achieved:</u></p> <p>4. <u>When compliance with any of GRUZ-R8A.3 is not achieved: NC</u></p> <p>5. <u>When compliance with any rule requirement listed in this rule is not achieved: Refer to relevant rule requirement.</u></p>

Transport

TRAN-R4		
Vehicle Crossing		
GRUZ (excluding PREC12)	1.
PREC12	<p>Activity status: PER</p> <p>10. The establishment of a vehicle crossing to PREC12 – Rural Services <u>Business</u> Precinct.</p> <p>Where:</p> <ul style="list-style-type: none"> a. The Dawsons Road / Jones Road intersection has been upgraded in accordance with TRAN-DIAGRAM15. b. The solid median strip on Dawsons Road has been extended in accordance with TRAN-DIAGRAM16. c. There are no fences, structures or vegetation higher than 1.1m in the area identified in TRAN-DIAGRAM17. d. The vehicle crossing does not service any activity that generates more than 90 vm/day. 	<p>Activity status where compliance is not achieved:</p> <p>11. when compliance with any of TRAN-R4.10 is not achieved: RDIS</p> <p>Matters for discretion:</p> <p>12. The exercise of discretion in relation to TRAN-R4.11 is restricted to the following matters:</p> <ul style="list-style-type: none"> a. TRAN-MAT1 Effects on the wider network b. TRAN-MAT9 Vehicle movements

TRAN-R7		
Rural vehicle movements and associated parking		
GRUZ (excluding: PREC11 PREC12) CHVZ CORZ FHSVZ HOHZ	<p>Activity Status: PER</p> <p>1. Vehicle movements associated with any activity.</p> <p>Where:</p> <ul style="list-style-type: none"> a. The number of associated vehicle movements complies with TRAN-TABLE1 - Maximum type and number of vehicle movements 	<p>Activity status when compliance not achieved:</p> <p>2. When compliance with any of TRAN-R7.1 is not achieved: RDIS</p> <p>Matters for discretion:</p> <p>3. The exercise of discretion in relation to TRAN-R7.2. is restricted to the following matters:</p> <ul style="list-style-type: none"> TRAN-MAT4.7 Amenity TRAN-MAT4.8 Circulation and access TRAN-MAT7 Landscaping of parking areas TRAN-MAT9 Vehicle movements

<p><u>PREC12</u></p>	<p><u>Activity status: PER</u> <u>4. Vehicle movements associated with any activity</u></p> <p><u>Where:</u> a. <u>The combined number of vehicle movements using Dawsons Road associated with all activities within PREC12 – Rural Business Precinct does not exceed 90 vehicles movements per hour.</u></p>	<p><u>Activity status when compliance not achieved:</u> <u>5. When compliance with any of TRAN-R7.4 is not achieved: RDIS</u></p> <p><u>Matters for discretion:</u> <u>6. The exercise of discretion in relation to TRAN-R7.5 is restricted to the following matters:</u> <u>TRAN-MAT1 Effects on the wider network</u> <u>TRAN-MAT8A High Trip Generating Activities – Full</u> <u>TRAN-MAT9 Vehicle movements</u></p>
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