

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

Decision No. [2024] NZEnvC 323

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)

... continued on separate page

Appellants

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 Resource Management Act 1991.



- (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;
- (2) the appeals otherwise remain extant.

B: Costs are reserved, although applications are discouraged.

REASONS

Introduction

[1] This proceeding concerns appeals by Horticulture New Zealand, Transpower New Zealand Limited, Fonterra Limited, Orion New Zealand Limited and Christchurch International Airport Limited (together ‘appellants’) 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 appellants’ appeal points were allocated to Topic 7: Policy Framework for Important Infrastructure and Reverse Sensitivity. The appellants sought amendments to provisions in the Strategic Directions, the Energy and Infrastructure and the General Rural Zone chapters of the PDP to manage the effects of, or on, important infrastructure.

[3] I have read and considered the consent memorandum of the parties dated 5 November 2024 which details the agreement reached between the parties to resolve those aspects of the appeals. The agreement reached involves amendments to:

- (a) the Infrastructure, Risk and Resilience objectives (SD-IR-O1 Community Needs and SD-IR-O2 Effects of Important Infrastructure);
- (b) the Urban Form and Development objectives (SD-UFD-O2

Compact and Sustainable Township Network and SD-UFD-O4 Integration of Land Use and Infrastructure);

- (c) the Energy and Infrastructure objectives and policies (EI-O2, EI-O3, EI-P2); and
- (d) a minor amendment to the General Rural Zone objective (GRUZ-O1).

[4] I have also read and considered the affidavit of Jonathan Trewin affirmed 14 October 2024. The affidavit explains the scope to make the changes sought and the rationale for the agreed changes in terms of s32AA RMA. Mr Trewin has satisfied me that the agreed amendments will better meet the needs of infrastructure providers and the community by protecting important infrastructure from incompatible activities and reverse sensitivity effects.

Other relevant matters

[5] Seven parties joined as interested parties to these appeals under s274 of the RMA. Of those, five parties had a relevant interest in the matters being addressed in Topic 7 and have signed the consent memorandum setting out the relief sought.²

[6] 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 RMA including, in particular, Pt 2.

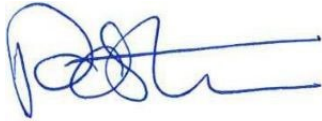
Outcome

[7] 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 New Zealand Defence Force, Lyttelton Port Company Limited, Royal Forest and Bird Protection Society of New Zealand Incorporated, Director-General of Conservation, Hughes Developments Limited.

[8] 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.

[9] Costs are reserved, although applications are discouraged.



P A Steven
Environment Judge

PARTY LIST

Horticulture New Zealand	ENV-2023-CHC-102
Transpower New Zealand Limited	ENV-2023-CHC-109
Fonterra Limited	ENV-2023-CHC-117
Orion New Zealand Limited	ENV-2023-CHC-119
Christchurch International Airport Limited	ENV-2023-CHC-120

APPENDIX 1

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

Strategic Directions Infrastructure, Risk, and Resilience – Objectives

SD-IR-O1 Community Needs

The important infrastructure needs of the community are fulfilled, and the operation, maintenance, upgrading and development of existing or authorised important infrastructure is protected from incompatible activities and reverse sensitivity effects.

SD-IR-O2 Effects of Important Infrastructure

The development, upgrade, maintenance and operation of all important infrastructure is enabled in a way that appropriately avoids, remedies or mitigates ~~minimises~~ adverse effects, ~~while~~ having regard to efficiency, ~~the~~ practical constraints and the ~~logistical and~~ technical and operational requirements ~~practicalities~~ associated with important infrastructure.

Strategic Directions Urban Form and Development – Objectives

SD-UFD-O2 Compact and Sustainable Township Network

Urban Growth is located:

1. Outside Greater Christchurch only within or adjoining existing townships and in a compact and sustainable form that aligns with its anticipated role in the Township Network, while considering the community's needs, natural landforms, cultural values, highly productive land, and physical features **and the ongoing use and development needs of existing activities**; or
2. Inside Greater Christchurch only within existing urban areas, Greenfield Priority Areas, or Future Development Areas identified in the Canterbury Regional Policy Statement; unless adding significantly to development capacity and contributing to well-functioning urban environments.

SD-UFD-O4 Integration of Land Use and Infrastructure

Urban growth and development:

1. Is well-integrated with the efficient provision, including the timing and funding, of infrastructure; and
2. has the ability to manage or respond to the effects of climate change; **and**
3. **manages reverse sensitivity effects and conflict with incompatible activities, including avoiding development or intensification of sensitive activities that would compromise the operation of existing or authorised important infrastructure, as set out in EI-P6 and other relevant policies.**

Energy and Infrastructure – Objectives and Policies

EI-O2

The functional needs and operational needs of important infrastructure are taken into account when managing any adverse effects of its location, design and operation on the physical and natural environment.

EI-O3

The safe and efficient operation, maintenance, upgrading and security of important infrastructure is not compromised by incompatible activities and reverse sensitivity effects.

EI-P2

~~Minimise~~ Appropriately avoid, remedy or mitigate the adverse effects of important infrastructure, and renewable electricity generation on the physical and natural environment by:

1. encouraging the co-location of structures and facilities where efficient and practicable.
2. locating, designing and operating development while:
 - a. minimising the effects on, ~~the amenity values of the surrounding environment~~, public access and the health and safety of people; and
 - b. avoiding, remedying or mitigating adverse effects on the amenity values of the surrounding environment;
3. limiting the presence and effects of development within Outstanding Natural Landscapes, Visual Amenity Landscapes, natural character areas, areas of significant indigenous vegetation and habitats of indigenous fauna, sites of historic heritage and sites and areas of significance to Māori to those which:
 - a. are recognised as important infrastructure; and

- b. can demonstrate a functional need, an operational need or functional technical requirement for the location, or there are practical constraints requiring it to locate in a particular area with high natural, visual amenity or cultural value; and
- c. can demonstrate through site, route or method selection the minimisation of effects on the environment; and
- d. integrate design measures and management methods to mitigate adverse effects.

3A. notwithstanding EI-P2.3.c, for the National Grid, considering the extent to which the adverse effects have been avoided, remedied or mitigated by route, site or method selection.

- 4. considering biodiversity off-setting in accordance with ECOEIB-SCHED5 – Framework for Biodiversity Offsetting or compensation where the loss of significant indigenous vegetation or the effects on significant habitats of indigenous fauna or wetlands cannot be avoided, remedied, or mitigated.
- 5. using the substantial upgrade of important infrastructure and renewable electricity generation as an opportunity to reduce existing adverse effects, including on existing sensitive activities where appropriate, where the efficiency, effectiveness or resilience of the important infrastructure or renewable electricity generation is not compromised.
- 6. Providing for the maintenance, operation, upgrade or expansion of important infrastructure on highly productive land where there is a functional need or operational need requirement to locate the infrastructure on that land whilst:
 - a. Minimising or mitigating any actual or potential cumulative loss of highly productive land; and
 - b. Avoiding if possible, or otherwise mitigating, any actual or potential reverse sensitivity effects on land-based primary production activities.
- 7. **Notwithstanding EI-P2.1 – EI-P2.6, the operation, maintenance and minor upgrading of the National Grid is enabled throughout the District.**

General Rural Zone – Objectives and Policies

GRUZ-O1

Subdivision, use, and development in rural areas that:

1. supports, maintains, or enhances the function and form, character, and amenity value of rural areas;
2. prioritises primary production, over other activities to recognise its importance to the economy and wellbeing of the district;
3. allows primary production, those activities that directly support primary production and have a functional or operational need to locate with the General Rural Zone and important infrastructure, to operate without being compromised by incompatible **sensitive** activities and reverse sensitivity effects;
4. retains a contrast in character to urban areas; and
5. protects highly productive land.

