Planning Unit

Notice of Submission on an Application for Resource Consent

Application Reference:

Resource Management Act 1991 - Form 13
Send or deliver your application to: Selwyn District Council, PO Box 90, Rolleston 7643 or submissions@selwyn.govt.nz

For enquiries phone: (03) 347-2800 or email: contactus@selwyn.govt.nz

1. Submitter Details

Name of Submitter(s) *(state full name(s))*: Andrew Tracey Stalker, Louise Ann Stalker

Physical Address: [redacted]

Address for Service *(if different)*:

Email: [redacted]

Telephone *(day)*: Mobile: [redacted]

2. Application Details

Application Reference Number *(if not stated above)*: RC246049

Name of Applicant *(state full name)*: Paul Brendan Campbell, Jo-Ann Campbell

Application Site Address: RES 3537, McDonald Road, Lincoln

Description of Proposed Activity: To erect a dwelling on a undersized allotment in the GR zone

3. Submission Details

I / We:
- ☐ Support all or part of the application
- ☒ Oppose all or part of the application
- ☐ Are neutral towards all or part of the application

The specific parts of the application that **my / our** submission relates to are: *(give details, continue on a separate sheet)* See Page 1

- The use of a pole shed and caravan as a dwelling in breach of the building act 2004 and the Selwyn District Plan.
- The non-complying nature of the propsal under the General Rural zone (GRUZ) rules and objectives. (GRUZ-P2, GRUZ-P7)

The reasons for **my / our** submission are: See page 2

We oppose the Resource Consent RC246049 in Full. The applicants are already occupying the site unlawfully, resulting in ongoing adverse effects on us as lawful rural landowners. These include privacy invasion, intimidation, contamination risk, Flooding, and the psychological and amenity impact of visual dominance and reverse sensitivity.

The decision **I / We** would like the Council to make is: *(give details including, if relevant, the parts of the application you wish to have amended and the general nature of any conditions sought.)*

That resource consent no RC246049 be declined in full

4. Submission at the Hearing

☒ **I / We wish to** speak in support of **my / our** submission.

☐ **I / We do not wish to** speak in support of **my / our** submission.

☐ If others make a similar submission **I / We** will consider presenting a joint case with them at the hearing.

☐ Pursuant to section 100A of the Resource Management Act 1991 **I / We** request that the Council delegate its functions, powers, and duties required to hear and decide the application to one or more hearings commissioners who are not members of the Council. *(Please note that if you make such a request you may be liable to meet or contribute to the costs of the commissioner(s). Requests can also be made separately in writing no later than 5 working days after the close of submissions.)*

5. Signature

(Of submitter(s) or person authorised to sign on behalf of submitter(s))

Signatur[redacted] ..... Date: 22/5/2025

Signatur[redacted] ..... Date: 22/5/2025.

Note: A signature is not required if you make your submission by electronic means.

6. Privacy Information

The personal information requested in the form is being collected by Selwyn District Council so that we can process your application. This information is required by the Resource Management Act 1991. This information will be held by the Council. You may ask to check and correct any of this personal information if you wish. The personal information collected will not be shared with any departments of the Council not involved in processing your application. However under the Official Information and Meetings Act 1987 this information may be made available on request to parties within and outside the Council.

7. Important Information

1. The Council must receive this submission before the closing date and time for submissions on this application.
2. You must also send a copy of this submission to the applicant as soon as reasonably practicable, at the applicant's address for service.
3. All submitters will be advised of hearing details at least 10 working days before the hearing. If you change your mind about whether you wish to speak at the hearing, please contact the Council by telephone on 347-2800 or by email at planning.technical@selwyn.govt.nz
4. Only those submitters who indicate that they wish to speak at the hearing will be sent a copy of the planning report.

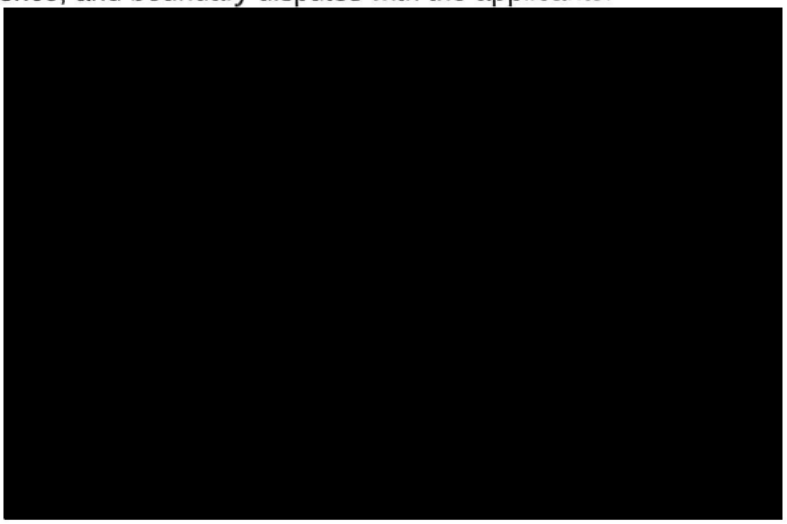
For Office Use Only

Received at the ..... Office on ..... at ..... am / pm

(1)

The specific parts of the application that my/our submission relates to are:

- The use of a pole shed and caravan as a residential dwelling in breach of the Building Act 2004 and the Selwyn District Plan.
- The non-complying nature of the proposal under the General Rural Zone (GRUZ) rules and objectives (GRUZ-P2, GRUZ-P7).
- The failure to address adverse effects from visual dominance, noise, privacy loss, and reverse sensitivity.
- The insufficient response to the Highly Productive Land (HPL) Assessment under Clause 3.10 of the National Policy Statement for Highly Productive Land (NPS-HPL).
- The acknowledged contamination risk under HAIL Category G3 (Site SIT411579) and failure to conduct a Detailed Site Investigation (DSI) as required under the NES-CS.
- The inadequate stormwater and flood impact assessment, including post-lodgement flooding and runoff into neighbouring farmland.
- The procedural unfairness of accepting late applicant responses while declining extension requests from affected parties.
- The applicants' misrepresentation of architectural plans referencing another site (Watson Residence, 81 Poplar Lane), which is not associated with the subject land.
- The Assessment of Environmental Effects (AEE) failed to disclose material facts or assess full effects.
- The adverse social and psychological impacts experienced due to surveillance, property interference, and boundary disputes with the applicants.



2

My submission is:
We oppose the resource consent application RC246049 in full. The applicants are already occupying the site unlawfully, resulting in ongoing adverse effects on us as lawful rural landowners. These include privacy invasion, intimidation, contamination risk, flooding, and the psychological and amenity impact of visual dominance and reverse sensitivity.

We do **not** support negotiated outcomes such as covenants or "no complaints" policies. The applicants have complained unjustly about our lawful farming operations, including lighting. As a functioning agricultural farm, our land use involves early morning lighting, noise, machinery, and stock movements when required. Our ability to operate must be protected and not limited by urban-style encroachment.

We also highlight that the site is recorded on the Environment Canterbury Listed Land Use Register (LLUR) as a HAIL G3 site. The applicants have undertaken development on this potentially contaminated land without a Detailed Site Investigation (DSI), placing tradespeople, neighbours, and themselves at significant health risk through exposure to unknown contaminants, including possible asbestos. This conduct breaches the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS) and has occurred without proper notification or assessment.

We seek the following decision from the Selwyn District Council:
That Resource Consent RC246049 will be declined in full.

If a hearing proceeds, we wish to be heard supporting this submission.

FORMAL SUBMISSION OPPOSING - RC246049

Paul & Jo-Anne Campbell – McDonald Road, Lincoln (RES 3537)

Submission Date: 22 May 2025

Submission To: Selwyn District Council

Notification Type: Limited Notification (23 April 2025)

Prepared by Andrew & Louise Stalker

[redacted]

SIGNATURES:

SUBMITTER DETAILS (FORM 13 INFORMATION)

- Name: Andrew & Louise Stalker
- Address: [redacted]
- Phone: private submitted on Form 13 seperately
- Email: private submitted on Form 13 separately
- Application Number: RC246049
- Site Location: Corner of McDonald & English's Road, Lincoln
- Legal Description: RES 3537
- Position: **We oppose the application**
- Decision Sought: We request that the application be declined or go to public notification.
- Hearing: We wish to be heard in support of our submission

INDEX OF SUBMISSION CONTENTS

PART A: RESPONSE TO APPLICATION DOCUMENTS

Introduction & Submission Purpose

This formal submission is lodged in strong opposition to Resource Consent Application RC246049, which seeks to establish a residential dwelling on an undersized rural lot at McDonald Road, within the General Rural Zone (GRUZ) of the Selwyn District. The applicants, Jo-Anne and Paul Campbell, have already been found non-compliant by Selwyn District Council for unlawfully living in a shed and caravan on the site since April 2024, in breach of the District Plan, the Building Act 2004, and the Resource Management Act 1991 (RMA).

We, Andrew and Louise Stalker, are the directly affected landowners at [redacted] We have owned and lawfully farmed our 25-acre block since 1997. This submission reflects not only our legal and planning-based opposition, but also our lived experience of reverse sensitivity, privacy intrusion, and environmental degradation caused by the applicants' unauthorised occupation and development.

This application represents a serious procedural failure by Selwyn District Council, which failed to act when required, ignored public health and planning risks, and refused to recognise us as affected parties until the notification stage—despite over a year of documented complaints, visual impacts, and increasing adverse effects on our property and wellbeing.

Overview of Grounds

We **oppose** this application on the following grounds:

- Procedural unfairness and bias: The applicants were permitted to submit late RFI responses (two months after the deadline) without public disclosure or justification. In contrast, we were denied an extension under the same Act. This asymmetrical treatment violates natural justice and undermines the participatory purpose of the RMA.

- Non-compliance and unlawful occupation: The applicants have unlawfully used a shed and caravan as a residence, with an unconsented kitchen, bathroom, and greywater discharge system, breaching the Building Act 2004, Health Act 1956, and NES-CS. They have not been issued with an abatement notice, unlike similar cases such as *Watson v Wellington City Council* [2024].

- Flooding and stormwater mismanagement: The site is prone to flooding, with post-lodgement runoff observed onto our land during the 1 May 2025 storm. No updated

flood modelling has been submitted to reflect this, breaching Sections 88 and 104 of the RMA.

- Visual dominance and reverse sensitivity: The 215m² brown-clad shed was consented without our input and now visually dominates our home. The urban appearance, combined with residential-style occupation and surveillance equipment, constitutes a significant and ongoing subjective visual and psychological intrusion.

- Contamination and HAIL site status: The site is recorded as a Category G3 HAIL site (historic landfill), with a registered land contamination encumbrance omitted from Form 9 and the AEE. The PSI confirms complete exposure pathways, yet **no** Detailed Site Investigation (DSI) has been undertaken as recommended. This violates NES-CS and endangers human health and automatically triggers public notification to all affected parties. Making this current consent application null and void.

- Land fragmentation and loss of productive potential: The proposed residential development contradicts the intent of the GRUZ zone and Clause 3.10 of the National Policy Statement for Highly Productive Land (NPS-HPL). Allowing this consent would reward fragmentation and continue reverse sensitivity while undermining long-standing active primary production on surrounding properties, including ours.

- Planning policy breaches: The proposal fails to meet the gateway thresholds under Section 104D of the RMA. It is contrary to GRUZ objectives and policies including GRUZ-P2, GRUZ-P7, and directive language in the Selwyn District Plan that requires avoidance of incompatible land uses and encroachment.

Summary of Relief Sought

We respectfully request that the Commissioner:

- **Decline Resource Consent RC246049 outright under Section 104D of the RMA due to more than minor adverse effects and significant policy breaches;**

- Alternatively, require that the application be publicly notified under Section 95C(2) of the RMA due to new material effects and undisclosed contamination risks introduced post-lodgement;

- We wish to be heard in person at any hearing that may arise and invite the Commissioner to undertake a site visit to observe the full scale of effects on our property at [redacted]

We submit that approval of this application would reward unlawful conduct, undermine public confidence in the planning system, and set a dangerous precedent for future development in the Selwyn District.

Section A1: Form 9 and S95 Notification

We raise serious concerns regarding the limited notification process under Section 95 of the Resource Management Act (RMA), which disadvantaged us as directly affected neighbours.

The application was lodged on 12 December 2024 and limitedly notified on 23 April 2025. However, we received no early consultation or proper neighbour engagement before this notification, despite the applicants having been in ongoing occupation of the site since 19 April 2024, in a manner inconsistent with the General Rural Zone (GRUZ). Thus, they did not have a change of use for a building or land and did not acquire the appropriate sewerage and greywater system.

The applicants were caught and found non-compliant by the Selwyn District Council (SDC) on 8 May 2024, for living in a caravan in a pole shed and later in July/August by Environment Canterbury for discharging grey water to land. Such deliberate behaviour created **more than minor** health risks to our and neighbouring properties, notwithstanding this being more relevant due to the recent flooding from rain on 30 March to 1 May 2025.

Further, we were given only 30 days to respond, while the applicants had several months to consult legal counsel, commission professional reports, and revise their material before

notification. Throughout this time period the SDC permitted them to live unlawfully on-site, consolidating their position further and obtaining subdivision-related support (including from Chapman Tripp and Eliot Sinclair). The inequality in the process has placed an unfair procedural and financial burden on us as neighbouring landowners.

In addition, **Form 9** does not transparently disclose the full extent of post-lodgement information that the applicants relied on. As neighbouring landowners, we have faced continuous adverse effects that have been more than minor, including significant nuisance caused by the applicants interfering with our property, noise, roading issues, being followed by them in their cars, flooding, contamination risk and visual degradation and a physical altercation involving Police. However, despite genuine complaints to the SDC, they did not recognise them and treat us as affected parties until this notification occurred. We will discuss further in this submission the issues of reverse sensitivity, property interference, and harassment, which are considered more than minor and encompass the Crimes Act 1961. Their behaviour from the time they arrived in the shed on 19 April 2024 has been toxic and distressing to say the least. They have **not** been good neighbours.

This raises concerns about the adequacy of the Section 95 effects assessment and the impartiality of the SDC's decision-making process. We respectfully submit that this limited notification **did not** give Andrew and me, affected persons who are legally compliant, a fair or equal opportunity to participate, contrary to the intent of the RMA's participatory framework.

We ask that the Commissioner consider the procedural imbalance created by the delayed and constrained notification, reevaluate the integrity of the process by which affected parties were identified and notified, and, more importantly, consider whether RC246049 should have

We ask that the Commissioner consider the procedural imbalance created by the delayed and constrained notification, reevaluate the integrity of the process by which affected parties were identified and notified, and, more importantly, consider whether RC246049 should have reached this stage of even being considered for a resource consent due to the applicant's ongoing deliberate non-compliance at the property and failure to disclose information transparently when asked.

Section A2: Assessment of Environmental Effects (AEE)

It is argued that the applicants' Assessment of Environmental Effects (AEE) is materially deficient and fails to meet the evidentiary standards required under the Resource Management Act 1991 (RMA). The AEE does not accurately assess the proposed activity's actual and potential environmental effects, particularly regarding flooding, stormwater runoff, visual amenity, reverse sensitivity, contamination, and land productivity.

The Assessment of Environmental Effects (AEE) claims that "flooding is not an impediment" to the proposed development. This conclusion is unsubstantiated and misleading. It relies solely on a Flood Certificate dated 7 February 2025, which references outdated LiDAR data and a 2013 photograph showing minor ponding. Critically, the assessment fails to incorporate any real-world evidence from the significant flood event between 30 March and 1 May 2025.

During this flood event, substantial overland flow occurred from the applicants' site across McDonald Road into our paddocks, overwhelming the culvert, depositing topsoil, damaging pasture, and disrupting lawful farming operations. These events are captured in

photographic evidence and can be corroborated by time-stamped video footage, which is available upon request (Please refer to Photos 1–7 in Appendix A1).

Moreover, the site is listed on Environment Canterbury's Listed Land Use Register (LLUR) as **HAIL G3** (historical landfill activity), under Site ID **SIT411579**, with land parcel RES 3537. Accordingly, this raises significant public health concerns. If the land is contaminated, then any stormwater runoff entering our property carries the risk of transporting hazardous materials, including microbial contaminants and legacy pollutants—onto our land and into the wider environment. Notably, flooding has led to the visible spread of algae in our paddock, indicating nutrient and pollutant transfer, consistent with such a risk.

Despite these clear and observable effects, the applicants have provided **no hydrological modelling, stormwater management plan, or detailed downstream impact analysis**, as required under Sections 88(2) and 104(1)(a) of the Resource Management Act 1991 (RMA). In fact, these deficiencies should have rendered the application incomplete and incapable of lawful consideration until rectified.

This is not a hypothetical risk, it has occurred, and remains unaddressed in the current application. We submit that this omission represents a **significant environmental oversight** and that the AEE **must be** amended or rejected on the grounds of its failure to assess and mitigate these real-world adverse effects.

The applicants have also failed in their submission to address stormwater mitigation infrastructure or management strategies. No swales, bunds, culverts, or redirection measures have been proposed, despite the property being within a known flood overlay and subject to the SDC's flood modelling.

Cumulative Reverse Sensitivity and Daily Breach as More Than Minor

In addition, the repeated use of the phrase "less than minor" throughout the applicant's documents and professional reports fails to acknowledge the factual circumstances and established legal standards. The applicants have been in residence on their property for approximately four hundred days from 18 April 2024 to 22 May 2025. Hence, under planning law, each 24-hour period of non-compliant activity may constitute an independent adverse effect. When considered cumulatively, this pattern of daily breach becomes an egregious and ongoing violation of the District Plan. In *Ngāti Kahu Ki Whangaroa Co-operative Society Ltd v Northland Regional Council* (A84/2009), the Environment Court affirmed that cumulative adverse effects must not be assessed in isolation, as repetition over time may elevate a minor impact significantly. This position is further supported by *Westfield (New Zealand) Ltd v North Shore City Council* [2005] NZRMA 337, where the High Court confirmed that councils must consider cumulative impacts and not dismiss them based on a fragmented or decontextualised reading.

The notion that such sustained illegal occupation could somehow be reduced to "only minor" or "less than minor" adverse effects contradicts the weight of case law and statutory interpretation. Not to mention the applicant's non-compliance with not having the appropriate resource consents for land, building, greywater, and sewerage is dumbfounding, especially when such an important decision is to be made. Each unauthorised day of residential activity represents a compounding adverse effect on neighbouring amenity, privacy, and trust in the planning process. Furthermore, reverse sensitivity effects began accruing the moment residential activity commenced within the non-complying structure, as the Court held in *Alderton v Southland District Council* [2015] NZEnvC 183: reverse sensitivity is triggered when new, sensitive land

uses are introduced into established rural or productive environments in breach of district plan rules.

Given that these effects have continued unmitigated for over thirteen months, coupled with the applicant's ongoing failure to secure the required consents on 5 September 2025, and as addressed in Tristen Snell's Compliance Lead's letter to us on 12 June 2024, this is clearly **"more than minor"** under Section 95E of the Resource Management Act 1991 (See Appendix A2.1 for our original letter and Snell's response A2.2**).** It is respectfully submitted that any professional conclusion to the contrary carries diminished credibility in light of the facts and such legal precedent.

"Likewise, we have attached evidence of the legal costs incurred while seeking an abatement notice to address the reverse sensitivity effects we experienced, as well as receipts for the purchase of hedging plants to restore some privacy and visual amenity. These documents demonstrate the very real financial burden placed upon us by the unlawful occupation of the shed and the resulting cumulative adverse effects on our daily lives and property use (See Appendix A3.1–A3.2).

A3-Contamination

Unlawful Greywater Disposal and Triggering of Reverse Sensitivity

Correspondence from Environment Canterbury (ECan), dated 22 July to 29 July 2023, confirms that greywater from a shower was being discharged directly onto the ground at the applicants' property (see Appendix A4: ECan Email Correspondence).This is **not** a minor matter. The presence of internal bathroom facilities confirms that the shed and/or caravan is being used

as a residential dwelling, not a permitted farm or storage building as claimed in the application. Despite this, no sewage or drainage consent has been obtained, nor has a building consent been issued for residential conversion, which, now through evidence, places the applicants in breach of the Building Act 2004 and the Resource Management Act 1991. The circumstances in this case closely mirror *Watson v Wellington City Council* [2024] NZEnvC, where the Environment Court upheld an abatement notice requiring a family to remove internal plumbing and bathroom facilities from a storage shed that was unlawfully used as a residence (see Media Article and Schedule of Proceedings, Appendix A5.1 - A5.2). In that case, the Court found that no residential consent had been granted and emphasised that such unlawful use could not be retrospectively legitimised without a proper planning assessment and formal approval. Judge Lauren Semple explicitly ruled that using a shed as a home, regardless of the occupant's intentions, was illegal and posed significant planning and environmental compliance risks.

The applicants' current set-up reflects the same non-compliance: their structure includes residential fittings and is occupied full-time, despite being consented only as a storage building. This is substantiated by photographic evidence (as seen in Appendix 6.1 - 6.7), which clearly shows the extent of residential use. The SDC's failure to issue an abatement notice in this instance, unlike in *Watson*, reflects an inconsistent application of the law and raises serious concerns about current enforcement integrity.

The RC246049 application now before the SDC raises the same legal issues. Despite their legal representative stating the structure is a "farm building" (see Chapman Tripp Memorandum - 27 March 2025 response), In contrast, an identified working shower and macerator pump with greywater discharge **confirms** residential occupation and use. These facts were corroborated by official correspondence from Environment Canterbury, which is included

in this submission and should not be overlooked (see Appendix A4). Notably, as recently as 17 May 2025, washing was once again observed hanging on the clothesline—an unmistakable indication of continued residential activity on the site (see in Appendix A6.7). As discussed, reverse sensitivity is triggered at the point residential use begins (*Auckland Regional Council v Rodney District Council* [1999] NZRMA 362). In this case, that date is 19 April 2024, meaning over 390 consecutive days of unconsented residential occupation have already occurred. The discharge of greywater without consent onto potentially contaminated land, and land with which is recorded with a HAIL encumbrance, presents a serious public health and environmental risk. In sum, this risk legally mandates **public notification** under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES-CS).

Despite these serious issues, the SDC has failed to issue the applicants an abatement notice or take compliance actions, unlike Wellington City Council's proactive enforcement in the Watson case (2024/2025). Please note his property more than likely was not HAIL-G3 registered. This discrepancy raises questions of **procedural fairness** and inconsistent application of environmental law, particularly when the adverse effects are ongoing, cumulative, and significantly and blatantly documented by affected neighbours (See recent email from SDC, 21 May 2025 -,Appendix A7).

In conclusion, the applicant's ongoing residential occupation of a caravan and shed, now confirmed to contain a shower and greywater system, is non-compliant, unlawful, and *cannot* be treated as a *more likely minor* effect under section 104D of the RMA. Given the recent Watson (2024) precedent and the explicit confirmation by Environment Canterbry of bathroom facilities in the applicant's pole shed. We respectfully submit that this application **must be** declined

outright or publicly notified under Section 95C due to public health and environmental risks which are *very real* and cumulative.

A4: Legal Obligations and Judicial Principles

It is argued that decision-makers are legally obligated not to rely on assumptions or speculative confidence when assessing effects. The Environment Court in *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66 held that **low-probability but high-impact effects must be taken seriously** and cannot be dismissed without rigorous evidence.

In *Far North District Council v Te Rūnanga-ā-Iwi o Ngāti Kahu* [2013] NZEnvC 232, the Court cautioned against **"playing God"** by assuming uncertain future outcomes, particularly where adverse effects are foreseeable. Applicants are required to provide **robust, expert-based assessments**, not assumptions.

In this case, the absence of updated hydrological modelling or risk analysis in light of a major post-lodgement flood event makes the AEE procedurally and substantively inadequate. This failure breaches:

- **Section 88(2)** of the RMA – for submitting an incomplete AEE,
- **Section 104(1)(a)** – for failing to assess actual and potential environmental effects, and
- **Section 3(f)** – for ignoring low-probability, high-impact flood risks now evidenced in reality.

Relief Sought - We request that the Commissioner,

1. Reject the AEE as incomplete and misleading.
2. Require a complete hydrological and stormwater assessment under **Section 92 RMA**;
3. Alternatively, more importantly, the application should **be declined** under Section 104D of the Resource Management Act 1991, as the adverse effects are undoubtedly more than minor, and the applicant's ongoing activity of using the shed and caravan as a dwelling is non-compliant,

This ongoing non-compliance reinforces the inappropriateness of granting consent and undermines the integrity of the planning framework. Notwithstanding, the failure of SDC to address the actual and foreseeable effects of stormwater and flooding is deeply concerning. This is particularly evident in light of the 1 May 2025 seasonal event. Such inaction undermines public confidence in the integrity of the planning process and sets a **dangerous precedent** for allowing development on undersized rural lots within the General Rural Zone (GRUZ).

A5: Highly Productive Land Assessment

This section contains two written rebuttals addressing the applicant's Highly Productive Land Assessment under Clause 3.10 of the National Policy Statement for Highly Productive Land (NPS-HPL).

The first letter is from my husband, **Andrew Stalker**, a lifelong farmer with over 40 years of experience managing and working land in [redacted] and the wider Selwyn District. The second is myself, **Louise Stalker**, a Clinical Counsellor with Sociology, Social Work, Psychology, and Social Policy qualifications.

These independent submissions provide practical and policy-based critiques of the Agribusiness Group's report and outline why the application **fails** to meet the Clause 3.10 high threshold for residential development on highly productive land.

Letter from Andrew Stalker – Farmer and Agricultural Contractor

I regret that I have to write this response on behalf of farmers and lawful landowners in New Zealand. If the SDC had upheld the District Plan as it should have, we would not have had to spend our extensive time, money, and energy enforcing it.

I have owned the land at [redacted] for 27 years, have been a successful Agricultural Contractor in the area for 40 years, and am a fourth-generation [redacted] (Appendix A8.1 - 8.2).

In Reply to the Agribusiness Group Report:

1.4.1 Scale

The argument that the site's scale is a constraint lacks depth, as the Applicants were aware of its size when they purchased it. The HPL should be retained.

1.4.2b Irrigation

The Applicants have a 150mm household well, so the argument for access to irrigation water is flawed. I spoke to an ECAN rep called Kara Lee at 2:00 p.m. on Friday, 9 May, who reinforced what I knew—that is, you can pump 10 cubic metres or 10,000 litres a day, which works out to be 5 litres a second **WITHOUT** a resource consent. Five litres a second is more than enough to irrigate 2 hectares.

I spoke to a horticulture grower last week who said he leased a 4-hectare block and pumped 3 litres a second, which was more than enough water to grow onions.

So, there is a [redacted] savings, and where that figure came from is beyond me. Daly Water Wells said a 150mm well costs $200 per metre. The wells around here are approximately 35 metres deep, which costs $7,000 plus a screen at approximately $1,000 = $8,000.

The author then says that setting up irrigation would have additional costs. What are these costs?

The author then says a prudent operator would find setting up on a larger land area more feasible. The applicants never considered the block feasible—they considered the land cheaper than a

section in Lincoln and surrounding towns, and have forced themselves through the back door, attempting to build a home. Why would they not go to Verdeco or Te whariki, especially when the Mayor, Sam Broughton, wants people living in residential subdivisions? There are currently 2100 homes available, which Chapman Tripp lawyers debated. Now they are fighting to get a non-compliant little house on two hectares of contaminated land.

1.4.3 Exclusion of Horticulture

The author says it would be expensive to set up for horticulture. What are these costs?
Lack of irrigation has been covered!

To say the winters are too cold in Canterbury for growing is a stretch of the truth when Canterbury is known as the "Bread Basket of New Zealand" with fertile soils and a favourable climate.

The argument that the site is remote from harvest packaging is laughable. Two packhouses are within a 5-minute drive: Summit Produce on Carter's Road and Roper & Son on Collins Road. There are also two packhouses in the Leeston area, which is only 20 minutes away—they are Lynchris Packaging and Oakley's Packaging.

1.4.4 Limitation of Arable Land Use

In 1.1 Site Description, the author commented that the land in the North and East is arable land. Still, in 1.4.4, there are no commercial arable operations in close proximity, which is a contradiction.

Some of the arable operators in proximity that would not have to transport machinery by truck are:

- McCarthy Contractors, Tai Tapu
- Malabar Farm Ltd, Carter's Road, Greenpark
- Cranleigh Fields, Lincoln

The author has not compiled figures for growing wheat or barley on HPL. We grew barley two years ago. Most cultivars of feed barley in Canterbury HPL will yield 10 tonnes per hectare so the applicants could expect 20 tonnes from the land.

The cost of cultivating the land is around $300 per hectare, and the seed cost would be around $400, so $1,000–$1,100 would plant the 2-hectare crop. Two years ago, we received $550 per tonne, so they would gross $11,000 less planting costs, which would net $10,000 off 2 hectares, which is very acceptable.

1.4.5 Pastoral Use

In the 27 years I have owned [redacted] next to RES3537, it has always been used for sheep grazing, and I have never seen any of the problems the author is trying to describe.

The author keeps blaming irrigation; if they had investigated, they would have known the rules.

John Bailey, a Bayleys Real Estate agent who sold them the bare land, advised them that they could not build a home on it when they viewed it (See John Bailey, email, Appendix A9.1 - 9.4).

The author says the only way to farm the land would be dryland sheep and beef, generating an EBIT of $[redacted]. To provide sufficient income, it would be $10,004—pretty much what a crop of barley could bring in on HPL.

The author has left out a big part: the first time I spoke to the applicant when he had purchased the property, he said they had 17 Stud sheep and had purchased the land to graze them on.

The Agribusiness Group author has failed to disclose any costs or profits for running a Texel sheep stud from the property. I have included an article from the NZ Herald and ODT on what a Stud Texel Ram can be worth, which is in **FIG 1: $15,000 to $20,000 (see Appendix A10).**

FIGS 2 & 3 show signs on their property entrances advertising their sheep stud, where they reside full-time in the Pole Shed and caravan, now a dwelling **(see A10.1 - A10.2).**

The sheep have not been brought to McDonald Road, and that is more likely so the applicants can say the property is not profitable.

FIG 4 is of the applicant looking very pleased with her Stud Ram at the Mayfield Show in March 2024 **(see A10.3).**

FIG. 5 is a Facebook post with more success **(see A10.4).**

FIG. 6 is from another Texel breeder letting everyone know he is using the Bell-View Genetics **(see A10.5).**

FIG. 7 is from the NZ Sheep Breeders website **(see A10.6).**

Concerning 1(b):

The author believes that the loss of 2.02 hectares of HPL is not significant in the Selwyn District, but this attitude will open a can of worms, as many sites in the Selwyn District are under the 20-hectare requirement to build a dwelling on.

Everyone on the undersized blocks will be watching the outcome of this case closely to see how easy it is to get dwellings on undersized sites. I know of 2 blocks in Prebbleton (which is in the Inner Plains) and they are having trouble getting consent to build.

Below Table 5, the author says that a dwelling on the site would reduce two adverse effects — nutrient loss and greenhouse gas emissions due to removing livestock and fertilizer where the dwelling is to be built. This is a very weak argument.

I prefer the nutrient loss and greenhouse gases, as the applicants live illegally in a pole shed and release their greywater onto the site. Please read the Environment Canterbury letter addressing their knowledge of using illegal IBC holding tanks and releasing to land, putting our property and crops at risk of contamination (see A10.7 - IBC tanks comparison & A10.8). Therefore it is argued using **plastic IBC tanks** with a **macerator pump** to handle **toilet waste or greywater from a residence**, especially on a **HAIL G3 landfill site**—is **not lawful** or safe. It is **not an approved wastewater solution** in New Zealand and poses **serious health and environmental risks.**

Conclusion

The Agri document was either written by AI or someone with no lived experience in farming. Usually, an author would sign their name on their work. Neither of these has been done. This document goes entirely against the RMA and District Plan.

Signed [redacted]

Andrew Stalker

Farmer and Agricultural Contractor

Owner – [redacted]

Selwyn District, Canterbury

Rebuttal by Louise Stalker on HPL Assessment under Clause 3.10 of the NPS-HPL

This rebuttal challenges the credibility and evidentiary sufficiency of the High-Productive Land (HPL) Assessment submitted under Clause 3.10 of the National Policy Statement for Highly Productive Land (NPS-HPL). The applicants seek to justify a residential development on a 2.02-hectare site zoned General Rural Zone (GRUZ) and classified as LUC 1–3, claiming that

land-based primary production on the site is uneconomic due to permanent or long-term constraints.

Andrew and I argue that the assessment lacks methodological rigour, fails to consider the full scope of reasonably practicable alternatives required under Clause 3.10(2), and is not supported by authoritative or independent expert evidence. The conclusions rely heavily on theoretical economic modelling by an economics graduate with no noted qualifications in soil science, agronomy, or land management.

Inadequacy of Expertise and Evidence

To meet the evidentiary requirements under Clause 3.10 of the NPS-HPL, assessments must be underpinned by robust, expert evidence. Clause 9.3 of the Environment Court Practice Note 2023 requires that individuals providing expert evidence hold relevant qualifications and use established, transparent methodologies (Environment Court of New Zealand, 2023). The Agribusiness letter submitted by the applicants fails to meet this threshold. It does not disclose the author's identity or qualifications, nor includes independently validated data, peer-reviewed modelling, or site-specific analysis to support the claim that the land is uneconomic for primary production.

This issue was addressed in *Carter Holt Harvey Ltd v Waikato Regional Council* [2008] NZEnvC 258, where the Environment Court warned that unsupported personal opinion or generalist assertions cannot substitute for verified technical expertise in land use planning. This position aligns with best-practice planning literature. According to Berke et al. (2006), land use decisions must be based on reliable data and sound technical analysis to avoid arbitrary or *poorly* justified outcomes. The New Zealand Institute of Economic Research (NZIER, 2025) further

supports this standard, noting that expert testimony in planning settings must demonstrate methodological rigour, independence, and credibility to be considered authoritative. Further, the applicant's letter relies on outdated financial assumptions and speculative figures that have not been tested or peer-reviewed. It fails to explore alternative productive land uses, as required under Clause 3.10(2). Its lack of empirical validation and professional accountability renders it insufficient for the standard of proof required in such essential planning decisions, especially one that will set a precedent and be followed closely by the wider community.

To assist the Commissioner, the diagram below in Figure 1 compares the Agribusiness Group letter against the expert witness standards outlined in Clause 9.3 of the Environment Court Practice Note (2023). This vital clause reflects the minimum evidentiary standard expected in quasi-judicial and court-adjacent RMA hearings. The visual comparison shows that the Agribusiness report fails **on all** key criteria for admissible expert evidence. Without identification, qualifications, or methodological transparency, it cannot be relied upon to *justify* a permanent exemption under Clause 3.10 of the NPS-HPL.

Figure 1. Comparative Analysis: Agribusiness Group Letter vs Environment Court Practice Note 2023 (Clause 9.3).

Clause 9.3 Requirement Expert Evidence Standard	**Compliance with the Agribusiness Letter**	**Analysis**
Acknowledge the Code of Conduct and agree to comply	❌	No declaration of compliance with the Code. This would disqualify the evidence in Court.
State qualifications, experience, and expertise	❌	The author is anonymous. No credentials are offered

		to verify expertise in soil science, land use planning or economics.
Identify data, assumptions and information used.	❗	There are some references to 5-Map and beef and lamb data. Still, the assumptions are not clearly stated nor validated locally or by site visits to adjoining active farms that have been operating for years.
Justify opinions and reject alternatives with valid reasoning.	❌	No statement confirming full and fair consideration of all relevant facts.
Confirm all material facts are considered.	❌	No academic, regulatory or planning literature is referenced beyond a general model.
Specify the literature or material relied upon to make assumptions.	❌	There is no physical soil testing, productivity trials, or peer-reviewed assessment; only desktop analysis.
Describe tests/investigations and who conducted them for unbiased peer review.	❌	No uncertainty or reverse sensitivity analysis is disclosed for modelling assumptions, which is of paramount importance.
Identify uncertainties in data or analysis, and apply technical terms with accepted definitions.	❌	
Provide a sensitivity analysis if modelling is used.	❗	

The visual comparison shows that the Agribusiness report fails on all key criteria for admissible expert evidence. It does not identify who authored the letter, indicate academic qualifications, or

demonstrate methodological transparency. Therefore, it must not be relied upon to justify a permanent exemption under Clause 3.10 of the NPS-HPL. Given these deficiencies, the report should be afforded minimal to no evidentiary weight under the Resource Management Act 1991.

Disregard for Lived Experience and Proven Land Use Knowledge

In addition, the letter also claims that the site is uneconomical, which is untrue. My husband, Andrew, has worked on our block of land at [redacted] and many others, locally including Lincoln, Leeston and Ellesmere district for over forty years. He brings tested expertise in soil management, seasonal planning, and land viability that cannot be replicated through theoretical computer modelling. His knowledge is embodied in practice, not spreadsheets.

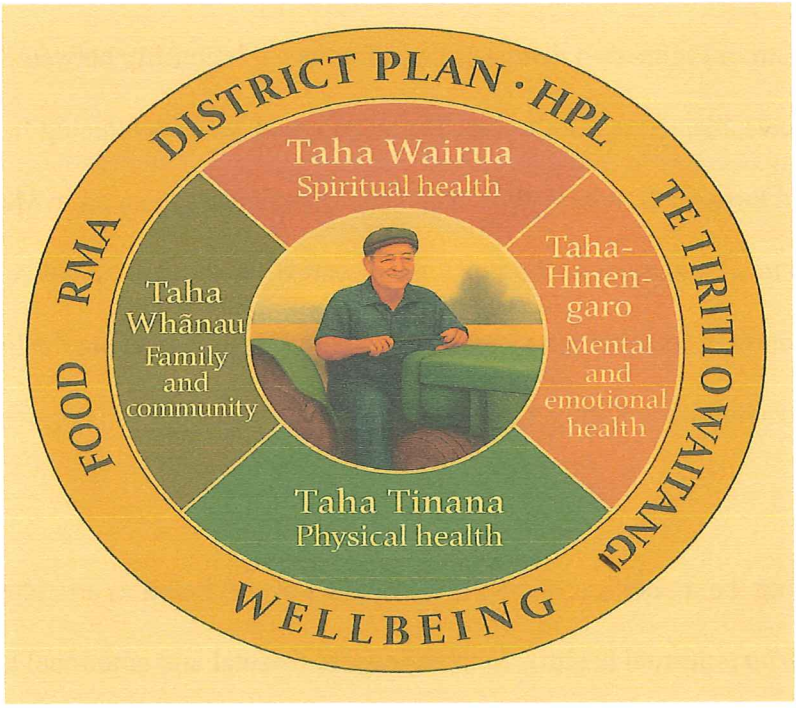
New Zealand case law recognises that contextual and site-specific experience can be *more* reliable than abstract assessments. In *Alderson v Southland District Council* [1994] NZRMA 208 (PT), the Tribunal gave substantial weight to a farmer's detailed understanding of the land's seasonal constraints, rejecting opposing views from a consultant unfamiliar with the terrain. Similarly, in *Hall v Rodney District Council* [2001] NZRMA 385, The Environment Court affirmed that local farming knowledge may be an essential consideration, especially where expert assessments lack direct familiarity with site conditions.

Subsequently, this omission in the Agri letter contradicts Section 8 of the Resource Management Act 1991 (RMA), which requires decision-makers to consider the principles of Te Tiriti o Waitangi. This includes recognising mātauranga Māori—intergenerational land knowledge, and, by extension, the lived expertise of generational land users such as Andrew's. As such, Social researcher Mason Durie (1997) posits that knowledge and spiritual connection to

Resource Management Act 1991, *Te Tiriti o Waitangi*, and the National Policy Statement for Highly Productive Land (2022). These include the principles of land use integrity, sustainability, the protection of food systems, and intergenerational wellbeing.

Together, these elements reflect a systems-based understanding that the health of land (*whenua*) is inseparable from people's health. When land is degraded, fragmented, or removed from productive or culturally significant use, the cumulative effects undermine a community's immediate health and identity and its capacity to flourish across generations.

Fig.2 demonstrates the relationship between land, wellbeing, and the RMA.



Building on this model, it is common sense and fundamental to planning integrity that district plans, created by and for communities, must be upheld with consistency and purpose. These plans are not arbitrary; they reflect long-standing collective values designed to protect both land and the people connected to it. Weakening these rules through ad hoc decision-making devalues

the land (*whenua*) are integral to a person's wellbeing, identity, and longevity. This connection is not an optional add-on, but is a foundational principle of the Treaty of Waitangi and, by extension, is embedded within the Resource Management Act (RMA) and the District Plan.

For instance, the Supreme Court in *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38 affirmed that planning decisions must give effect to foundational national values. These values are reflected in higher-order planning instruments and include lived, intergenerational knowledge, whether Māori or Pākehā. Such knowledge cannot be substituted with theoretical conjecture or economic modelling from experts who lack a meaningful connection to local land and its context.

The diagram in Figure two demonstrates a farmer's relationship between land, wellbeing, and identities. I have adapted it from Mason Durie's seminal Māori wellbeing frameworks, initially expressed through *Te Whare Tapa Whā* (1997) and later expanded in *Measuring Māori Wellbeing* (2006) to a contemporary rural planning context. Within the model, a farmer is regarded as the centre of intrinsic land knowledge gained through working the local soils, not to mention their understanding of when crops are planted and when the soil requires irrigating or fertilising.

Surrounding the model's core are the four pillars of wellbeing as articulated by Durie (1997): *Taha Wairua* (spiritual health), *Taha Hinengaro* (mental and emotional health), *Taha Tinana* (physical health), and *Taha Whānau* (family and community connection). These dimensions underpin the concept of holistic Māori health and continue to influence contemporary wellbeing frameworks within Aotearoa New Zealand's planning and health systems. Extending outward, the model's outermost ring integrates values enshrined in the

the land itself and diminishes the value we place on people and the communities in which they live.

As previously discussed, land use decisions must not be detached from the broader cultural, environmental, and social systems they affect. These decisions must give genuine weight to lived experience and Indigenous knowledge systems, particularly when determining the future use of *whenua*. As Durie (2006) reminds us, “a satisfactory level of physical health... is not by itself a complete measure since it fails to accommodate spiritual, mental, and family dimensions” (p. 3). Planning must reflect this understanding. When the legal and cultural foundations that protect whenua are diluted, the cumulative impact is not only ecological or procedural — it is social, spiritual, and generational.

Clause 3.10 Requires More Than Economic Modelling

Clause 3.10(2) of the NPS-HPL mandates that all "reasonably practicable options" must be explored to retain land-based primary production. The Agribusiness assessment fails this requirement. It does not consider several feasible alternatives, including integration with neighbouring farms, leasing to larger operators, low-capital-intensive grazing, diversified seasonal cropping, and water efficiency innovations beyond conventional irrigation (Smith & Taylor, 2020).

Instead, it defaults to a single outcome based on a limited dryland beef model that excludes current market trends. Stats NZ (2025) reports beef mince prices reached $19.96/kg in March 2025, while Stuff (2025) notes premium steak prices rose by 22% to $38.43/kg. Beef + Lamb NZ (2025) confirms record cattle values. These shifts invalidate static 2024 economic assumptions, undermining the letter's credibility.

Legal Threshold: "To Be Satisfied" Means Evidence-Based

The Court of Appeal in *Southland Regional Council v Southland Fish and Game Council* [2024] NZCA 499 held that when legislation requires a decision-maker "to be satisfied," it implies a **high** evidentiary threshold. As the Court stated: "That outcome must be assured... whether that outcome is achieved... is an evaluative matter upon which [Council] must be satisfied" (para 23).

Here, a decision maker cannot *reasonably* be satisfied that the land is uneconomic or that simple alternatives have been exhausted. Further, the evidence for residential rezoning relies on an unverified model on a business letterhead with no identifiable professional author. As reaffirmed in *Barbican Securities Ltd v Auckland Council* [2023] NZEnvC 97, unsupported claims about land productivity that lack clear authorship and methodological rigour **do not** meet the evidentiary threshold under the RMA.

Conclusion

As discussed, the applicants' site qualifies as LUC 1–3 land under Clause 3.2 of the National Policy Statement for Highly Productive Land (NPS-HPL). However, they have failed to meet the exemption criteria under Clause 3.10 through credible or qualified evidence. This is not a case of unproductive land — it is a case of poorly substantiated claims.

The Agribusiness Group letter does not meet the threshold for expert witness evidence as outlined in Clause 9.3 of the Environment Court Practice Note (2023). It lacks identification of the author, statements of qualification, adherence to the Code of Conduct, acknowledgement of uncertainty, and methodological transparency. Therefore, it should be regarded as an unverified

opinion and not admissible expert evidence, and it carries no evidentiary weight in a planning decision under Clause 3.10 of the NPS-HPL or Section 104D of the RMA.

In sum, land fragmentation does more than disrupt productive potential—it fractures communities. When planning rules are selectively softened or disregarded, they reflect the value decision-makers place on land and the people who depend on it. The push to dilute these protections often comes from those who lack a meaningful relationship with the whenua. However, connection to land is not just a matter of ownership or economics—it is the foundation of wellbeing, identity, and resilience. As expressed in the Māori proverb, *"Ko au te whenua, ko te whenua ko au"* (I am the land, and the land is me), the health of the land is directly linked to the health of its people. Decisions that erode the integrity of planning frameworks ignore this vital truth and risk long-term harm to individuals and communities. Therefore, we must uphold robust and consistent planning rules to preserve land integrity, social cohesion, and intergenerational wellbeing. These values lie at the heart of the Treaty of Waitangi, and once broken, they cannot be easily restored.

Signed: 

Louise Stalker

Clinical Counsellor – Selwyn District

BA (Sociology), GradDipPsych, MSW (Applied), PGDipSocialPolicy

(Sociology studies under Prof. Greg Newbold, University of Canterbury – retired)

(Postgraduate supervision: Dr Celia Briar, Massey University) - SWRB & ANZASW

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A6: Factual Misrepresentation: Claim That Neighbouring Farms Cannot Be Intensified

The AEE prepared by Eliot Sinclair (p. 18) asserts that integration or intensification of the surrounding land, including our working farm at [redacted], is not viable due to cost, lack of irrigation, and drainage issues. This claim is factually incorrect and legally irrelevant under the Resource Management Act 1991 and applicable case law.

Our property was purchased in 1997, long before the National Policy Statement for Highly Productive Land (NPS-HPL) or the operative Selwyn District Plan provisions were introduced. Farming on our land predates these constraints, and intensification **remains viable and lawful.** We undertake seasonal cropping, rotational grazing, and soil improvement initiatives, and only rely on irrigation when weather requires (see Appendix A11.1 - 11.2). The statement suggesting otherwise is speculative and made without direct consultation or site-specific soil analysis of our operations. We have a robust farm management policy, so all site visits must be formally notified and registered due to Health and Safety requirements. We have not had any onsite consultation by the applicant's advisors.

As noted in *Clevedon Protection Society Inc v Auckland Council* [2022] NZEnvC 177, planning assessments must "avoid over-reliance on theoretical assumptions where lived evidence and existing land use patterns contradict claims of infeasibility." Furthermore, *Waimakariri DC v Addie* [2000] NZRMA 385 established that landowners retain the right to intensify rural production as demand or conditions require.

Further, to argue that a neighbouring property cannot be intensified, and therefore justifies residential encroachment, is an error of law and logic. Clause 3.10(2) of the NPS-HPL explicitly requires evaluating "reasonably practicable options," including boundary adjustments, leasing, and dryland production models, before claiming permanent constraint.

The Ministry for Primary Industries (2019) clearly warned against precisely this kind of reasoning in its policy consultation, highlighting that urban expansion and fragmentation on highly productive land is often driven by ad hoc assumptions about land use potential, without assessing evolving rural practices. The discussion document also states that councils must resist

assuming that productive land is "frozen in time" and instead acknowledge that land use can—and *should*—adapt to changing technologies, markets, and climate conditions. To imply otherwise ignores the policy's **core** objective: to retain highly productive land for current and future primary production.

Therefore, planning assessments must reflect dynamic agricultural possibilities and not fixate on present use or perceived inefficiencies. This aligns with the warning in *Environmental Defence Society Inc v NZ King Salmon Co Ltd* [2014] NZSC 38, where the Supreme Court held that failure to give effect to directive policy language, such as **"avoid,"** undermines the statutory purpose of the RMA.

The planner's commentary **misapplies** policy and creates a false impression that existing farms are frozen in time, unable to respond to market conditions or adopt improved land-management practices. This undermines the directive policies in GRUZ-P2 and GRUZ-P7, which exist precisely to prevent such incremental degradation through reverse sensitivity.

Further, **no** site visits, soil testing, or on-the-ground assessments have been conducted by the applicant or their consultants to substantiate claims about our property at [redacted]. Assertions regarding drainage issues, productive capacity, or infeasibility of intensification are, therefore, pure speculation and hearsay, unsupported by any direct evidence. These statements carry little evidentiary weight under the Resource Management Act 1991 or the Environment Court guidance on expert opinion. As emphasised in *Clevedon Protection Society Inc v Auckland Council* [2022] NZEnvC 177, planning assessments must not "over-rely on theoretical assumptions where lived evidence and existing land use patterns contradict claims of infeasibility." No consultation has been undertaken with us as neighbouring landowners, nor

have the consultants engaged with us to verify their assertions. Likewise, the applicants have not attempted to engage directly in an amicable manner or understand the existing land use on our farm. Other than causing reverse sensitivity from when they moved into the farm dwelling, such speculative omissions further undermine the credibility of their claims and reinforce the procedural shortcomings of this administratively flawed application.

Section A7: Record of Title

Non-Disclosure of Contamination and NES-CS Implications

1. **False Statement in RF1 Respnse - Elliot Sinclair (page.5):**

The applicants explicitly state there is no HAIL activity or risk that would require investigation under the NES-CS:

'According to the LLUR database the site is not registered as a Hail site and no investigation related to Hail, historical or current was carrie dout on the site'.

Contradiction from PSI and Record of Title:

The PSI confirms the land was used as a shingle pit and contains HAIL G3 category landfill material with shallow groundwater (0.5–0.8m BGL). **Hence, the Record of Title includes an encumbrance to His Majesty The King, warning of site contamination, which the applicants did not disclose in Form 9 or AEE (see Appendix 12.2). This then leads to a legal trigger for Mandatory Public Notification:**

Under Regulation 10(1)(a) and 10(1)(b) of the NES-CS, public notification is mandatory if:

- The land is (or more likely than not is) a HAIL site; and

- The proposed activity (building a house) is a sensitive activity (which it is).

Additionally, Section 95A(8)(b) of the RMA mandates public notification if the activity requires resource consent under a NES and has actual or potential adverse effects that are more than minor.

Therefore, the applicants have failed to declare a legally registered encumbrance for contamination on the Record of Title nor did they disclose the site's historic use as a shingle pit containing HAIL G3 (landfill) materials with shallow groundwater (0.5–0.8m BGL), as confirmed in the Preliminary Site Investigation (PSI) by Eliot Sinclair (2025). Contrary to this, the RF1 response falsely asserts that no HAIL activity is known. This constitutes a direct breach of Clause 6 of the NES-CS and invalidates their claim under Clause 6(2)(a) that no further assessment is required.

In sum, because the proposal involves a sensitive activity (residential development), the NES-CS **requires mandatory public notification** where the land is known or more likely than not to be contaminated (Regulations 5(7)(c) and 10(1), NES-CS).

Thus, limited notification under s.95 was procedurally flawed, and the application must be publicly notified under section 95A(8)(b) of the RMA. Therefore, failing to meet the NES-CS notification and evidentiary requirements justifies the application being **declined** outright.

Section A8: Cumulative Adverse Effects more than minor - Ongoing Unlawful Residential Activity

As of 17 May 2025, Andrew and I have yet again observed the Campbells' household washing hanging on a clothesline at the property, further evidencing their active and continued

residential occupation of the unconsented shed. This behaviour aligns with other residential indicators, including:

- Permanent light fixtures, washing machine next to caravan inside the shed, observed when the garage door is open and large bay windows (dark) facing our home;
- A large white caravan that has **not** moved out of the shed since it arrived in April 2024 - now considered a **minor** building under the Building Act and with which the applicants are well aware, as verified in the email from Environment Canterbury dated July 2024 .
- Continuous use of three domestic vehicles and visitor cars, further digging up the shingle road (see Appendix A6.6 & A13.1-2).
- Surveillance cameras are monitoring our property 24/7.
- Regular presence and gardening activity patterns consistent with dwelling use;
- As previously recorded by an Environment Canterbury Compliance Officer, greywater discharge to land is a high risk factor and causes contamination to land and waterways.

Moreover, the applicants are at the site for extended periods both day and night, in a manner entirely inconsistent with the use of a typical rural agricultural storage shed. Their continual presence is not occasional or sporadic, but sustained and routine. Domestic animals, including dogs and chickens, are kept on the property, indicating a level of day-to-day care and supervision characteristic of residential occupancy. In addition, the presence of a cultivated vegetable garden, which we have observed the applicants actively working on, further demonstrates that the land is being used as a dwelling, not a storage facility. There has not been a single day in recent months when we have not seen one or both applicants physically on-site. These observations collectively reflect a clear pattern of unlawful residential occupation beyond any incidental or ancillary rural activity permitted under the General Rural Zone.

The use of the land and structure as a residential dwelling is in clear breach of the Selwyn District Plan and the Building Act 2004. It undermines the integrity of the resource consent process and demonstrates a deliberate disregard for lawful planning procedures and Council directives.

In *Canterbury Regional Council v Waimakariri District Council* [2012] NZEnvC 90, the Environment Court held that ongoing unlawful use, particularly where resource consent has not been granted, should weigh heavily against the applicant regarding both effects and good faith.

We submit that the applicants' conduct amounts to ongoing, deliberate, and unlawful residential occupation, which clearly breaches the district plan. This sustained non-compliance warrants outright refusal of the application, or at the very least, mandatory public notification and a complete reassessment of the proposal under the Resource Management Act (RMA).

As compliant landowners, we have acted in good faith—paying our rates, adhering to zoning rules, and installing the required wastewater systems. It is disheartening and unjust that we are now being disadvantaged by neighbours who have knowingly acquired land with restrictions and proceeded to flout the rules for personal gain, all while projecting an image fundamentally inconsistent with the values of good neighbourliness and lawful land stewardship.

Section A9: Rebuttal to SEE Section 6.6 – Social Effects and Community Impact

We reject the applicant's assertions in Section 6.6 of the AEE that the proposed development will result in "no adverse social effects" or will "support the rural community." This is a generic and templated response that fails to engage with the lived impact of unlawful occupation, reverse sensitivity, and serious breaches of planning law. There is no social benefit to neighbours or the wider rural community when one party acts dishonestly and is then rewarded for doing so.

In this case, the applicants knowingly occupied a shed unlawfully, installed unconsented greywater discharge systems, withheld disclosure of a land contamination encumbrance, and submitted misleading or questionable house plans. These actions erode public trust in the integrity of planning processes and the enforcement of the District Plan. To suggest that such behaviour generates community benefit is not only inaccurate—it is offensive to those of us who follow the law.

"As sociologist Émile Durkheim (1897) explained, a state of anomie arises when societal rules are applied inconsistently or enforced selectively, leading individuals to lose trust in the systems that uphold social order and cohesion. This breakdown leads to alienation, resentment, and a deterioration of the collective conscience. Here, the failure of the Selwyn District Council to enforce existing planning rules, and the apparent procedural latitude granted to the applicants, reflects exactly the kind of institutional inconsistency that breeds distrust and disillusionment among law-abiding property owners such as ourselves.

Moreover, from a Te Tiriti o Waitangi (Treaty of Waitangi) perspective, the disregard for whenua (land), community process, and equity undermines Māori and Pākehā values alike. As Mason Durie (1997) notes, wellbeing is interwoven with spiritual, familial, and environmental