

# Proposed Selwyn District Plan



## Right of Reply Report

### Subdivision, Public Access and Development Areas

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## List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0101	Chorus New Zealand Limited, Spark New Zealand Trading Limited & Vodafone New Zealand Limited	Chorus, Spark & Vodafone
DPR-0142	New Zealand Pork Industry Board	NZ Pork
DPR-0157	Kevin & Bonnie Williams	K & B Williams
DPR-0209	Manmeet Singh	M Singh
DPR-0212	Ellesmere Sustainable Agriculture Incorporated	ESAI
DPR-0260	Canterbury Regional Council (Environment Canterbury)	CRC
DPR-0298	Trices Road Re-zoning Group	Trices Road
DPR-0342	AgResearch Limited	AgResearch
DPR-0353	Horticulture New Zealand	HortNZ
DPR-0358	Rolleston West Residential Limited	RWRL
DPR-0363	lport Rolleston Holdings Limited	IRHL
DPR-0370	Fonterra Limited	Fonterra
DPR-0371	Christchurch International Airport Limited	CIAL
DPR-0374	Rolleston Industrial Holdings Limited	RIHL
DPR-0379	Jill Thomson	J Thomson
DPR-0384	Rolleston Industrial Developments Limited	RIDL
DPR-0398	Fletcher Residential Limited	Fletcher Residential
DPR-0414	Kāinga Ora - Homes & Communities	Kāinga Ora
DPR-0422	Federated Farmers of New Zealand - North Canterbury	FFNC
DPR-0453	Midland Port, Lyttelton Port Company Limited	Midland & Lyttelton Ports

## Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
CON	Controlled activity status
CRPS	Canterbury Regional Policy Statement 2013
DIS	Discretionary activity status
GRUZ	General Rural Zone
NC	Non complying activity status
PDP	Proposed Selwyn District Plan
Planning Standards	National Planning Standards
REDIS	Restricted discretionary activity status
REQ	Rule requirement
RMA or Act	Resource Management Act 1991

### 1. Purpose of Report

- 1.1 The purpose of this report is to respond to the questions raised by the Hearings Panel during Hearing 14: Subdivision and Public Access, and for the Officer to propose any further amendments to the notified version of the Proposed District Plan (PDP) above those recommended in the Officers s42A evidence report.
- 1.2 This report addresses only those provisions where my recommendation differs from those included in the s42A report and the Officer's Reply to Panel questions, except where a response has been requested by the Panel.

### 2. Hearing Panel's Questions to the s42a Reporting Officer and/or the Submitters and their Response

- 2.1 The following questions were received from the Hearing Panel or posed to submitters for the Subdivision (SUB) and Public Access (PA) Chapters, which sat on 21 November 2022.
- 2.2 The Hearing Panel questions have been addressed in order of how the provisions appear in the PDP; i.e., definitions, maps, objectives and policies, rules, rule requirements, matters for control or discretion and 'other' matters.
- 2.3 Amendments to recommendations to accept, accept in part, or reject submission points are shown in a consolidated manner in **Appendix 1**.
- 2.4 Recommended amendments to Plan provisions are shown in a consolidated manner in **Appendix 2**.

### 3. PA-REQ5 Access strips

- 3.1 Ms Wharfe<sup>1</sup> presented written evidence in support of the submission by HortNZ, seeking that PA-REQ5 be retained as notified, rather than amended as recommended in the s42A report. Mrs Barnett<sup>2</sup> presented the submission of ESAI, that PA-REQ5 should be deleted.

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<sup>1</sup> Evidence of Lynette Pearl Wharfe on behalf of Horticulture New Zealand (DPR-0353)

<sup>2</sup> Evidence of Carey Barnett on behalf of Ellesmere Sustainable Agriculture Ltd (DPR-0212)

- 3.2 Upon reflection, I consider that there is inadequate scope to change the instrument from an access strip to an esplanade strip as recommended in the s42A report. I also accept the comments of Mrs Barnett relating to the difficulties associated with limiting access to an access strip based on belonging or otherwise to a particular group.
- 3.3 I therefore recommend that PA-REQ5 be deleted, as requested by ESAI, J Thompson and FFNC.<sup>3</sup> Consequential amendments would also be required to delete PA-SCHED3, Figure PA-FIG2 Waikekewai Creek - Access Strip, Figure PA-FIG3 Un-named Drain, McLachlans Road - Access Strip, SUB-R24.13 – SUB-R24.16 and SUB-R24.20.
- 3.4 The recommended amendments are shown in **Appendix 2**. Scope for the amendments is provided by DPR-0212.067 ESAI, DPR-0379.044 J Thomson, and DPR-0422.183 FFNC.
- 3.5 The areas shown in PA-FIG2 and PA-FIG3 where PA-REQ5 apply are also listed in SASM-SCHED3 – Ngā Wai and their full extent is shown on the planning maps. As such, SUB-R20 Subdivision and Sites and Areas of Significance to Māori will continue to apply, with subdivision in these areas requiring consent as an RDIS activity under SUB-R20.7. The relevant matters for discretion are set out in SASM-MAT3 and include improved access for customary use. I therefore consider that the original intent of PA-REQ5 to provide for the exercise of mana whenua will be achieved, but in a way that is consistent with the provisions of the Act and that provides for direct discussions between tangata whenua and applicants, at the time a subdivision is proposed.

#### 4. SUB-PB Important infrastructure

- 4.1 Mr Bonis presented evidence in support of the submission by CIAL,<sup>4</sup> requesting a policy to specifically address the needs of important infrastructure when considering subdivision. Upon reflection, I consider that it would be appropriate to include such a policy, which would then provide specific support for SUB-R26.
- 4.2 The recommended policy is shown as SUB-PB in **Appendix 2**. Scope for the amendments is provided by DPR-0371.044 CIAL.

#### 5. SUB-R2 and SUB-MAT2 Reverse sensitivity

- 5.1 Ms Wharfe<sup>5</sup> presented written evidence in support of the submission by HortNZ supporting the inclusion of a matter of control addressing reverse sensitivity effects, but notes that the amendments in the s42A report result in inconsistency, in that reverse sensitivity in the Residential zones is included in SUB-MAT2, but that in the General Rural Zone it is included in SUB-R2. Ms Wharfe requested that the matters be listed in the same manner for consistency, and supported the inclusion in each of the relevant zone rules.
- 5.2 I agree that the matters should be listed consistently, but consider that SUB-MAT2 would be a better location. This would mean that subdivisions in the GRUZ other than those subject to SUB-R2 (such as rural boundary adjustments subject to SUB-R12), would also be subject to a requirement to assess reverse sensitivity effects.

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<sup>3</sup> DPR-0212.067 ESAI, DPR-0379.044 J Thomson, DPR-0422.183 FFNC

<sup>4</sup> Evidence of Matthew William Bonis on behalf of Christchurch International Airport Ltd (DPR-0371)

<sup>5</sup> Evidence of Lynette Pearl Wharfe on behalf of Horticulture New Zealand (DPR-0353)

- 5.3 A consequential amendment to SUB-R11.4 would also be required because reverse sensitivity effects would then be assessed under SUB-R11.4.a, and so would not need to be assessed again under SUB-R11.4.c.ii.
- 5.4 The recommended amendments are shown in **Appendix 2**. Scope for the amendments is provided by DPR-0142.027, DPR-0142.030 NZ Pork, DPR-0353.185, DPR-0353.186 HortNZ.

## 6. SUB-R11 and SUB-R26 Noise sensitive activities

- 6.1 Mr Bonis presented evidence in support of the submissions by Midland & Lyttelton Ports<sup>6</sup> and CIAL,<sup>7</sup> regarding the relationship between SUB-R2, SUB-R11 and SUB-R26 for noise sensitive activities.
- 6.2 Mr Bonis was primarily concerned about the activity status when sites are proposed that are smaller than anticipated in the GRUZ. He was less concerned about when sites are proposed to be created that are partly within the Overlays, but where a residential unit can be established outside the Overlay.
- 6.3 The amendments requested by Mr Bonis include changing the activity status for subdivision within the Port Zone 45 dB LAeq Noise Control Overlay from DIS to NC.<sup>8</sup> I am unable to identify any scope for such an amendment, and therefore recommend that it not be made.
- 6.4 The CIAL<sup>9</sup> submission requested a structural amendment to SUB-R26, so that each noise overall has a separate rule, rather than being grouped together based on activity status. While I agree with Ms Barker, the author of the s42A report for the *Noise* chapter, that a separate rule for each overlay would be inappropriate, given the specific amendments that have been made to a number of provisions within SUB-R26, on reflection I consider that a structural amendment to SUB-R26 would be appropriate, so that each overlay is subject to a separate row within the rule.
- 6.5 Following the hearing, Mr Bonis provided a response<sup>10</sup> to the discussion at the hearing. Following discussions with Mr Bonis and Ms Barker, we have come to agreement and together recommend the amendments to SUB-R11 and SUB-R26 shown in in **Appendix 2**. Scope for the amendments is provided by DPR-0371.044 CIAL, DPR-0453.058 Midland & Lyttelton Ports.

## 7. SUB-MAT4 Telecommunications

- 7.1 Mr McCarrison<sup>11</sup> presented evidence in support of the submission by Chorus, Spark & Vodafone, requesting a new rule requirement that all new allotments have provision for telecommunications infrastructure.
- 7.2 Telecommunications infrastructure can be either wired or wireless, and the details of the requirements will differ depending on the nature of the subdivision – for example, a greenfield urban subdivision will have different requirements to a site in the high country. Mr McCarrison indicated that the submitter's main area of concern is in relation to urban subdivision. Subdivision in these areas is already a RDIS activity,

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<sup>6</sup> Evidence of Matthew William Bonis on behalf of Midland Port, Lyttelton Port Company Ltd (DPR-0453)

<sup>7</sup> Evidence of Matthew William Bonis on behalf of Christchurch International Airport Ltd (DPR-0371)

<sup>8</sup> Evidence of Matthew William Bonis on behalf of Midland Port, Lyttelton Port Company Ltd (DPR-0453)

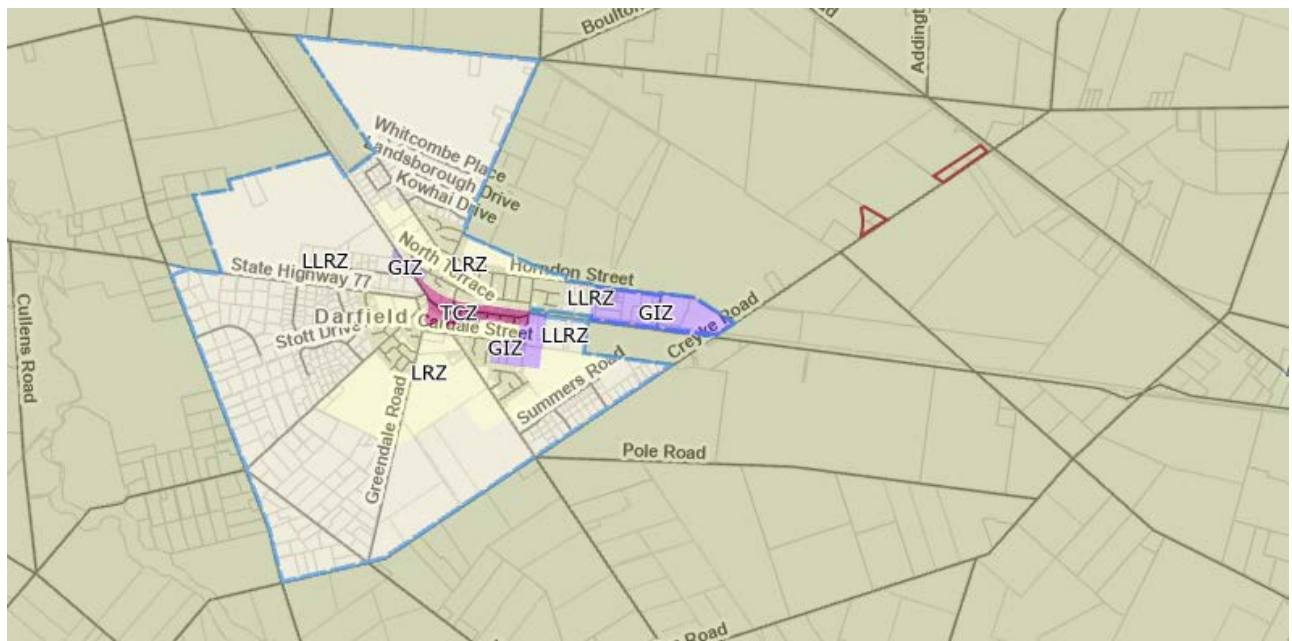
<sup>9</sup> DPR-371.044 CIAL

<sup>10</sup> Response of Matthew William Bonis on behalf of Christchurch International Airport Ltd (DPR-0371) and Midland Port, Lyttelton Port Company Ltd (DPR-0453)

<sup>11</sup> Evidence of Graeme Ian McCarrison, Andrew Kantor and Colin Clune for Chorus New Zealand Limited, Spark New Zealand Trading Limited & Vodafone New Zealand Limited (DPR-0101)

and so I do not consider that an additional REQ is required.

- 7.3 However, I do consider that SUB-MAT4 could be strengthened, particularly in relation to urban subdivision. Mr McCarrison helpfully provided a post-hearing memorandum setting out equivalent provisions in other Canterbury District Plans. The resulting recommended amendments to SUB-MAT4 are shown in **Appendix 2**. Scope for the amendment is provided by DPR-0101.029, DPR-0101.030 Chorus, Spark & Vodafone.
- 7.4 Mr McCarrison's memorandum discusses a 6-lot rural (GRUZ in the PDP) subdivision east of Darfield that was approved in 2020<sup>12</sup> without telecommunications services being installed, with the approx. 1ha sites (two groups of three sites each) shown outlined in dark red in Figure 1 below.



**Figure 1: Location of rural subdivision 195487, Darfield**

- 7.5 As is usual for rural subdivisions in Selwyn under the SDP, the relevant subdivision condition<sup>13</sup> required the consent holder to provide evidence in writing from the relevant authorities that existing electrical and telephone reticulation had the capacity to provide a service connection to all the lots. Such confirmation was provided from Orion (electricity availability) Chorus (copper landline availability) and Scorch Communications (wireless and cellular broadband availability). On this basis, s224 certification was issued on 1 December 2020.

## 8. DEV-LI4

- 8.1 Ms Comfort<sup>14</sup> provided written evidence in support of the submission by Fletcher Residential that the DEV-LI4 map and accompanying text should be amended to reflect the consented subdivision of the area, which has been given effect to insofar as it relates to the need for a 20m setback along Tancred's Rd and part of Birches Road.
- 8.2 Subdivision consent 215328 varies subdivision consent 205677, and was approved on 4 June 2021. Stages

<sup>12</sup> Resource consent 195487, approved 6 January 2020.

<sup>13</sup> Condition 22

<sup>14</sup> Evidence of Julie Anne Comfort for Fletcher Residential Ltd (DPR-0398)



1 – 3 and 6 border the area where the setback applies. S224 certification has been issued for Stages 1 – 3, but Stage 6 has not yet been given effect to. However, I now consider that the development is sufficiently advanced that the requested amendments can be made.

- 8.3 The recommended amendments are shown in **Appendix 2**. Scope for the recommended amendments is provided by DPR-0398-001.

## 9. S32AA assessment

- 9.1 The following points evaluate the recommended amendments under Section 32AA of the RMA. Amendments to the provisions set out in the Officer's reply to panel questions are proposed to improve clarity and ease of use for plan users, and so that the provisions better achieve the objectives and policies of the PDP.

### **Effectiveness and efficiency**

- 9.2 I consider that the amendments recommended in this report would be a more effective and efficient way to achieve the objectives, compared to the notified version and the versions included in the s42A report and the officer's reply to questions from the Panel.

### **Costs and benefits**

- 9.3 The proposed amendments to PA-REQ5 and SUB-R24 would have the benefit of removing provisions that duplicate and are better expressed through the SASM chapter.
- 9.4 The proposed SUB-PB would have the benefit of providing specific policy support to SUB-R26, while the proposed amendments to SUB-R26 would have the benefit of reducing consenting requirements by only requiring an additional layer of consent where a proposed subdivision could only provide a building square within a noise contour. Where a building square can be provided on a proposed site, outside the contour, then the additional consenting requirement is not necessary.
- 9.5 The proposed amendments to SUB-MAT4 would have the benefit of clarifying for the plan users where installing electricity and telecommunication infrastructure is expected as part of a subdivision, and where the costs of installing such infrastructure are expected to fall.

### **Risk of acting or not acting**

- 9.6 As noted in the s32 and s42A reports, it is considered that there is a high level of knowledge of the issues associated with subdivision and public access, such that there is a low risk of acting in the manner proposed.

### **Conclusion as to the most appropriate option**

- 9.7 The recommended amendments are considered to be the most appropriate way to achieve the PA and SUB objectives, compared to the notified version and the versions included in the s42A report and the officer's reply to questions from the Panel.