

May it please the Hearing Panel

The following matters are submitted on behalf of the Director-General of Conservation *Tumuaki Ahurei* (Director-General):

Introduction

1. The Director-General is a submitter and further submitter (DPR-0427) on the proposed Selwyn District Plan (the proposed Plan).
2. The Director-General submitted on the Strategic Directions Topic of the proposed Plan seeking changes, in summary, as follows:
 - 2.1. A general submission seeking the strategic directions' objectives (the SD objectives) be amended to give effect to the Resource Management Act 1991 (RMA), New Zealand Coastal Policy Statement 2010 (NZCPS) and Canterbury Regional Policy Statement 2013 (CRPS),
 - 2.2. Seeking amendments to SD-DI-02 – District Wellbeing and Prosperity to better provide for the Selwyn District's wellbeing,
 - 2.3. Seeking the retention of the notified SD-DI-04 – Our Environment, and
 - 2.4. Proposing a new strategic direction objective SD-DI-0x be added to better protect or enhance Selwyn District's indigenous biodiversity.
3. Other than the general point, the Director-General's submission is on the Strategic Directions District Identity Objectives (SD-DI Objectives). The Director-General does not propose changes to any other Strategic Directions Objectives (under the headings: Infrastructure, Risk, and Resilience; Mana Whenua Values; and Urban Form and Development) in the proposed Plan.

The Director-General's relief has been refined – what he now seeks

4. The Director-General is concerned that Council's function to control land use, development, or protection to maintain indigenous biological diversity¹ is not adequately captured by the SD DI Objectives (or any other SD Objectives) in the proposed Plan.
5. The Director-General is also concerned the proposed Plan fails to accord with Part 2 of the RMA, in particular the matters of national importance in section 6

¹ Section 31(1)(b)(iii) RMA

(a), (b), (c) and (f) as well as matters of particular regard in section 7(d)², as well as section 7(f) – *maintenance and enhancement of the quality of the environment*, and section 7(g) – *any finite characteristics of natural and physical resources*.

6. The Director-General is calling evidence from Amelia Ching in support of his submission. Ms Ching's evidence discusses the Director-General's submission and explains why requests for amendments to the SD DI objectives are sought by the Director-General.
7. The amendments recommended by Ms Ching refine those proposed by the Director-General's submission. On SD-DI-02 – District Wellbeing and Prosperity, Ms Ching proposes changes to better align the objective's wording with its title and delete references to reverse sensitivity issues.³
8. Ms Ching now recommends deletion of the notified objective SD-DI-04 – Our Environment and its replacement with revised wording focussing on Selwyn's natural environment. Ms Ching also now recommends a consequential additional objective SD-DI-06 – Character and Identity to capture the 'non-natural' aspects previously covered by notified objective SD-DI-04.⁴

The Interpretation Directive in the Strategic Directions Chapter

9. The SD Objectives are to be read in the proposed Plan in the context of an interpretation directive which states:

*“For the purposes of preparing, changing, interpreting, and implementing the District Plan, all other objectives and policies in all other chapters of this District Plan are to be read and achieved in a manner consistent with these Strategic Directions.”*⁵
10. Ms Ching's evidence referred to the Independent Hearings Panel's decision on Strategic Directions in the Christchurch Replacement District Plan.⁶ As discussed in that decision, an interpretation provision should:

“... make explicit that objectives and policies in all other chapters are to be expressed and achieved in a manner consistent with the objectives in

² Refer Evidence of Amelia Ching dated 26 July 2021 at paragraph 52.

³ Ms Ching's evidence at paragraphs 68-69.

⁴ Ms Ching's evidence at paragraphs 60-62.

⁵ SD-Overview. I note the next paragraph also states there is no hierarchy between the objectives and they should be read as a whole.

⁶ <http://chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Strategic-Directions-and-Strategic-Outcomes-Decision.pdf>, referred to in Ms Ching's evidence at paragraph 51.

*Strategic Directions (subject, of course to the RMA's requirements). ... it should influence the formation of all other chapters of the ... Plan as well as having enduring influence going forward as part of the ... Plan."*⁷

11. I submit that the wording of the Interpretation Directive in the proposed Plan, together with this Strategic Directions Topic being the first matter considered by the Hearing Panel, address this need to consider the Strategic Directions at an early stage to enable their implementation and influence in decisions on the remaining topics (and Chapters) in the proposed Plan.
12. This Interpretation Directive establishes a clear plan hierarchy placing the Strategic Direction provisions above the balance of the proposed Plan. This makes it all the more important these provisions do capture the requirement that the proposed Plan is in accordance with all the District Council's functions and Part 2 of the RMA.⁸

The Interpretation Directive requires the Strategic Directions be comprehensive

13. One function of the proposed Plan is to achieve integrated management of the natural and physical resources of the Selwyn District.⁹ In my submission, if the Interpretation Directive requires the Strategic Directions to have a higher interpretive place, requiring that all other objectives and policies be read to be consistent with them, then the Strategic Directions must be in accordance with Part 2 of the RMA and all Council's functions including to maintain indigenous biological diversity.
14. As discussed by Ms Ching, the Director-General's concern is that the Strategic Directions do not sufficiently provide for all Part 2 matters in its SD-DI Objectives (nor elsewhere in the SD Objectives).
15. It is submitted that SD-DI-04 Our Environment addresses places, landscapes, and features of significance to Selwyn's identity, but neglects the broader concept of Council's function of maintaining indigenous biological diversity. Further, I submit the wording of SD-DI-04 as notified recognises the significance of '*places, landscapes, and features*' in relation to the values placed on them by people rather than their intrinsic value and significance.

⁷ Supra at paragraph [100].

⁸ Section 74(1) RMA.

⁹ Section 31(1)(a) and section 74(1) RMA.

16. SD-DI-04 also tries to capture section 6(a) of the RMA preservation of the natural character of the coastal environment, lakes, rivers and wetlands,¹⁰ and section 6(b) protection of outstanding natural landscapes and features. Again, I submit by qualifying significance in human terms, the objective cannot be in accordance with Part 2 of the RMA.
17. The section 42A report accepts the phrase '*places, landscapes and features*' in SD-DI-04 does not capture indigenous biodiversity and proposes this be addressed by simply inserting 'indigenous biodiversity' at the end of the phrase. However, this proposed change does not address Council's function to maintain indigenous biodiversity in the District. Nor does this change clarify that section 6 RMA significance goes beyond human values.
18. The section 31(1)(b)(iii) function follows not only from section 6(c) but also section 7(d), (f) and (g) of the RMA – recognising indigenous biodiversity is encompassed by the intrinsic values of the District's ecosystems, the contribution of indigenous biodiversity to the District's natural and physical resources may be finite, and its maintenance will also maintain and enhance the quality of Selwyn's environment.
19. I submit these are all factors which contribute to Selwyn's environment, and which should be encompassed in the SD-DI Objectives.

Conclusion

20. In my submission, SD-DI-04 Our Environment, as notified in the proposed Plan is trying to do too much. The amendment proposed by the s42A Report does not capture all that needs to be covered.
21. This is why the Director-General's submission and evidence now seeks amendments and the addition of a new SD-DI Objective to ensure there is balance and complete coverage of all matters the proposed Plan must be in accordance with to achieve its purpose of integrated management for the Selwyn District.



Pene Williams

Counsel for the Director-General of Conservation *Tumuaki Ahurei*

2 August 2021

¹⁰ This is not the same as the SD-DI-03 – Integration and Land Use, Ecosystems and Water – Ki Uta Ki Tai objective.