

Before an Independent Commissioner
At Selwyn District

under: the Resource Management Act 1991

in the matter of: an application to the Selwyn District Council
(RC246049) to erect a residential unit on an
undersized rural allotment at McDonald Road, Lincoln

between: **Paul & Jo-Anne Campbell**
Applicants

and: **Selwyn District Council**
Consent Authority

Statement of Evidence of Bryan McGillan

Dated: 21 July 2025

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STATEMENT OF EVIDENCE OF BRYAN MCGILLAN

INTRODUCTION

- 1 My full name is Bryan McGillan.
- 2 I have completed a Bachelor of Applied Science (Resource Management), and I am a full member of NZPI.
- 3 I am employed by Eliot Sinclair and Partners Limited as Planning Team Leader. I have worked for Eliot Sinclair on resource management and planning matters for the last 3.5 years. Prior to being employed by Eliot Sinclair I worked as a senior planner for Pattle Delamore Partners for 5 years and Mahaanui Kurataiao Ltd for the previous four years.
- 4 My previous work experience includes experience in the field of resource management for over 25 years in resource management and land use planning in both the public and private sectors.
- 5 I am familiar with the resource consent application by Paul & Jo-Anne Campbell (*the Applicant*) to erect a residential unit on an undersized rural allotment at McDonald Road, Lincoln (*Application*) (RC246049).

CODE OF CONDUCT

- 6 I have read the Environment Court's Code of Conduct for Expert Witnesses in its Environment Court Practice Note 2023 and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are 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.

SCOPE OF EVIDENCE

- 7 My evidence will deal with the following:
 - 7.1 The planning context for the Application;
 - 7.2 The S42A Report conclusions on precedent and plan integrity and my response to those conclusions;
 - 7.3 The nature and effects of the Application within the receiving environment;
 - 7.4 Consistency of the Application with the relevant rules, objectives and policies of the POSDP, CRPS and NPS-HPL; and
 - 7.5 An overall conclusion.

8 In preparing my evidence, I have reviewed:

- 8.1 The Application;
- 8.2 The Section 95 Notification Decision;
- 8.3 The Section 42A report and its appendices;
- 8.4 The Neighbours' Submissions; and
- 8.5 Expert advice from The AgriBusiness Group and Council advisors.

PLANNING CONTEXT AND EXISTING ENVIRONMENT

- 9 The Site is a rural allotment in the General Rural Zone under the Partially Operative Selwyn District Plan (*POSDP*). The Application is non-complying under GRUZ-R5 and GRUZ-P2 due to the undersized nature of the Site. The Application involves a single, modest residential unit (72m²) with associated infrastructure.
- 10 The Site has a total site area of 2.0234 ha, and historically (since ~1800), it was identified as a reserve (Legal Description Reserve 3537); the Site was issued as a fee simple estate on 10 May 2023 with encumbrances recorded on the title.¹
- 11 A 216m² 2019 consented (RC195342) farm building is currently on the site, and a container shed in the northwestern corner (i.e. no residential dwelling). There is existing heavy vegetation on the English Road frontage, which effectively screens the existing building and will be retained.
- 12 The adjoining properties are a combination of residential dwellings on lifestyle blocks and rural pastoral land further to the west, consistent with the predominant land use in the area. There is an existing level of residential development in the surrounding environment with land parcels with dwellings varying between 1.59 ha and 10 ha in the immediate vicinity.

¹ AEE, Appendix G Record of Title.



Figure 1: Illustrates predominance of sub-20ha Lots in area surrounding applicants Site.

- 13 I consider the Application to be consistent with that existing environment as the Site is already developed with accessory sheds and is surrounded by lots that are mostly below 20 ha in size (including the neighboring submitter properties), contributing to a fragmented rural-residential pattern.
- 14 The Applicants are familiar with the area and the rural environment. If the Application is granted, it is the Applicant's intention to continue to focus on their boutique Texel Stud programme, which they are currently unable to undertake due to not being able to reside on the property. It is noted that a stud of this nature requires a high level of monitoring and engagement.
- 15 This is not an application for subdivision creating an undersized allotment as the Site already exists; rather, it is an application for the efficient use of the Site that meets the Applicant's needs and avoids reverse sensitivity issues.

SECTION 42A REPORT

- 16 The S42A Report concludes that the effects of the Application are no more than minor but recommends declining consent, citing concerns regarding precedent and undermining of plan integrity.
- 17 I agree with the S42A Report that the effects of the Application will be no more than minor but disagree with the S42A Report recommendation to decline consent. My evidence responds to these conclusions below.

Precedent Effects

- 18 The S42A Report declines consent on the basis that approval would create negative precedent effects.
- 19 I disagree for the following reasons:
- 19.1 **Site-specific context:** The Site has been in existence since the ~1800. It is part of a pre-existing pattern of smaller lifestyle lots, many containing dwellings. Approval here does not facilitate new subdivision or encourage repeatable intensification.
 - 19.2 **Non-replicable factual matrix:** The combination of legal title, established ancillary structures, vegetative screening, and proposed land use (Texel stud farming) makes this a rare situation. Few sites in the district match this configuration.
 - 19.3 **Case-by-case assessment:** The RMA mandates that applications be assessed individually. Precedent is not determinative where strong contextual differences exist.
 - 19.4 **Minor adverse effects:** As accepted by the reporting officer, adverse effects are no more than minor. This limits the significance of any precedent concern, as part of the specific factual circumstances related to this Application.
 - 19.5 **Economic deterrents:** The Applicants have invested significantly in expert reporting and assessments, presenting a natural deterrent to casual or speculative applications.

Plan Integrity

- 20 The S42A Report declines consent on the basis that approval would be contrary to directive policies GRUZ-P2 and GRUZ-P7.
- 21 In response:
- 21.1 **GRUZ-P2 – Interpretation:** While directive in form, GRUZ-P2 must be read in the broader policy context. The Site is not proposed for subdivision and has long been fragmented. The policy's core intent—avoiding further fragmentation and cumulative residential activity—is not engaged.
 - 21.2 **GRUZ-P7 – Reverse Sensitivity:** The proposed dwelling exceeds all setback requirements, with 80m+ separation from the nearest boundary. Reverse sensitivity risk is negligible, particularly as neighbouring activities are lifestyle-based rather than intensive agriculture.
 - 21.3 **Existing Activities and Lack of Cumulative Effect:** This proposal is a one-off application grounded in the existing Site features and use. No precedent or cumulative pattern arises from the Application. I further note my disagreement with the

Section 42A Report² and consider that the day-to-day activities of the Applicants in maintaining their rural land, plant and stock is in many ways identical to a “residential activity” even though it does not meet the narrow definition under the POSDP.

21.4 **Alignment with Strategic Objectives:** The Application contributes positively to rural productivity (via the Texel stud), reflects efficient land use, and enhances the applicants’ ability to manage their land, aligning with SD-DI-O2 and SD-UFD-O1. It is also supported by Objective 5.2.1 and Policy 5.3.12 of the CRPS and consistent with the NPS-HPL.

21.5 **Permitted activity comparison:** Activities such as seasonal worker accommodation and visitor accommodation are permitted in this zone and bear functional similarity to this proposal, further weakening any integrity argument.

22 I further note that while I acknowledge that each application is required to be assessed on a case-by-case basis I note that other applications contrary to directive policies GRUZ-P2 and GRUZ-P7 have been granted approval (attached in **Appendix One**).

NATURE AND EFFECTS OF ACTIVITY

23 I agree with the conclusions of **Mr Gregg** and the S42A Report that the effects of the Application are no more than minor.

Reverse Sensitivity

24 This is defined in the POSDP as:

“The potential for an approved (whether by consent or designation), lawfully established existing or permitted activity to be compromised, constrained, or curtailed by the more recent establishment, intensification, or alteration of another activity that may be sensitive to the actual, potential or perceived adverse environmental effects generated by the approved, lawfully established existing or permitted activity.”

25 I support **Mr Greggs** conclusion in para [45] of the S95 Report which states:

“I consider that reverse sensitivity, in terms of the proximity of the dwelling to any sites which could as of right undertake primary production/farming activities, would be no greater than the District Plan anticipates.”

26 This assessment is specific to the Applicant’s Site and the level of reverse sensitivity already occurring in the area of English and McDonald’s Roads. In other areas which have a more open rural

² Section 42A Report at [51].

character I would consider the density requirement to be more applicable.

- 27 The proposed dwelling meets all built form rules, including setbacks, height, and coverage. Reverse sensitivity effects are appropriately mitigated by significant setbacks and contextual compatibility.

Rural Character and Amenity

- 28 I generally agree with **Mr Greggs** summary in respect of the effect on rural character and amenity. I consider in terms of structures any effect is less than minor given what is permitted in the POSDP.
- 29 With regard to residential activity, the permitted baseline and the Applicant's intent to continue the development of their boutique Texel stud is evidence that the effect of the proposal will be less than minor in the context of the existing environment. This is not an Application that would be suitable for all undersized vacant rural sites in the District.

Loss of Highly Productive Land

- 30 The Application and the proposed land use will not result in any additional loss of productive land beyond what the plan anticipates through permitted activities (e.g. sheds, seasonal workers' accommodation).
- 31 The Agribusiness assessment states (1.4.7) that the highest and best land use would be small scale grazing. Given the small scale of the Site, the Applicants' proposed use as a boutique Texel stud is appropriate.
- 32 Any nominal loss of the limited economic productive capacity is minimal within the scale of the rural zoned land in Selwyn.

Transport, Contamination and Flooding

- 33 Transport, flooding, and contamination matters have been addressed via expert input and do not raise any residual concerns. I agree with the conclusions of the Section 42A Report that all effects can be effectively managed by conditions.

CONSISTENCY WITH RELEVANT OBJECTIVES AND POLICIES

- 34 It is noted that the Application under the POSDP is assessed as a 'non-complying activity', not prohibited. Under section 104D of the RMA (the 'gateway test'), a non-complying activity cannot be given effect to unless the proposal is not contrary to the relevant objectives and policies or the effects of the activity on the environment will be minor.
- 35 I consider that the Application is not contrary to the relevant objectives and policies of the POSDP when considered holistically in light of the planning framework and higher order documents. An

assessment of the relevant provisions has been included in the Application, and I rely on this assessment.

- 36 The interpretation of GRUZ-P2 and GRUZ-P7 in the S42A Report, in the context of the Application, is overly narrow. I rely on the memorandum of Chapman Tripp and consider that the policies do not override the balancing function of Part 2 or the broader Strategic Directions chapter of the POSDP, the Canterbury Regional Policy Statement (*CRPS*) and the National Policy Statement on Highly Productive Land (*NPS-HPL*).
- 37 This analysis will be expanded on further in the legal submissions of the Applicant.

CONCLUSIONS

- 38 I consider that the Application should be granted and further conclude that:
- 38.1 The application passes the s 104D gateway test because the effects are no more than minor.
- 38.2 The concerns raised in the S42A Report about precedent effects are overstated, and the plan's integrity is not undermined.
- 38.3 This is a site-specific, effects-based, and policy-consistent application that warrants approval. It is not fundamentally contrary to the overall policy intent of the POSDP.

Dated: 21 July 2025

BJ McGillan

Bryan McGillan

Appendix One: Example Resource Consent Decision