

# Proposed Selwyn District Plan



## Section 42A Report

Report on submissions and further submissions

Māori Purpose Zone

Ben Baird

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

Submitter ID	Submitter Name	Abbreviation
DPR-0032	Christchurch City Council	CCC
DPR-0207	Selwyn District Council	SDC
DPR-0260	Canterbury Regional Council (Environment Canterbury)	CRC
DPR-0269	Heritage New Zealand Pouhere Taonga	Heritage New Zealand
DPR-0298	Trices Road Re-zoning Group	Trices Rd
DPR-0353	Horticulture New Zealand	Hort NZ
DPR-0358	Rolleston West Residential Limited (RWRL)	RWRL
DPR-0363	Ipport Rolleston Holdings Limited (IRHL)	IRHL
DPR-0371	Christchurch International Airport Limited (CIAL)	CIAL
DPR-0374	Rolleston Industrial Holdings Limited (RIHL)	RIHL
DPR-0378	The Ministry of Education	MoE
DPR-0384	Rolleston Industrial Developments Limited (RIDL)	RIDL
DPR-0414	Kāinga Ora - Homes & Communities	Kāinga Ora
DPR-0422	Federated Farmers of New Zealand - North Canterbury	NCFF
DPR-0453	Midland Port, Lyttelton Port Company Limited (LPC)	LPC
DPR-0455	Paul & Fay McOscar	The McOscars
DPR-0456	Four Stars Development & Gould Developments Ltd	Four Stars & Gould

Please refer to **Appendix 1** to see where each submission point is addressed within this report.

## Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
CRPS	Canterbury Regional Policy Statement 2013
IMP	Mahaanui Iwi Management Plan 2013
Planning Standards	National Planning Standards
NPS-UD	National Policy Statement on Urban Development
NPS-UDC	National Policy Statement on Urban Development Capacity
PDP	Proposed Selwyn District Plan
RMA or Act	Resource Management Act 1991

## 1. Purpose of report

- 1.1 This report is prepared under s42A of the RMA in relation to the Māori Purpose Zone Chapter in the PDP. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this topic and to make recommendations on either retaining the PDP provisions without amendment or making amendments to the PDP in response to those submissions.
- 1.2 The recommendations are the evaluation undertaken by myself as the planning author. In preparing this report I have had regard to the s42A report on Strategic Directions prepared by Mr Love, the Overview s42A report that addresses the higher order statutory planning and legal context, also prepared by Mr Love, the Part 1 s42A report prepared by Ms Tuilaepa, and the Rural Chapter s42A prepared by Mr Trewin.
- 1.3 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

## 2. Qualifications and experience

- 2.1 My full name is Benjamin Moffat Baird. I am employed by the Council as a Senior Strategy and Policy Planner within the Strategy and Policy Team. My qualifications include a Bachelor's of Science in Economics from the University of Canterbury and Masters of Environmental Policy in Planning from Lincoln University. I am an Intermediate member of the NZPI.
- 2.2 I have 6.5 years' experience as a resource management planner, with this work including work on the Christchurch Replacement District Plan, including s42A report writing. I have also been involved in the development of various baseline and preferred option reports within the PDP process, including Hazardous Substances, Temporary Activities, Māori Purpose, Earthworks, as well as the development of the Urban Growth Chapter. I am also involved in the Greater Christchurch response to the National Policy Statement on Urban Development (NPS-UD), as well as the previous development of Our Space.
- 2.3 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

## 3. Scope of report and topic overview

- 3.1 This report considers the submissions and further submissions that were received in relation to the Māori Purpose Zone.
- 3.2 Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 2** to this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where

it is considered that an amendment may be appropriate but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report. Where no amendments are recommended to a provision, submissions points that sought the retention of the provision without amendment are not footnoted. Appendix 2 also contains a table setting out recommended spatial amendments to the PDP Planning Maps.

- 3.3 Clause 16(2) of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. A number of alterations have already been made to the PDP using cl.16(2) and these are documented in reports available on the Council's website. Where a submitter has requested the same or similar changes to the PDP that fall within the ambit of cl.16(2), then such amendments will continue to be made and documented as cl.16(2) amendments and identified by way of a footnote in this s42A report.

## 4. Statutory requirements and planning framework

### ***Resource Management Act 1991***

- 4.1 The PDP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, the New Zealand coastal policy statement, national planning standards; and any regulations<sup>1</sup>. Regard is also to be given to the CRPS, any regional plan, district plans of adjacent territorial authorities, and the IMP.
- 4.2 As set out in the [‘Overview’ Section 32 Report](#), and [‘Overview’ s42a Report](#), there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. These documents are discussed in more detail within this report where relevant to the assessment of submission points. This report also addresses any definitions that are specific to this topic, but otherwise relies on the s42A report that addresses definitions more broadly.
- 4.3 The assessment of submission points is made in the context of the Section 32 reports already undertaken with respect to this topic, being:
- [Strategic Directions](#); and
  - [Special Purpose Māori Purpose](#).

### ***National Planning Standards***

- 4.4 As set out in the [PDP Overview s42A Report](#), the Planning Standards were introduced to improve the consistency of council plans and policy statements. The Planning Standards were gazetted and came into effect on 5 April 2019. The PDP must be prepared in accordance with the Planning Standards.
- 4.5 The Planning Standards outline a specific special purpose zone called the Māori Purpose zone. This is described as ‘areas used predominantly for a range of activities that specifically meet Māori

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<sup>1</sup> Section 74 RMA

cultural needs including but not limited to residential and commercial activities'. This description is consistent with the objective of this zone and therefore I consider that this is the most appropriate zone under the planning standards.

## 5. Procedural matters

- 5.1 At the time of writing this s42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.

## 6. Consideration of submissions

### *Overview of submissions*

- 6.1 There are 16 submission points and 29 further submission points. These seek minor amendments to the chapter and the general inclusion of non-notification clauses.

### *Structure of this report*

- 6.2 The report first discusses the general support for the zone and objective, then the specific policy and rule changes, and then the use of non-notification clauses.
- 6.3 The assessment of submissions generally follows the following format: Submission Information; Analysis; and Recommendation and Amendments. Where an amendment is recommended the applicable s32AA assessment will follow on from the Recommendations section for that issue.

## 7. Zone and Objective

### *Introduction*

- 7.1 This section responds to the submission points relating to the zone and objective.

### *Submissions*

- 7.2 Three submissions points and four further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	CRC	174	MPZ-O1	Support	Retain as notified.
DPR-0269	Heritage New Zealand	029	MPZ	Support	Retain policies which recognise the significance and protect the values of sites and areas of significance to Maori.
DPR-0353	Hort NZ	188	Objectives	Oppose In Part	Amend zone objectives to clearly identify the anticipated development outcomes of the zones.
DPR-0358	RWRL	FS106	Objectives	Oppose	Reject
DPR-0363	IRHL	FS106	Objectives	Oppose	Reject
DPR-0374	RIHL	FS106	Objectives	Oppose	Reject
DPR-0384	RIDL	FS106	Objectives	Oppose	Reject

### ***Analysis***

- 7.3 Heritage New Zealand and CRC<sup>2</sup> support the zone and objective. This support is noted and I recommend that these submission points are accepted.
- 7.4 Hort NZ<sup>3</sup> seeks that the PDP objectives clearly identify anticipated development outcomes. Development outcomes are outlined in the National Policy Statement on Urban Development (NPS-UD). This states that every zone in the urban environment describe the development outcomes for the zone over the life of the plan (Section 3.35 of the NPS-UD). The Specific Purpose Zone is outside the urban environment of Greater Christchurch so development outcomes are not compulsory to meet the requirements of the NPS-UD, however it is good planning practice.
- 7.5 When considering the objectives and policies in terms of development outcomes, the overarching idea is that the district plan should not restrict the ability for Ngāi Tahu whānui to occupy and use ancestral land. It is my opinion that explicitly stating specific development outcomes may, in fact, restrict the potential occupation and use of ancestral land. Further, without any direction and input from runanga on what the development outcomes should be, I recommend that the objectives and policies remain and that the submission point be rejected.

### ***Recommendation***

- 7.6 I recommend, for the reasons given above, that the Hearings Panel retain the provision as notified.
- 7.7 It is recommended that submissions and further submissions are accepted as shown in **Appendix 1**.

## **8. Policies**

### ***Introduction***

- 8.1 This section responds to the submission points relating to the policies.

### ***Submissions***

- 8.2 Five submissions points and no further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0260	CRC	175	MPZ-P1	Support	Retain as notified.
DPR-0260	CRC	176	MPZ-P2	Support	Retain as notified.
DPR-0260	CRC	177	MPZ-P3	Support	Retain as notified.
DPR-0353	Hort NZ	298	MPZ-P2	Support	Retain as notified
DPR-0353	Hort NZ	299	MPZ-P4	Oppose In Part	Amend as follows: Enable rural activities in a manner consistent with the provisions of the <u>General Rural Zone</u> Chapter.

<sup>2</sup> DPR-0260.174, and DPR-0269.029

<sup>3</sup> DPR-0353.188

### ***Analysis***

- 8.3 CRC and Hort NZ<sup>4</sup> support MPZ-P1 to MPZ-P3. This support is noted and I recommend that these submission points are accepted.
- 8.4 Hort NZ<sup>5</sup> seek a change to the wording of MPZ-P4 to expand 'Rural Chapter' to 'General Rural Zone Chapter'. I note that the current hyperlink does lead to the General Rural Zone Chapter. The wording changes will clarify what is being considered here and I recommend acceptance of the changes and that the submission point be accepted.

### ***Recommendations and amendments***

- 8.5 I recommend, for the reasons given above, that the Hearings Panel:
- a) Amend MPZ-P4's reference to the rural chapter to provide better clarity;
- 8.6 The amendments recommended to MPZ-P4 are set out in a consolidated manner in **Appendix 2**.
- 8.7 It is recommended that submissions and further submissions are accepted as shown in **Appendix 1**.
- 8.8 The scale of change does not require a s32AA evaluation.

## **9. Rules**

### ***Introduction***

- 9.1 This section responds to the submission points relating to the rules.

### ***Submissions***

- 9.2 Four submissions points and no further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0378	MoE	038	MPZ-R6	Oppose	Amend as follows: 6. In accordance with GRUZ-R35 - Educational facility <u>Activity Status: NC RDIS</u>
DPR-0455	The McOscars	015	MPZ-R9	Oppose In Part	The Council may wish to consider establishing graded categories and apply appropriate rules and charges that are relative to bed spaces available.
DPR-0207	SDC	074	MPZ-R10	Oppose	Amend as follows: Where: ... <del>b. At least one person engaged in the home business must use the residential unit as their principal place of residence; and</del>
DPR-0269	Heritage New Zealand	028	MPZ-R11	Support In Part	Not specified.

<sup>4</sup> DPR-0260.175, DPR-0260.176, DPR-0260.177, and DPR-0353.298

<sup>5</sup> DPR-0353.299



### ***Analysis***

- 9.3 MoE<sup>6</sup> seeks amendments to MPZ-R6 relating to educational facilities. MoE is concerned generally with the proposed non-complying status for educational facilities in rural areas. The Māori Purpose Zone works on land classification where land defined as 'Maori Land' has separate more enabling provisions. The Māori Purpose Zone then replicates the rural provisions for the rest of the land (or 'General Land') Therefore, any amendment needs to be consistent with the changes recommended in the General Rural Zone. As the s42A Report for the General Rural Zone chapter did not recommend any changes to the activity status for educational facilities (under GRUZ-R35) I therefore recommend that this point is rejected.
- 9.4 The McOscars<sup>7</sup> seek amendments to MPZ-R9 relating to visitor accommodation, seeking graded categories of activities relative to the number of beds provided. Visitor accommodation is currently a permitted activity within a building on Māori land, and I consider that this is consistent with the objectives and policies of the zone. On general land, it is permitted subject to standards. The s42A Report for the General Rural Zone chapter did not recommend any changes to the activity status GRUZ-R15 (Visitor Accommodation) and therefore I recommend that this point is rejected.
- 9.5 SDC<sup>8</sup> seeks amendments to MPZ-R10 relating to home business. This seeks the deletion of Clause b. that requires at least one person engaged to use the residential unit as their residence. This is to be consistent with other rules across the PDP and delete unnecessary duplication of the requirement within the definition. This change is appropriate and I recommend that this submission point is accepted.
- 9.6 Heritage New Zealand<sup>9</sup> supports MPZ-R11 but want to understand runanga's view on irrigation and spray drift on urupa. It is unclear what relief is being sought, though I note that the matter seems more relevant to regional council functions under the Canterbury Air Regional Plan than the PDP. The support is noted and I recommend that the submission point is accepted.

### ***Recommendations and amendments***

- 9.7 I recommend, for the reasons given above, that the Hearings Panel:
- a) Amend MPZ-R10's relating to home business to provide better consistency;
- 9.8 The amendments recommended to MPZ-R10 are set out in a consolidated manner in **Appendix 2**.
- 9.9 It is recommended that the submission and further submission points are either accepted or rejected as shown in **Appendix 1**.
- 9.10 The scale of change does not require a s32AA evaluation.

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<sup>6</sup> DPR-0378.038

<sup>7</sup> DPR-0455.015

<sup>8</sup> DPR-0207.074

<sup>9</sup> DPR-0269.028

## 10. Non-notification Clauses

### **Introduction**

10.1 This section responds to the submission points relating to the use of non-notification clauses.

### **Submissions**

10.2 Four submissions points and 25 further submission points were received in relation to this subtopic.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0358	RWRL	410	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS196	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	Trices Road	FS927	Support	Accept submission
DPR-0371	CIAL	FS048	Support In Part	Accept in part
DPR-0414	Kāinga Ora	FS121	Support	Not Specified
DPR-0453	LPC	FS048	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS017	Support	Accept submission
DPR-0363	IRHL	454	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS249	Oppose In Part	Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.
DPR-0298	Trices Road	FS980	Support	Accept submission
DPR-0371	CIAL	FS170	Support In Part	Accept in part
DPR-0414	Kāinga Ora	FS174	Support	Not Specified
DPR-0422	NCCF	FS227	Support In Part	Allow the submission on controlled activity. Disallow the submission point that notification is not required for all restricted discretionary applications.
DPR-0453	LPC	FS168	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS070	Support	Accept submission

DPR-0374	RIHL	500	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS287	Oppose In Part	<i>Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.</i>
DPR-0298	Trices Road	FS1007	Support	Accept submission
DPR-0371	CIAL	FS100	Support In Part	Accept in part
DPR-0414	Kāinga Ora	FS208	Support	Not Specified
DPR-0453	LPC	FS100	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS104	Support	Accept the submission
DPR-0384	RIDL	533	Oppose	Insert the following words, or words to the like effect, to all controlled and restricted discretionary activity rules: <u>Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion.</u>
DPR-0032	CCC	FS322	Oppose In Part	<i>Do not limit notification where neighbouring properties, communities, or the wider district are potentially directly affected and the adverse effects are potentially more than minor or where the Act requires notification.</i>
DPR-0298	Trices Road	FS890	Support	Accept submission
DPR-0371	CIAL	FS134	Support In Part	Accept in part
DPR-0414	Kāinga Ora	FS242	Support	Not Specified
DPR-0453	LPC	FS134	Support In Part	Accept in part
DPR-0456	Four Stars & Gould	FS138	Support	Accept the submission

### Analysis

10.3 RWRL, IRHL, RIHL, and RIDL<sup>10</sup> seek that for all controlled or restricted discretionary activities a non-notification clause is included. I do not consider sweeping exemptions to notification requirements to be sound planning practice as there may be occasions when activities give rise to adverse effects where specific parties or the community should be consulted. Therefore, I recommend that the submission points are rejected.

### Recommendations and amendments

10.4 I recommend, for the reasons given above, that the Hearings Panel retain the provisions as notified.

<sup>10</sup> DPR-0358.410, DPR-0363.454, DPR-0374.500, and DPR-0384.533

- 10.5 It is recommended that the submission and further submission points are either accepted or rejected as shown in **Appendix 1**.

## 11. Conclusion

- 11.1 For the reasons set out in the Section 32AA evaluations and included throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.