

# Submission on publicly notified Proposed Selwyn District Plan

Clause 6 of the First Schedule, Resource Management Act 1991

To: Selwyn District Council



## Note to person making submission

You can make this submission by filling in an online submission form which you can find on Council's website at [www.selwyn.govt.nz/dprsubmission](http://www.selwyn.govt.nz/dprsubmission).

The submission period for the Proposed Selwyn District Plan closes at **5pm Friday 4 December 2020**.

Your submission (or part of your submission) may be struck out if the Council is satisfied that at least one of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious.
- It discloses no reasonable or relevant case.
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further.
- It contains offensive language.
- It is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

## 1. Submitter details

Please note: all fields marked with an asterisk (\*) are compulsory.

Name of submitter(s)\* Davina Louise Penny

Submitter address\* 17 Iraklis close, Templeton

City/Town\* Christchurch Postcode\* 8042

Contact name (if different from above) \_\_\_\_\_

Contact organisation (if different from above) \_\_\_\_\_

Contact email address sdcssubmit@shadowdance.co.uk

Contact address (if different from above) \_\_\_\_\_

City/Town \_\_\_\_\_ Postcode \_\_\_\_\_

Contact phone number 03 3441368

**Please note** that by making a submission your personal details, including your name and addresses, will be made publicly available in accordance with the Resource Management Act 1991. This is because, under the Act, any further submission supporting or opposing your submission must be forwarded to you as well as to the Council.

While all information in your submission will be included in papers which are available to the media and the public, your submission will be used only for the purpose of the District Plan Review Process.

## 2. Trade competition declaration\*

I could gain an advantage in trade competition through this submission.

Yes  No

If yes: I am directly affected by an effect of the subject matter of the submission that

(a) adversely effects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

Yes  No

**Note:** *If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.*

## 3. Hearing options\*

Do you wish to be heard in support of your submission? *If you choose yes, you can choose not to speak when the hearing date is advertised.*

Yes  No

If others are making a similar submission would you consider presenting a joint case with them at the hearing? *You can change your mind once the hearing has been advertised.*

Yes  No

#### 4. Submission details\*

Yes, I am enclosing further supporting information to this submission form.

Provision to which my/our submission relates: <i>(Please specify the Objective, Policy, Rule, Rule Requirement, Assessment Matter, Mapping feature or other reference your submission relates to, eg TCZ-R12 Visitor Accommodation)</i>	My position on this provision is: <i>(Select one option)</i>	The reasons for my/our submission are: <i>(Please give details, eg I think this should be non-complying because we don't want this to occur in our town centre)</i>	The decision I/we want Council to make: <i>(Please specify if you want the provision to be retained, amended or deleted, eg Amend – change the activity status to non-complying)</i>
<b>Part 3 - GRUZ - R21 (Establishment of new quarry)</b>  setback of 200m from notional boundary of 200m for any excavation and 500m from any activity involving processing.	<input checked="" type="checkbox"/> Oppose in part <input type="checkbox"/> Oppose in full <input type="checkbox"/> Support in part <input type="checkbox"/> Support in full	<p>The rock in this region is comprised of greywacke which has a high crystalline silica content. Quarry operators routinely rely on the criteria of the Victoria EPA which also has a clause of 500m where the material contains CS. (To be detailed in person when attending the hearing, but images are attached to this submission).</p> <p>The mitigation used in NZ is minimal, with NO covered operations or dust removal systems. Water use is inadequate, and non-existent out of hours. Dust PM10 and smaller (which will include crystalline silica which is PM4) can and does disperse considerable distances. Certainly further than 500m, with evidence, eg at a recent hearing of 5km being possible.</p> <p>Properties in this region use their land for produce and animal industry. Therefore measuring to 20m from property frontage compromises their land. Issues of reverse sensitivity must be considered.</p>	<p>Setback to be stipulated as being 500m from quarry boundary to property boundary. This to be a minimum, and is to be irremediable regardless of proposed mitigation measures by applicants and operators.</p>
continued from above.	<input checked="" type="checkbox"/> Oppose in part <input type="checkbox"/> Oppose in full <input type="checkbox"/> Support in part <input type="checkbox"/> Support in full	<p>Dr. Alistair Humphrey from CDHB has at a consent hearing advocated that a setback of 500m be used and measured from quarry boundary to property boundary. To be produced at hearing).</p> <p>The Council has an obligation under section 23 of the Health Act to improve, promote and protect public health. Evidence from the Yaldhurst quarry consents shows that dust is a hazard to health, and has affected those who in constant exposure over several years.</p> <p>A map will be attached showing available / suitable land for quarrying as provided by the industry. It would require quarrying further from residential communities which would affect profits. However, there is currently 28 years of aggregate consented not yet accessed. It is likely in time trucks will be electrified thus reducing transport costs.</p> <p>Claims at hearings by applicants is different to reality for residents.</p>	

<p>UG - P9 recognise and provide for the finite nature of the versatile soil resource when zoning land to extend township boundaries to establish new urban areas</p>	<input checked="" type="checkbox"/> Oppose in part <input type="checkbox"/> Oppose in full <input type="checkbox"/> Support in part <input type="checkbox"/> Support in full	<p>There is to be a forthcoming national policy statement regarding the requirement to protect Highly Productive Land. SDC cite LUC 1 +2, yet the Land Use capability classification identifies LUC 1 - 3 as being highly productive.</p> <p>Documentation from govt has shown that 5% of the land in NZ is class 1 &amp;2, with 14% being class 1 - 3. It is regarded as imperative that this be protected and be kept available for long term and future use in providing produce. Something that is being highlighted nationally requiring a policy statement.</p> <p>It is important that the forthcoming district plan:  a) recognises the importance of the land and has a plan that is line with National policies. Therefore it must cite LUC 1 - 3 and not 1 - 2.  b) does not just focus on development as being a factor in protecting the highly productive land. Land use which removes the land from being useable for either more than 25 years, or prevents it from being restored to FULL productive use must also be included.</p>	<p>The protection of Highly Productive Land to be detailed in the SDC and to be in line with the NPS currently proposed. To include LUC 1 - 3. To include land use as well as development, so as to not allow for any loophole or misuse due to discrepancies being exploited.</p>
<p>Continuation of above</p>	<input checked="" type="checkbox"/> Oppose in part <input type="checkbox"/> Oppose in full <input type="checkbox"/> Support in part <input type="checkbox"/> Support in full	<p>Failure to include land use leads to a loophole which has already been exploited. The recently consented quarry in Templeton is 170 hectares. At least 96% of that land is LUC class 2 &amp; 3. The reporting officer for the Council acknowledged this. Yet, due to the reference to 'development' only, it was therefore deemed not applicable. Consent was granted.</p> <p>When rehabilitated it will have had all this soil removed. With 30cm of topsoil at the finish being replaced. This will NOT allow for commercial growing of any kind, with only grasses being viable.</p> <p>The district plan cannot be restrictive in wording on this issue. If so, it creates a let out at resource consent hearings, and will be going against the spirit and intent of the national policy statement. (due 2021)</p> <p><a href="http://www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/">www.mpi.govt.nz/news-and-resources/consultations/proposed-national-policy-statement-for-highly-productive-land/</a></p>	

Signature of submitter (or person authorised to sign on behalf of submitter)  Date 13th October 2020

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

Please return this form no later than **5pm on Friday 4 December 2020**. You can:

- scan and email it to [dprsubmissions@selwyn.govt.nz](mailto:dprsubmissions@selwyn.govt.nz) (Subject line: Proposed Selwyn District Plan Submission)
- post it to Selwyn District Council, Freepost 104 653, PO Box 90, Rolleston 7643, Attention: Proposed Selwyn District Plan Submission
- deliver it to a Council service centre in Darfield, Lincoln, Leeston or Rolleston.

SUPPLEMENTARY EVIDENCE AND COMMENT FROM DAVINA PENNY.

REF: SUBMISSION INTO FORTHCOMING SELWYN DISTRICT PLAN.

**I anticipate showing an 8 minute video to evidence concerns in my submission, and may also be bringing a witness to the issues. Therefore I request that I be allowed 20 minutes to make my submission accordingly.**

SECTION 1 - QUARRY SET BACKS.

**ATTACHMENT 1: VICTORIA EPA SETBACK DISTANCES.**

The Victoria EPA criteria is often cited at resource consent hearings for quarry applications, and is not correctly cited. It also assumes best practice is utilised. If not, I have been advised by staff at the EPA consent could be declined. (Evidenced in email correspondence).

Mitigation here in this region is at the lowest/basic level of use of water only. Compared to mitigation measures available and used elsewhere in the world, it cannot and should not be considered as best practice. The EPA criteria has an additional criteria with regards the operations we witness (crushing, screening, stockpiling and conveying). That criteria relates to the presences of respirable crystalline silica and is a setback of 500m.

**The plan is asking for 500m setback from processing, which is wholly inadequate with one reason in particular making it unviable.**

Mobile plants are also used on sites, not just fixed central plants. These mobile plants undertake the processing of the central plant, and could be used up as far as the boundary where extraction is occurring. It is important fixed points are used for establishing setbacks, and due to the fact stockpiling could occur close to the boundary / bunds as well as processing, with the one offering clarity and protection to residents being 500m measured from the quarry boundary. Should consent be granted prohibiting use of any mobile plant within 500m, this could be open to abuse due to the nature of quarrying. It occurs behind high bunds and shelter belts, with no way of any community members monitoring this to ensure compliance.

**ATTACHMENT 2: AVAILABLE LAND FOR QUARRYING IN SELWYN.**

Applicants for quarry consent want to extract as close to urban areas as possible for one reason - to reduce transport costs. This has come at the expense of the communities such as those in Yaldhurst and those in Templeton. Fulton Hogan provided this chart at the Templeton quarry consent hearing showing what land is suitable in this region for quarrying. So if there is a requirement to quarry AWAY from residents and communities a setback restriction of 500m would not prohibit the activity entirely. Instead it would require selecting sites that will not impact on residents, which may be further from current sources. This would impact profit margins, but would ensure residents health and well being as part of the environment are protected. Prior to the Templeton quarry being consented, there was 23 years of aggregate not yet accessed. With the Templeton consent, there is now 28 years worth of aggregate consented not yet quarried.

Mr Broughton (Mayor) in an email to me dated March 2020 said this:

***The setbacks are not 'red lines' which will stop development, but rather activity status escalators which will trigger more scrutiny over the activity.***

This signifies even this setback is not one that is definitive.

It is likely applicants, with the financial means will hire experts to argue why this set back should be reduced. If submitters do not have the same means and access to experts, Commissioners will usually take on board the proposals of the applicant. And with regards the triggering of more scrutiny, there is ample evidence that consents are not monitored adequately. (Example: Fulton Hogan quarry in Roberts Road had a requirement for 2 inspections in an 8 year period).

**ATTACHMENT 1: VICTORIA EPA GUIDELINE.**

## Recommended separation distances for industrial residual air emissions

Rendering and casings works	Abattoirs, knackeries or poultry processing works involving rendering	>200 tonnes per year	1000
Seafood	Processing of seafood	<200 tonnes per year	(See note*)
		>200 tonnes per year	500
Smallgoods	Preserving or drying smallgoods	<200 tonnes per year	(See note*)
		>200 tonnes per year	500
Vegetable oil and fat production using solvents	Producing edible oils or fats using seed crushing, solvent extraction or fat deodorising	>200 tonnes per year	500
		<200 tonnes per year	(See note*)
*Note: For food and beverage manufacturing producing less than 200 tonnes of product per year, no separation distances are specified. For these cases visible discharge of dust or emissions of odours offensive to the senses of human beings, beyond the boundary of the premises.			
<b>Mining and extractive industry</b>			
Open cut coal mine	Harvesting, crushing, screening, stockpiling and conveying of coal		1000
Gas and oil extraction	All natural gas or oil production wells including tight, shale and coal seams		250
Mine for other minerals	Crushing, screening, stockpiling and conveying of other minerals		250
Quarry	Quarrying, crushing, screening, stockpiling and conveying of rock	Without blasting	250
		With blasting	500
		With respirable crystalline silica	500



### ATTACHMENT 3: CITATION FROM DR. WILLOUGHBY AND DR. HUMPHREY (CDHB)

Dr. Humphrey has had several media releases regarding the issues of quarry dust, Pm10, and crystalline silica on human health.

He along with Dr. Willoughby submitted a report in January 2018 with regards an application by Road Metals to operate a quarry in the Yaldhurst region. He clearly cites a 500m setback is necessary and gives reasons for this.

1 April 2018

G & C Martini

Road Metals Submission 14

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"Dear Soraya,

Please note the CDHB submission on the Road Metals application below, emailed to Minal Lamghare on 29<sup>th</sup> January 2018 at 16h29.

CDHB is quite clear in its submission that at least a 500m setback distance is the only acceptable solution to the dust problem, and that this is in accordance with national and international best practice guidelines, including Ministry for the Environment, 2016 Good Practice Guide for Assessing and Managing Dust' and the 'Victoria Environmental Protection Agency, 2013 – Guideline for recommended separation distances for industrial residual air emissions'. If a 500m setback cannot be achieved then the view of the Canterbury District health board is that it should be declined.

Although this submission was from a Health Protection Officer (Matt Willoughby), the submission, as with all CDHB submissions, was peer reviewed and overseen by a Public Health Specialist (in this case me).

My views are strictly in accordance with our submission.

I presume that our submission is clear enough on the papers alone and you are welcome to cite them.

In my absence in April through August, Dr. Ramon Pink (cc'd) will be covering as Public Health Specialist (and Medical officer of Health) for environmental health issues in Canterbury, assisted in this case by Matt Willoughby.

Regards,

Dr. Alistair R.G. Humphrey MPH MHL FAFPHM FRACGP  
Medical Officer of Health (Canterbury)

PO Box 1475  
Christchurch

Agency, 2013 - Guideline for recommended separation distances for industrial residual air emissions'. Both of these documents recommend a setback distance of 500 metres from the boundary of a residential property and other sensitive activities.

Issues have arisen in the area in which the applicant proposes this activity where similar activities that are located within 500 metres of residential properties whereby dust that is not contained on site has produced an offensive and objectionable effect beyond the boundary of the activity. Rule 7.3 of the Canterbury Air Regional Plan outlines this and requires activities not to cause an adverse effect beyond the boundary of operation. The CDHB recommend that a 500m setback is the most effective way of achieving compliance with this rule.

7.3 The discharge of odour, dust or smoke into air that is not managed by any other rule in this Plan

is a permitted activity provided the following conditions are met:

1. The discharge does not cause or is not likely to cause an adverse effect beyond the boundary of the property of origin; and
2. The discharge does not cause an offensive or objectionable effect beyond the boundary of the property of origin when assessed in accordance with Schedule 2

The CDHB request that the setback distances be amended to;  
- 500m from the boundary of residential properties

If the applicant is not willing to do this, the CDHB request that the application be declined.

The CDHB's responsibility is to promote the reduction of adverse environmental effects on the health of people and communities and to improve, promote and protect their health pursuant to the New Zealand Public Health and Disability Act 2000 and the Health Act 1956 which complements the purpose (s5) of the RMA to promote the sustainable management of resources in a way which enables communities to provide for their health and safety.

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SUPPLEMENTARY EVIDENCE AND COMMENT FROM DAVINA PENNY.

REF: SUBMISSION INTO FORTHCOMING SELWYN DISTRICT PLAN.

## SECTION 2 - PROTECTION OF HIGHLY PRODUCTIVE LAND (VERSATILE SOILS)

This region has some of the best soil in the country and has to be protected as far as possible, in line with Govt policy. Canterbury has a specific mention in the Govt consultation and draft documents with regards to HPL

LUC 1 - 3 are cited as being highly versatile, and I believe the district plan should recognise this and not just cite LUC 1 & 2.

The recently consented Templeton quarry (170 hectares) has most of the site comprising of class 2 and 3 as shown in the attached image. The reporting officer for SDC did **NOT** mention this in his s42 reports, and it came to light through submissions at the hearing.

His response to the commissioners that the policy direction in the SDP relating to versatile soils was limited to largely encouraging residential growth around existing townships.

The quarry will operate for a minimum of 40 years, and will not be restored to full available use post operations. It will have 30cm of topsoil over the quarry pit, which will not allow for commercial growing. This level of rehabilitation is the norm for quarrying in this region and is not unique to this one application. It can only support restrictive growth, predominantly grasses.

I have already shown the abundance of land available for quarrying, so it is not unreasonable to ask that the forthcoming District Plan includes land use when protecting HPL. It will not in any way prohibit this activity from occurring, but instead will cause the activity to be suitably located.

**If the District Plan only refers to development, and does not have references to other uses that may impact on the availability of HPL, this will be a loophole that will be exploited at consent hearings and in applications for land use. And is likely to be supported by reporting council staff who will be aware of financial benefits of using the land in the short term.**

It is likely the ministers working on the National Policy statement did not envisage land use as being a factor in reducing the availability of productive land, but it is a factor that has to be considered in this region due to land use consents being prolific.

Here are some key quotes from the documentation linked to in my main submission;

*The NPS-HPL would provide a clear signal to councils that highly productive land should be considered as a matter of national significance in RMA planning and consenting decisions. The proposed NPS-HPL would provide direction for councils to: Maintain the availability of highly productive land for primary production and protect highly productive land from inappropriate subdivision, use and development. The land that has been identified as the most productive (class 1 - 3) through the Land-Use Capability classification system makes up only 14% of New Zealand's overall land area (excluding conservation land and existing urban areas). Given this is a limited resource, any further reduction needs to be managed and should be avoided where other options for urban development exist.*

*. New Zealand's productive land is under threat and we have a duty to cherish and protect it for future generations. We have already lost a lot of this precious resource. What we give up today is lost forever. If healthy soil resources are lost, they are not renewable in a human lifetime, which is why we need to act with urgency.*

*There has been a reluctance from some councils to propose strong provisions relating to highly productive land in the absence of any supporting national direction. These factors are clearly contributing to the loss of highly productive land for primary production....*

*Land for primary production is maintained for future generations. It would require local authorities to proactively consider and manage the highly productive land resource within their region or district to ensure that this can be used for primary production now and into the future. In practice, this means that development that leads to the irreversible loss of highly productive land should be avoided where other feasible options exist.*

**IMAGE OF THE CONSENTED TEMPLETON QUARRY (170 HECTARES) AND INDICATION OF LUC SOILS THAT WILL BE TAKEN OUT OF FUTURE USE. MAJORITY OF THE SITE IS LUC 2, WITH APPROX 97% BEING LUC 2 & 3. DUE TO THE LOCATION AND ZONE, IT CANNOT BE DEVELOPED.**

