

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

Decision No. [2024] NZEnvC 207

IN THE MATTER of the Resource Management Act 1991

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

BETWEEN MURRAY BOYES AND KERSEY
PARK LIMITED

(ENV-2023-CHC-115)

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: 28 August 2024

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Selwyn District Council is to
amend the Partially Operative Selwyn District Plan as set out in
Appendix 1, attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.

BOYES & KERSEY PARK LIMITED v SDC – CONSENT ORDER



B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Murray Boyes and Kersey Park 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 sought the deletion of SUB-REQ13.C, a Conditions Precedent in respect of "Development Area 8 in Darfield" ('DEV-DA8'). That provision states any subdivision to create a site within DEV-DA8 cannot take place until the intersection of Creyke Road and State Highway 73 has been upgraded. Further, the appeal sought a correction to the legend of the Outline Development Plan for DEV-DA8 that has been included in the Partially Operative Selwyn District Plan.

[3] I have read and considered the consent memorandum of the parties dated 23 August 2024 which sets out the agreement reached between the parties to resolve the appeal. The parties have agreed to:

- (a) delete SUB-REQ13.C;
- (b) amend the legend to the DEV-DA8 Outline Development Plan, to correctly identify the area of the appeal site shaded orange as General Residential Zone not Medium Density Residential Zone; and
- (c) amend the shading in the Outline Development Plan from orange to yellow/green, consistent with the colour palette in the National Planning Standards for a General Residential Zone.¹

¹ Orange being assigned to a Medium Density Residential Zone.

[4] I have also read and considered the affidavit of Jonathan Trewin affirmed 13 June 2024. The affidavit explains the scope to make the changes sought and the rationale for the agreed changes in terms of s32AA RMA. Further I agree with Mr Trewin that given that the District Plan Online Maps show the relevant land as General Residential Zone, the amendment to align the shading used with the colour palette of the National Planning Standards corrects a minor error in accordance with clause 16(2) of the First Schedule of the Resource Management Act 1991 ('RMA').

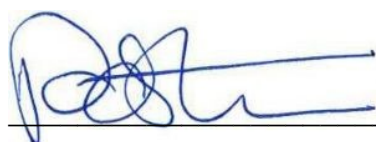
Other relevant matters

[5] No other person has given notice of an intention to become a party under s274 of the RMA.

[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 Act including, in particular, Pt 2. Noting that the Council has received written confirmation that the New Zealand Transport Agency is satisfied that resource consent conditions pertaining to the Creyke Road/State Highway 73 intersection have been met, the consent memorandum records that the agreed relief will not alter any access and transport requirements of relevant resource consents as the requirements of those resource consents will continue to apply.

Outcome

[7] All 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

Amendments to Partially Operative Selwyn District Plan

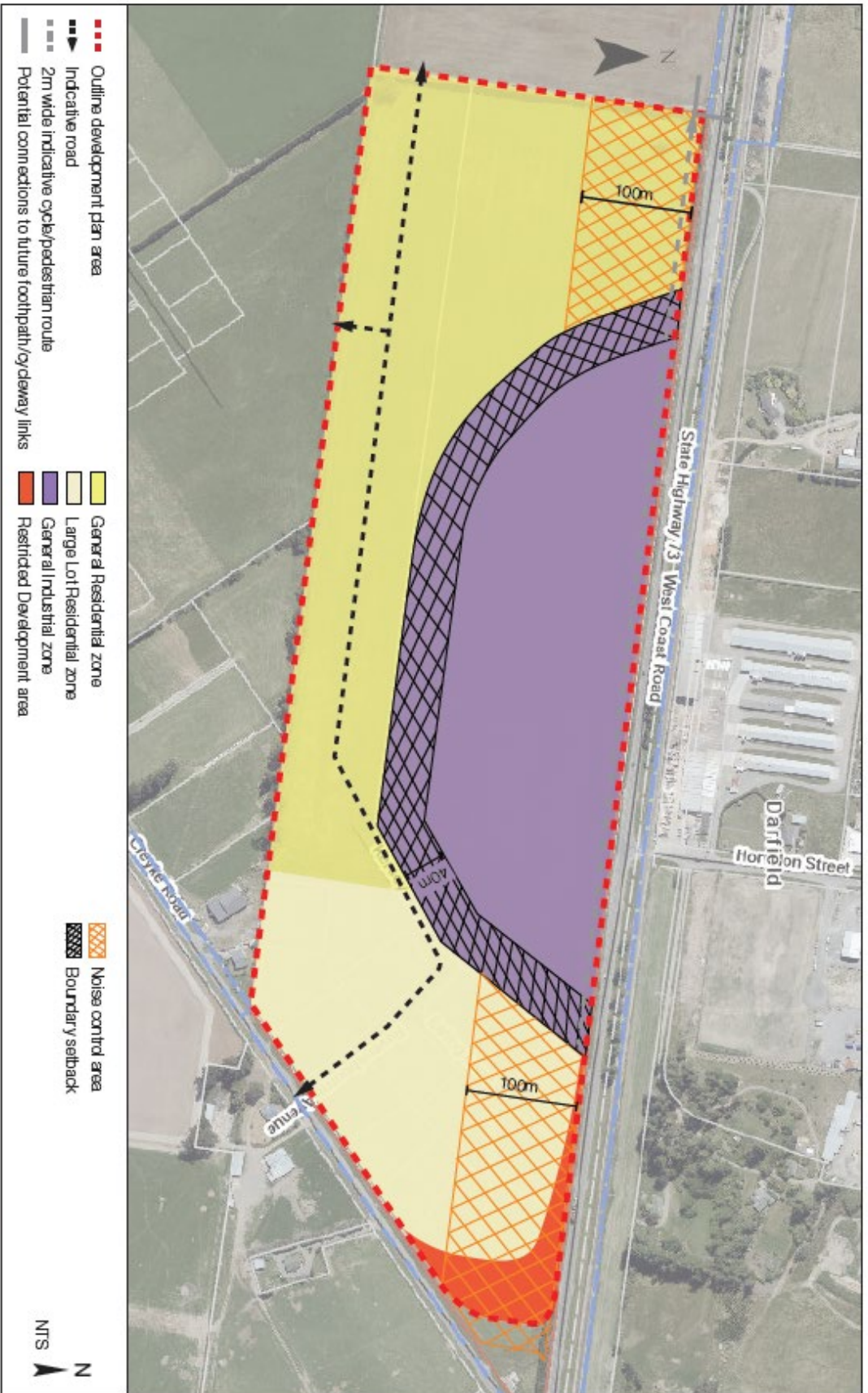
Deletion shown in ~~strike through~~ additions underlined

Amend SUB-REQ13 Condition Precedent as follows:

SUB-REQ13 Condition Precedent		
DEV-DA8	C. Subdivision to create any site within DEV-DA8 shall not take place until the intersection of Creyke Road and State Highway 73 has been upgraded in consultation with the road-controlling authority for State Highway 73.	<p>Activity status when compliance not achieved:</p> <p>D. When compliance with any of SUB-REQ13.C is not achieved: DIS</p>

Amend DEV-DA8 – Darfield 8 Development Area Outline Development Plan to show that the orange shaded area is 'General Residential Zone' and to amend 'Medium Density Residential Zone' to 'General Residential Zone' in the Outline Development Plan legend as shown below:

Darfield 8 Development Area



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