

Proposed Selwyn District Plan



Right of Reply Report

Designations

Rachael Carruthers

30 September 2022

Contents

List of submitters and further submitters addressed in this report	3
Abbreviations	3
1. Purpose of Report	3
2. Hearing Panel's Questions to the s42a Reporting Officer and/or the Submitters and their Response 3	
[1] CPW-1 Central Plains Water Scheme.....	3
[2] MDEF-3 West Melton Rifle Range	4
[3] SDC-196 West Melton Domain	5
3. Amendment to proposed designation MEDU-29 Rolleston Christian School	5
4. Post-notification amendments to designations.....	6
MEDU-Minister of Education	7
ORION-Orion	7
NZTA-New Zealand Transport Agency	8
SDC-Selwyn District Council	8
TPR-Transpower New Zealand Ltd	8
Appendix 1 Table of submission points	9
Appendix 2 Recommended amendments	10
Appendix 3 Joint memorandum of counsel for Fonterra Limited and Central Plains Water Limited	11
Appendix 4 NZDF Proposed Noise Management Plan condition (updated post-hearing)	11
Appendix 5 SDC-196 West Melton Domain, light pole plans.....	13
Appendix 6 MEDU-29 Rolleston Christian School, NOR to remove parking condition.....	14

List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0185	Richard & Suzanne Nesbitt	R & S Nesbitt
DPR-0199	Terry & Barbara Heiler	T & B Heiler
DPR-0261	Alastair & Jenny Nicol	A & J Nicoll
DPR-0264	Sally Gardner	S Gardner
DPR-0335	Ken & Pru Bowman	K & P Bowman
DPR-0370	Fonterra Limited	Fonterra
DPR-0433	Lindsay & Averil Halliday	L & A Halliday
DPR-0448	New Zealand Defence Force	NZDF
DPR-0454	Central Plains Water Limited	CPW

Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
CRPS	Canterbury Regional Policy Statement 2013
IMP	Mahaanui Iwi Management Plan 2013
MRZ	Medium density residential zone
NMP	Noise Monitoring Plan
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
SDP	Operative Selwyn District Plan

1. Purpose of Report

- 1.1 The purpose of this report is to respond to the questions raised by the Hearings Panel during Hearing 29: Designations, 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 s171 evidence report.

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 Designations Chapter, which sat on 10 May 2022.
- 2.2 The Hearing Panel questions have been addressed in order of how the designations appear in the PDP.

[1] CPW-1 Central Plains Water Scheme

- 2.3 Fonterra¹ and CPW² have lodged a joint memorandum of counsel in relation to CPW-1, recording the

¹ DPR-0370

² DPR-0454

outcome of further discussions between the parties in relation to their submissions on that designation.³ These discussions had been anticipated in the s42A report, and the joint memorandum of counsel is attached as **Appendix 3** to this report.

- 2.4 The parties have since agreed to an alignment for CPW-1 so far as it relates to Fonterra's land. Appendix A to **Appendix 3** sets out the agreed alignment.
- 2.5 In light of this agreement between the affected parties, I recommend that:
 - a. the alignment of CPW-1 be amended as set out in Appendix A to the joint memorandum of counsel; and
 - b. a consequential amendment to DPZ-SCHED2 be made to reflect the amended alignment.
- 2.6 The recommended amendments are shown in a consolidated manner in **Appendix 2** of this report.
- 2.7 The nature of the amendments are such that a s32AA assessment is not required.

[2] MDEF-3 West Melton Rifle Range

- 2.8 The s171 report recommended that a condition be imposed on the designation, requiring the development of a Noise Management Plan (NMP) for activities on the range. This was accepted by the representatives of NZDF, but only if the Hearing Panel for the Noise Chapter consider that it is appropriate to manage noise sensitive activities within the noise contours identified by NZDF to address reverse sensitivity effects. Ms Baverstock provided the hearing with an amended version of the condition included in the s171 report.
- 2.9 I agree with Ms Baverstock that such a condition is appropriate only if noise sensitive activities within the NZDF noise contours are to be managed through PDP rules.
- 2.10 I disagree with the submitters who have, in essence, requested that restrictions on the creation of noise from the Range be imposed, either through the imposition of noise limits, or through a more detailed NMP condition on the designation. The effect of a designation is that, beyond the s16 RMA obligation to avoid unreasonable noise, the rules of a district plan do not apply when the site is being used for its designated purpose. When balancing the operation of the Range against activities in the surrounding area, the CRPS requires the PDP to tilt strongly in the direction of not adversely affecting the efficient operation, use, development, appropriate upgrade, and future planning of the site.⁴
- 2.11 In the event that such rules are recommended by the Hearing Panel for the Noise Chapter, the Chair directed Ms Baverstock to review her suggested condition and provide the Panel with a revised version that took into account the discussion at the hearing. Ms Baverstock's amended condition was provided on 19 May 2022 and is attached as **Appendix 4**. Following consultation with Ms Vicki Barker and Dr Jeremy Trevathan, Council's s42A Officer and technical expert for the Noise Chapter, respectively, I recommend that the amended NMP condition suggested by Ms Baverstock on 19 May 2022 be imposed on MDEF-3 West Melton Rifle Range without further amendment, as shown in **Appendix 2**.

³ DPR-0370.105 Fonterra, DPR-0454.015, DPR-0454.016 CPW, discussed in Section 7 of the s42A report

⁴ CRPS Objective 6.2.1.10

[3] SDC-196 West Melton Domain

- 2.12 R & S Nesbitt⁵ submitted in relation to the West Melton Domain. Following discussion at the hearing, the Chair asked for details of the existing lighting at West Melton Domain.
- 2.13 Resource consent R304496 was granted in September 2000 to reposition two of the four existing light poles within the domain, at some distance from the Nesbitt property. At this time, the site was not designated, but was zoned Recreation 1 under the Transitional Selwyn District Plan (Paparua Section). Consent was required for a recession plane breach. This was before notification of the Rural Volume of what is now the Operative District Plan in September 2001, and so there were no provisions managing light spill.
- 2.14 Resource consent 135170 was approved in 2013 to install a further three light poles, each supporting three 1000-watt lamps for sports field flood lighting. These are three of the poles referred to by R & S Nesbitt in their submission, and the relevant plans are attached as **Appendix 5**. There is no readily identifiable record of the installation of the fourth pole referred to by the Nesbitts, closest to their house.
- 2.15 Mark Rykers, Council's Manager Open Space and Strategy, has advised that, to the best of his knowledge, the lamps in each pole are original and have not been replaced since they were installed.
- 2.16 A 2020 internal review of lighting at Council sports parks identified a potential issue with Number 1 rugby field and the netball courts at West Melton (no measurements were undertaken), but no issue was identified with the lighting of the fields closest to the Nesbitt's boundary. Mr Rykers anticipates that, if there is an actual issue with the Number 1 rugby field and netball court lights, this will be resolved when the existing lamps reach their end of life and are replaced – likely with LED lamps.
- 2.17 The NOR for West Melton Domain includes proposed conditions to manage light spill. On the basis of the above, I continue to recommend that the Hearings Panel retain SDC-196 West Melton Domain as notified.

3. Amendments to proposed designation MEDU-29 Rolleston Christian School

- 3.1 On 18 August 2022, the Minister of Education lodged a notice of requirement to alter the designations for three schools in Rolleston, to remove conditions requiring the provision of on-site parking at specified rates (**Appendix 6**). The alterations to MEDU-19 Lemonwood Grove School and Waitaha School and MEDU-30 Acland Park School will be made in accordance with s181 RMA,⁶ but an alteration can only be made to an operative designation. The designation for MEDU-29 Rolleston Christian School is being considered through the PDP process, and so is not operative and the s181 process cannot be used.
- 3.2 The National Policy Statement on Urban Development 2020 (NPS-UD) came into force on 20 July 2020. Among a number of objectives and policies for achieving well-functioning urban environments, the NPS-UD requires territorial authorities to remove all minimum car parking requirements from district plans (Policy 11 and Part 3: Subpart 8, Section 3.38). The provisions needed to be complied with no later than 19 months after the commencement date (i.e. by 20 January 2022).
- 3.3 In accordance with these requirements SDC has removed any minimum car parking provisions from the

⁵ DPR-0185

⁶ It is anticipated that these amendments will be considered by Council at their next meeting on 16 November 2022.

PDP. SDC was unable to remove minimum car parking provisions from non-SDC designations when the other provisions were removed, because Council does not have the jurisdiction to make such changes.

- 3.4 On 15 September 2022, The Minister of Education requested a further amendment to MEDU-29 Rolleston Christian School (**Appendix 6**), for consistency with s77M RMA, which was inserted by s9 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. Section 77M states that works undertaken within a relevant residential zone (such as MEDU-29) under a Minister of Education designation may rely on the Medium Density Residential Standards (MDRS) if those provisions are more lenient than conditions included in the designation.
- 3.5 Although the letter relates only to MDRS standards, it also requests the deletion of Condition 4, which relates to the location of car parking areas within the site. The NPS-UD does not require the removal of this type of condition (where parking is chosen to be provided, there can be standards applied to such parking), and the MDRS do not apply to car parking. As such, I do not support the use of this process to delete Condition 4.
- 3.6 The remaining proposed alterations are administrative in nature, and are consistent with other alterations that have been requested to operative Minister of Education designations in Rolleston.⁷ The removal of parking conditions (Condition 7) is required by the NPS-UD, and the amendments to bulk and location (Conditions 1-3, 5 and 8) are for consistency with s77M RMA. The alterations will result in no immediate change to the effects on the environment, but instead will achieve consistency with government requirements.
- 3.7 I therefore recommend that Condition 4 be retained as notified, Conditions 1-3, 5 and 8 be amended and Condition 7 be deleted as shown in **Appendix 2**.
- 3.8 Should Variation 1 to the PDP be approved such that the site is zoned MRZ, I recommend that consideration be given to a further amendment to Condition 8 so that, for clarity and ease of use, reference is instead made to compliance with Height in Relation to Boundary D as shown in APP3 - Height in Relation to Boundary.
- 3.9 The nature of the amendment is such that a s32AA assessment is not required.

4. Post-notification amendments to designations

- 4.1 Since the notification of the PDP, Council has received notices of requirement to amend existing SDP designations and to introduce new ones. Where the requiring authority has issued their decision under s175(1) RMA, s175(2) RMA requires:

- (2) The territorial authority must, as soon as practicable and without using Schedule 1,—
- (a) include the designation in its district plan and any proposed district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act; and
 - (b) state in its district plan and in any proposed district plan the name of the requiring authority that has the benefit of the designation.

⁷ It is anticipated that these amendments will be considered by Council at their next meeting on 16 November 2022.

- 4.2 The PDP will therefore need to be updated before the Panel make their final recommendations on designations, to reflect the changes that have been made to SPD designations that need to be reflected in the PDP. At the time of this report, the affected designations are:

MEDU-Minister of Education

- A new designation for a second Rolleston Secondary School at 700 Selwyn Road Rolleston (the designation is still under consideration at this time) (SDC file D220002)
- MEDU-11 Clearview School Rolleston – minor amendments are proposed for consistency with MDRS provisions (SDC file D220003)⁸ (**Appendix 2**). Should Variation 1 to the PDP be approved, I recommend that consideration also be given to a further amendment to Condition A so that, for clarity and ease of use, reference is instead made to compliance with Height in Relation to Boundary D as shown in APP3 - Height in Relation to Boundary.
- MEDU-17 Rolleston College, Rolleston – minor amendments are proposed for consistency with MDRS provisions (SDC file D220004)⁹ (**Appendix 2**). Should Variation 1 to the PDP be approved, I recommend that consideration also be given to a further amendment to Condition 2 so that, for clarity and ease of use, reference is instead made to compliance with Height in Relation to Boundary D as shown in APP3 - Height in Relation to Boundary.
- MEDU-18 West Rolleston School, Rolleston – minor amendments are proposed for consistency with MDRS provisions (SDC file D220005)¹⁰ (**Appendix 2**). Should Variation 1 to the PDP be approved, I recommend that consideration be given to a further amendment to Condition 1 so that, for clarity and ease of use, reference is instead made to compliance with Height in Relation to Boundary D as shown in APP3 - Height in Relation to Boundary.
- MEDU-19 Lemonwood Grove School and Waitaha School, Rolleston – minor amendments are proposed for consistency with NPS-UD parking provisions (SDC file D220007)¹¹ (**Appendix 2**).
- MEDU-30 Acland Park School, Rolleston – minor amendments are proposed for consistency with NPS-UD parking provisions, and to reflect the updated site name (SDC file D220006)¹² (**Appendix 2**).

ORION-Orion

- New designation for a Zone Electricity Substation at 594 Highfield Road, Norwood (SDP reference OR12, SDC file D210005)¹³ (**Appendix 2**).

⁸ It is anticipated that these amendments will be considered by Council at their next meeting on 16 November 2022.

⁹ It is anticipated that these amendments will be considered by Council at their next meeting on 16 November 2022.

¹⁰ It is anticipated that these amendments will be considered by Council at their next meeting on 16 November 2022.

¹¹ It is anticipated that these amendments will be considered by Council at their next meeting on 16 November 2022.

¹² It is anticipated that these amendments will be considered by Council at their next meeting on 16 November 2022.

¹³ Included in the SDP 7 April 2022

NZTA-New Zealand Transport Agency

- NZTA-2 has been altered for road widening along a section of State Highway 73 (SH73) in order to support the SH73 / Weedons Ross Road intersection improvements at West Melton (SDP Reference TR1) (SDC file D210004)¹⁴ (**Appendix 2**).
- NZTA-7 is proposed to be altered to facilitate a smaller design than originally proposed (the designation is still under consideration at this time) (SDC file D220001).

SDC-Selwyn District Council

- New designations have been introduced for water treatment facilities at 160 Bangor Rd, Darfield (SDP reference D420, SDC file D200208),¹⁵ 1695 Hoskyns Road, Kirwee (SDP reference D422, SDC file D210001)¹⁶ and Shands Road, Prebbleton (SDP reference D424, SDC file D210003)¹⁷ (**Appendix 2**).
- A new designation has been introduced for a water reservoir facility, on land adjacent to 213 Pocock Road, Springfield (SDP reference D423, SDC file D210002)¹⁸ (**Appendix 2**).
- A new designation has been introduced for Prebbleton Recreation Reserve at 27 Hamptons Road Prebbleton (SDP reference D421, SDC file D200088)¹⁹ (**Appendix 2**).
- SDC-22 Pines Resource Recovery Park has been altered to amend the conditions relating to public access to the facility (SDC file D210007)²⁰ (**Appendix 2**).

TPR-Transpower New Zealand Ltd

- A new designation has been introduced for a National Grid Electricity Substation at 594 Highfield Road Norwood, including associated 220 kV transmission line connection and ancillary works (SDP reference TP5)²¹ (**Appendix 2**).

4.3 The amendments resulting from these alterations and insertions are shown highlighted grey in **Appendix 2**. Where noted in **Appendix 2**, minor amendments are proposed for consistency with Planning Standards defined terms, to recognize the operative status of a designation, or for grammar. The nature of these recommended amendments are such that a s32AA assessment is not required.

¹⁴ Included in the SDP 12 April 2022

¹⁵ Included in the SDP 14 October 2020

¹⁶ Included in the SDP 14 April 2021

¹⁷ Included in the SDP 7 April 2022

¹⁸ Included in the SDP 12 May 2021

¹⁹ Included in the SDP 11 March 2021

²⁰ Included in the SDP 7 April 2022

²¹ Included in the SDP April 2022