

Before the Independent Hearings Panel
at Rolleston

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to the
proposed Selwyn District Plan

and: Strategic Directions Proposal

and: **Fonterra Limited**
Submitter DPR-0370

Statement of evidence of Dean Michael Chrystal

Dated: 23 July 2021

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STATEMENT OF EVIDENCE OF DEAN MICHAEL CHRYSTAL

INTRODUCTION

- 1 My name is Dean Michael Chrystal. I am a Director of Planz Consultants Ltd. I hold a Bachelor of Regional Planning degree and I am an accredited Commissioner. I have been employed in the practice of planning and resource management for over 30 years, both in New Zealand and the United Kingdom.
- 2 My experience includes involvement in a number of District Plans processes throughout the country, including in recent years the Christchurch, Timaru, South Taranaki, Whangarei and Dunedin District Plans. As a Commissioner, my experience includes hearing and deciding on numerous plan changes and resource consent applications around the country and I have previously been involved in District Plan Review Panel's for the Selwyn and Horowhenua District Councils.
- 3 I have been involved in a number of major Fonterra manufacturing site development projects, including consenting the Darfield project, and I have provided evidence for Fonterra Limited (*Fonterra*) on a number of district plans and plan changes throughout the country. I am familiar with the Darfield site and the surrounding environment.
- 4 In preparing my evidence I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2014. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the Hearings Panel. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

SCOPE OF EVIDENCE

- 5 In preparing my evidence I have read the Selwyn District Council (Council) s32 Report on Strategic Directions, and the s42A (of the RMA) Overview and Strategic Directions reports prepared by Mr Robert Love on behalf of the Council.
- 6 I have also read, and I am reliant on, the evidence of Ms Van Genne-Knape and Mr Copeland of Fonterra.
- 7 I have also met with Mr Matt Bonis, Ms Melanie Foote and Ms Nicola Rykers (planning experts for Christchurch International Airport Limited (CIAL), Lyttleton Port Company (LPC), Orion and Synlait) to discuss an agreed position on SD-DI-O2, SD-IR-O1, SD-IR-O2 (new), SD-IR-P1 (new), SD-IR-O3, SD-UFD-O2, SD-UFD-O2 and SD-UFD-O3. The agreed provisions that resulted from that discussion are appended to my evidence as **Attachment 1**.
- 8 In my evidence I set out a summary of my conclusions before moving on to examine Fonterra's individual submission points and the revised provisions.

EXECUTIVE SUMMARY

- 9 Important Infrastructure is the backbone of the community, it is pivotal to ensuring the district is well functioning and achieves social, cultural and economic wellbeing, and health and safety outcomes. As such, I support the recognition of Important Infrastructure in the Strategic Directions.
- 10 To ensure that Important Infrastructure is appropriately enabled, protected and managed, I have worked with Mr Matt Bonis, Ms Melanie Foote and Ms Nicola Rykers (planning experts for CIAL, LPC, Orion and Synlait) to discuss an agreed position on SD-DI-O2, SD-IR-O1, SD-IR-O2 (new), SD-IR-P1 (new), SD-IR-O3, SD-UFD-O2, SD-UFD-O2 and SD-UFD-O3.
- 11 I consider the agreed provisions better articulate and provide the necessary overarching direction required to recognise the significance of Important Infrastructure in the District. The proposed policy reflects Fonterra's operational 'bottom line', which must be achieved in order to support the efficient and effective operation of their business. I consider that to recognise this 'bottom line' in the Strategic Directions will ensure that subsequent provisions achieve the required outcomes.
- 12 With respect to the Urban Form and Development provisions, I consider that amendments to recognise reverse sensitivity, avoiding incompatible activities and Important Infrastructure is critical. While I acknowledge that urban growth and development is a key issue for the Council, it is important that growth and development does not occur 'at all costs' and undermine Important Infrastructure and existing activities in the rural environment.

OVERVIEW OF SUBMISSIONS

- 13 Fonterra submitted that SD-DI-O2, SD-IR-O1 and SD-IR-O3 should be retained as notified. While they sought changes to SD-IR-O2, SD-UFD-O2 and SD-UFD-O3.

IMPORTANT INFRASTRUCTURE

- 14 I acknowledge that the hearing on the Important Infrastructure definition will be considered at the Energy & Infrastructure hearing in September, but I want to briefly touch on the definition of Important Infrastructure as I consider it central to my evidence.
- 15 The notified version of Important Infrastructure included 'Dairy processing plants located within the Special Purpose Dairy Processing Zone' and as such Fonterra's Darfield site is afforded the benefit of provisions, including a number of Strategic Directions, that recognise that it has significance to the District. A number of submitters have sought changes to the definition that would remove 'Dairy processing plants located within the Special Purpose Dairy Processing Zone' from the list of Important Infrastructure.
- 16 While it is my intention to address this definition issue in more detail at the Definition hearing, I note that Mr Love has stated that *'these two 'other' aspects [being the dairy processing plants, and the West Melton Aerodrome] are infrastructure considered to be significant enough in a Selwyn context to warrant*

additional protection or enablement, and as such have been included in the 'important infrastructure term'¹. I agree with Mr Love's statement and note that both Mr Copeland and Ms Van Genne-Knape have provided details of the extent of the operation and quantified the economic and social importance of Fonterra's Darfield Manufacturing Plant to the Selwyn District, and I therefore consider it is appropriate for the Plant to be protected alongside other regionally significant infrastructure, particularly in a district context. It is on this basis that I have considered the Strategic Directions chapter and the changes to the provisions sought by Fonterra.

SD-DI-O2

- 17 Fonterra supported the retention of SD-DI-O2 as notified; however, I am aware that CIAL and Orion have sought changes to this provision to explicitly protect Important Infrastructure from reverse sensitivity effects and incompatible activities. While it is outside the scope of the Fonterra submission, I support these changes.

INFRASTRUCTURE, RISK AND RESILIENCE STRATEGIC OBJECTIVES

- 18 Fonterra made submissions on SD-IR-O1 (to retain as notified), SD-IR-O2 and SD-IR-O3 (to retain as notified). Following the close of submissions, I have worked with other planning experts to revise the Infrastructure, Risk and Resilience Strategic Directions into a form that I consider more appropriately reflects the significance of the District's Important Infrastructure. The revised objectives and a new policy are appended at **Attachment A** to my evidence. While these revised provisions are not in the form originally sought by the parties concerned, I consider there is sufficient scope within the various submissions for the revisions now proposed in the attachment.
- 19 My comments on the revised provisions are as follows:
- a. The reporting officer has accepted only minimum changes to the SD-IR provisions and instead opted to maintain the very streamlined provisions that were notified. Given the importance of the Strategic Directions, I do not consider that the Officer's approach is helpful or appropriate. As stated in the s32 Report – Strategic Directions, *strategic objectives should identify and address district wide sustainable management priorities, give overarching direction, and ensure their purpose achieves the outcomes sought by higher order planning documents²*. While I accept that brevity, to some degree, is important, it should not be done at the expense of clearly articulating the desired outcomes for, in this case, Important Infrastructure in the District. Given the Strategic Directions are the lens through which all resource consent applications and Plan Changes are to be viewed, I consider it critical to afford them sufficient detail to ensure they provide clear direction and leave no doubt as to their intent.
 - b. SD-IR-O1 now clearly supports the enablement of Important Infrastructure to meet the needs of the community. Given the critical role of Important

¹ S42A report – Strategic Directions, page 38

² S32 Report – Strategic Directions, page 6

Infrastructure to the community, I consider this amendment to be appropriate.

- c. SD-IR-O2 now clearly articulates that Important Infrastructure is to be protected from reverse sensitivity effects and incompatible activities. To this end, I note that protection from incompatible activities and avoiding reverse sensitivity effects do not amount to the same thing as suggested by Mr Love³. I consider that reverse sensitivity effects are the effects on, in this case, Important Infrastructure of locating sensitive activities in close proximity (complaints, restrictions). Whereas, the term incompatible activities is generally applied to situations where the effects of an activity would affect another (odour, noise). I am not suggesting that the two terms are mutually exclusive, but I do consider that they are distinguishable and both warrant mention in SD-IR-O2. I also note that the Canterbury Regional Policy Statement is explicit in recognising the difference between reverse sensitivity effects and incompatible activities at Issue 5.1.1, Policy 5.3.2 and Policy 6.3.3.
- d. With respect to SD-IR-P1, I note that the inclusion of policies in the Strategic Directions is provided for the National Planning Standards, specifically [emphasis added]:

Mandatory directions⁴:

Strategic direction

1. If the following matters are addressed, they must be located under the Strategic direction heading:

- a. an outline of the key strategic or significant resource management matters for the district*
 - b. issues, if any, and objectives that address key strategic or significant matters for the district and guide decision making at a strategic level*
 - c. policies that address these matters, unless those policies are better located in other more specific chapters*
 - d. how resource management issues of significance to iwi authorities are addressed in the plan*
- e. I acknowledge that the inclusion of policies in the Strategic Directions has not been an approach adopted by Council's in the drafting of District Plans to date. However, it is available and when appropriate should be utilised. In this instance (and arguably with any District), Important Infrastructure is of such significance to the social, cultural and economic wellbeing of the community and its health and safety that the strategic objective and policy framework should leave no room for 'guessing'. In my view therefore this

³ S42A Report – Strategic Directions, para 8.4, 13.4.3 and 16.7.

⁴ National Planning Standards, Page 32

significance should ideally be recognised and provided for at the beginning of a District Plan i.e., within the Strategic Directions, rather than in subsequent chapters where the overarching importance can be somewhat lost.

- f. The proposed Strategic policy addresses the operational 'bottom line' for Fonterra (and other Important Infrastructure) whereby in order for their activity to operate effectively and efficiently, sensitive activities in proximity to the Special Purpose Dairy Processing Zone must be avoided. The IR policy is key to achieving the IR objectives and will provide greater direction to objectives, policies and rules in other chapters of the Plan (than if it was not included).
- g. Lastly in terms of the proposed policy, I note that, if the Panel are of the mind to accept the agreed provisions and have the scope to include suitable provisions for other Important Infrastructure not already stated, then I would support their inclusion in proposed Policy SD-IR-P1.
- h. I consider the revised wording of SD-IR-O3 is appropriately worded to ensure that the adverse effects arising from Important Infrastructure are managed while having regard to the benefits and requirements of that infrastructure.
- i. I consider that the wording of SD-IR-O4 (formerly SD-IR-O3) is appropriate. Firstly, it is important that the risk from natural hazards, including the effects of climate change, to people property and Important Infrastructure are recognised in the Strategic Directions. Secondly, I consider that the 'exception' afforded Important Infrastructure that has no reasonable alternative is appropriate. This exception recognises that for Important Infrastructure there may be no alternative but to increase their exposure to natural hazards, which is sensible when much of the Selwyn District is subject to flooding and fault risks.

SD-UFD-O1 AND SD-UFD-O3

- 20 In addition to the Darfield manufacturing site (defined as Important Infrastructure), Fonterra operates a number of farms around the Darfield area (these are identified in Ms Van Genne-Knape evidence). These farms support the manufacturing operation by allowing the discharge of process wastewater, for which Fonterra hold resource consents from the Canterbury Regional Council. One of these farms is located immediately adjoining land subject to an Urban Growth Overlay in the Proposed District Plan. Because these farms are not located within the Dairy Processing Zone, they are not afforded the protection of being Important Infrastructure.
- 21 Accordingly, Fonterra has sought an amendment to SD-UFD-O1 that would require urban growth to avoid reverse sensitivity effects on approved, existing and permitted activities, specifically:

Urban growth is located only in or around existing townships and in a compact and sustainable form that aligns with its anticipated role in the Township Network, while avoiding reverse sensitivity effects on approved.

existing and permitted activities, responding to the community's needs, natural landforms, cultural values, and physical features

- 22 Fonterra also sought an amendment to SD-UFD-O3 and a revised SD-UFD-O3 has been agreed by the various planning experts, specifically:

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 between incompatible activities, including avoiding development which would limit the operation or development of existing and consented Important Infrastructure.*

- 23 In term of this objective, I consider the word 'development' has been included to encompass a broader meaning beyond urban growth. In other words, activities that might occur for example in the rural environment. In my view that is an important point to recognise in understanding the amendments proposed to this objective in the context of Fonterra's operation at Darfield, which is surrounded by rural zoning.
- 24 Overall, I consider that the revisions to SD-UFD-O1 and SD-UFD-O3 are appropriate. While I acknowledge that urban growth and development is a key issue for the Council, it is important that growth and development occurs in a way that takes account of Important Infrastructure and existing activities. I do not consider that growth and development can occur 'at all costs' and be prioritised to the extent that it restricts Important Infrastructure or prevents existing rural activities from being undertaken. The recognition of reverse sensitivity effects and managing incompatible activities in the objectives requires Council to be considered in its approach to the growth of townships and development within the rural environment.

CONCLUSION

- 25 In conclusion, I consider that infrastructure such as Fonterra's Darfield Manufacturing Plant is important to the district's social, cultural and economic wellbeing, and health and safety outcomes and as such should be both recognised and provided for at the strategic level within the District Plan. In this context I consider the amendments proposed to the Strategic Directions chapter both in **Attachment 1** (which have been agreed by a number of planning experts) and above better articulate and provide the necessary overarching direction to recognise the significance of Important Infrastructure within Selwyn District and guide development accordingly.
- 26 I also consider the reasoning provided in my evidence, accompanied by that provided by Ms Van Genne-Knape and Mr Copeland, contains sufficient evaluation

in terms of the requirements of Section 32AA (of the RMA) regarding changes to plan provisions during the hearings process.



Dean Michael Chrystal

23 July 2021

ATTACHMENT A: RECOMMENDED AMENDMENTS

SD-DI-O2 District Wellbeing and Prosperity

Selwyn's prosperous economy is supported through the efficient use of land, resources, and infrastructure, while ensuring existing activities are protected from incompatible activities and reverse sensitivity effects⁵.

SD-IR-O1 – Community Needs Benefits of Important Infrastructure

The important infrastructure needs of the community are fulfilled ~~and their operation protected.~~ recognising the social, economic, environmental and cultural benefits that important infrastructure provides⁶.

SD-IR-O2 Effects of on Important Infrastructure

The development, upgrade, maintenance, and operation of all important infrastructure is enabled in a way that minimises adverse effects, while having regard to the practical constraints and the logistical and technical practicalities associated with important infrastructure.

The safe, efficient and effective development, upgrade, maintenance and operation of important infrastructure is enabled⁷ and protected from incompatible development, activities and reverse sensitivity effects⁸.

SD-IR-P1 Reverse Sensitivity and Incompatible Activities⁹

Only provide for new development that does not affect the efficient and effective operation of Important Infrastructure, including by:

1. Avoiding noise sensitive activities within the 50dBA L_{dn} noise contour for Christchurch International Airport;
2. Managing the risk of birdstrike to aircraft using Christchurch International Airport;
3. Avoiding noise sensitive activities within the Port Zone 55dBA LA_{eq} noise control overlay;
4. Avoiding sensitive land uses establishing in proximity to the Dairy Processing Zone;
5. Avoiding adverse effects on the electricity network and significant electricity distribution lines, including by identifying a buffer corridor within which buildings, excavations and sensitive activities will generally not be provided for.

⁵ Submission origin: submissions from DI-O2 CIAL and Orion. Scope: 371-16, 367-1.

⁶ Submission origin: submissions from IR-O2 Clause (a) All parties. Scope: 367-2, 453-15.

⁷ Submission origin: submissions from IR-O2 Clause (a) All parties. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

⁸ Submission origin: submissions from IR-O1 LPC and Orion. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

⁹ Submission origin: submissions from IR-O2 All parties. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

SD-IR-02~~3~~ Effects of Important Infrastructure

The adverse effects of developing, up-grading, maintaining and operating important infrastructure on the surrounding environment are managed, having regard to the social and economic benefits, technical and operational requirements of that important infrastructure¹⁰.

SD-IR-0~~3~~⁴ Natural Hazards....

SD-UFD-02 Urban Growth and Development

There is sufficient feasible development capacity in appropriate locations¹¹ to meet anticipated demands for housing and business activities

SD-UFD-03 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 between incompatible activities, including avoiding development which would limit the operation or development of existing and consented Important Infrastructure¹².**

¹⁰ Submission origin: submissions from IR-O2 Clause (a) and (c) All parties. Scope: 367-3, 370-18, 371-17, 453-16, 420-F1.

¹¹ Submission origin: submissions from UFD-02 CIAL and LPC. Scope: 371-19, 453-17.

¹² Submission origin: submissions from UFD-03 Orion, Fonterra, CIAL and LPC. Scope: 367-6, 370-21, 371-20, 453-18.