

REZONING REQUESTS – PREBBLETON

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1 Scope of Report

- [1] This Recommendation Report relates to the the submissions and further submissions that were received in relation to requests to rezone land in the Prebbleton area of Selwyn District, including properties within the township itself as well as the surrounding peri-urban area.
- [2] The Hearing Panel members were:
 - Lindsay Daysh
 - Nicole Reid
 - Raewyn Solomon
 - Rob van Voorthuysen (Chair¹)
- [3] The Section 42A Report² was:
 - Section 42A Report, Report on submissions and further submissions, Rezoning: Prebbleton, Craig Friedel, 11 October 2022.
- [4] The Hearing Panel’s recommended amendments to the notified zonings are shown in Appendix 1.

2 Our Approach

- [5] The Section 42A Report helpfully outlined relevant background information on a number of matters:
 - Resource Management Act 1991;
 - Planning context;
 - Variation 1 to the PDP, which is the Council’s Intensification Planning Instrument (IPI) prepared in response to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021;
 - National Policy Statement on Highly Productive Land 2022;
 - Class 1, 2 or 3 soils in and around Prebbleton;
 - Overview of the Prebbleton area;
 - Three private plan change requests (PC68, PC723 and PC79); and
 - Maps showing the areal extent of each rezoning request.
- [6] We adopt that background information without repeating it here. Having said that we note that Prebbleton is identified as a ‘Service Township’ in Selwyn 2031. It functions to provide a high amenity residential environment and primary services to the surrounding rural area. Past urban growth has been guided by the Prebbleton Structure Plan 2009, the residential ‘greenfield’ priority areas in the CRPS⁴ Chapter 6 Map A and the Rural Residential Strategy 2014.
- [7] There is a developing town centre zoned as LCZ in the PDP, but it is not a Key Activity Centre within the Greater Christchurch centre’s network (CRPS Chapter 6 Map A). The township was

¹ Commissioner Daysh chaired the actual hearing as Commissioner van Voorthuysen could not attend due to Cyclone Gabrielle. Commissioner van Voorthuysen subsequently watched the hearing on YouTube.

² No Section 42A Reply Reports were provided for the rezoning request hearings.

³ PC72 was approved by SDC in April 2022 but is subject to appeal by the Drinnans.

⁴ Canterbury Regional Policy Statement 2013 (Updated 28 July 2021).

not allocated any additional residential ‘greenfield’ areas through Our Space or any corresponding changes to the CRPS Chapter 6⁵.

- [8] We note that Variation 1 to the PDP introduced a new Medium Density Residential Zone (MRZ) on the proposed General Residential Zone (GRZ) in Prebbleton as well as on land covered by the Council approved private plan changes to the Operative Selwyn District Plan (SDP), namely PC68 and PC72. Within the PC68 and PC72 land the MRZ did not have immediate legal effect. Land within PC79 was not zoned MRZ under Variation 1 as it had not been far enough advanced through the Schedule 1 process.
- [9] We address the interplay between rezoning submissions on the PDP and the effect of Variation 1 in subsequent sections of this Recommendation Report.
- [10] Mr Friedel provided a description of each submitter’s rezoning request. We adopt those descriptions without repeating them here. It is therefore imperative that readers of this Recommendation Report also read Mr Friedel’s Section 42A Report.
- [11] Further submitters are not generally referred to in this Recommendation Report, because further submissions are either accepted or rejected in conformance with our recommendations on the primary submissions to which they relate.

2.1 National Policy Statement on Highly Productive Land

- [12] We received legal submissions from submitters on the applicability of the NPS-HPL for land that was zoned Rural (Inner Plains) in the SDP or GRUZ SCA-RD1 in the PDP. By way of Minute 38 we requested a legal opinion on that matter from counsel for the SDC.
- [13] Having considered the legal advice from both Council’s solicitors⁶ and counsel for submitters, we agree that the application of the NPS-HPL depends on whether the land is zoned the equivalent of Rural Lifestyle (as defined in the National Planning Standards (NPS)), either in the SDP, or, if not in the SDP, in the PDP. The assessment required is a comparison between the way the land is described in the relevant Plan (in the round), and the descriptions of the zones in the NPS.
- [14] We adopt the Adderley Head assessment which concluded that land identified as Rural (Inner Plains) in the SDP is not the equivalent of the Rural Lifestyle Zone in the NPS. Instead, General Rural or Rural Production is the appropriate equivalent NPS zone. Similarly, land identified as GRUZ SCA-RD1 in the PDP is the equivalent of the General Rural Zone in the NPS, not the Rural Lifestyle Zone.
- [15] Consequently, other than in the particular situation outlined below, the NPS-HPL applies to land identified as Rural (Inner Plains) in the SDP or GRUZ SCA-RD1 in the PDP (provided the other requirements of the NPS-HPL are met). We consider this interpretation to be consistent with the intent of the NPS-HPL, which is to avoid the loss of productive land to rural lifestyle activities, and to allow for the preservation of productive land pending a more detailed assessment under the NPS-HPL.
- [16] However, we are cognisant the NPS zone descriptions also refer to ‘use’ and the MfE guidance states *“...It is appropriate to consider specific characteristics of the site and reasonably*

⁵ Refer to the Section 42A Report – PDP Rezoning Framework, 1 July 2022

⁶ Adderley Head

foreseeable opportunities for using the land for land-based primary production (over a 30-year period) in forming these conclusions.”

- [17] Consequently, if it can be demonstrated that an area of land identified as Rural (Inner Plains) in the SDP, or GRUZ SCA-RD1 in the PDP, for which a rezoning submitter seeks an ‘urban zoning’ has been previously subdivided and developed to such an extent that the lot sizes effectively preclude the area of land being predominantly used for productive purposes, and instead the area of land is being predominantly used for residential purposes, then in that particular situation we would consider a Rural Lifestyle zoning to be the most appropriate NPS zone description for the area of land. In such situations the NPS-HPL would not apply because NPS-HPL clause 3.5(7) exempts Rural Lifestyle Zoned land from the coverage of the NPS. For this ‘exemption’ to apply we consider that the lot sizes within the area of land would generally be less than 4ha, and the land not occupied by housing and housing curtilage is being used for non-productive activities, including but not limited to domestic orchards, gardens and mown lawns.

3 Hearing and Parties Heard

- [18] The hearing for the Prebbleton rezoning requests was held on 14 and 16 February 2023. The parties who wished to be heard and who appeared at the hearing were:

Sub #	Name
DPR-0032	Christchurch City Council
DPR-0044	Xiaojiang Chen
DPR-0134	Ballantrae Residents Group
DPR-0174	GM & J Drinnan
DPR-0203	M Springer
DPR-0298	Trices Road Re-zoning Group
DPR-0413	Blakes Road Kingcraft Group
DPR-0417	Jenny Fisher, Graham & Racquel Drayton, John & Fiona Kipping, David & Elizabeth Whiten
DPR-0488	Dally Family Trust and Julia McIlraith

- [19] The witnesses and counsel we heard from are listed in Appendix 2. A copy of their legal submissions and evidence is held by the Council. We do not separately summarise that material here, but we refer to or quote from some of it in the remainder of this Recommendation Report. We record that we considered all submissions and further submissions, regardless of whether the submitter or further submitter appeared at the hearing and whether or not they were represented by counsel or expert witnesses.

4 Support for Applying the GRZ to Specific Sites in Prebbleton

4.1 DPR-0025 Charles and Elaine Williams, DPR-0217 Summerset Villages (Prebbleton) Limited

- [20] No submitter evidence was provided in support of these two submissions. We note that the submissions have been superseded by Variation 1 which imposed MRZ on both properties and that the MRZ had immediate legal effect. For that reason, we recommend these submissions be rejected.

5 Rezone Land in Prebbleton from GRUZ To LLRZ

5.1 DPR-0074 Julie Stafford

[21] This submission sought that the land be rezoned from GRUZ to either LLRZ or GRZ. No specialist evidence was provided to enable the merits of the rezoning to be assessed. Rezoning the land from GRUZ to LLRZ⁷ would be inconsistent with Policy 6.3.9 of the CRPS as it is not identified as a 'rural residential location' within the Rural Residential Strategy 2014. It would also contribute to the loss of LUC 1 and 3 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ must be avoided because none of the matters listed in clause 3.6(1) of the NPS-HPL apply.

[22] We recommend that the submission is rejected.

5.2 DPR-0157 Kevin and Bonnie Williams

[23] We note that the submitters primary relief regarding a GIZ is evaluated in the Hearing 30.8 Rezone: Eastern Selwyn Commercial and Industrial Recommendation Report.

[24] The submission included a planning assessment, but no other specialist evidence was provided to enable the merits of the rezoning to be assessed. Rezoning the land from GRUZ to LLRZ would be inconsistent with Policy 6.3.9 of the CRPS as it is not identified as a 'rural residential location' within the Rural Residential Strategy 2014. It would also contribute to the loss of LUC 1 and 2 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ must be avoided because none of the matters listed in clause 3.6(1) of the NPS-HPL apply.

[25] We recommend that the submission is rejected.

5.3 Properties that sit between the Christchurch Southern Motorway and the western side of Shands Road

[26] The following submissions relate to standalone and small groupings of rural properties that sit between the Christchurch Southern Motorway and the western side of Shands Road.

- DPR-0253.001 Robert Wilson Purchas & Wendy Ann Almond
- DPR-0314.003 David Mitten
- DPR-0426.001 Survus Consultants Limited
- DPR-0426.002 Survus Consultants Limited

[27] None of the submitters provided evidence in support of their submissions. We note that rezoning the land from GRUZ to LLRZ would be inconsistent with Policy 6.3.9 of the CRPS as it is not identified as a 'rural residential location' within the Rural Residential Strategy 2014. It would undermine the efficient operation of regionally significant infrastructure based on the Significant Electricity Distribution Line corridor. It would also contribute to the loss of LUC 2 and 3 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ must be avoided because none of the matters listed in clause 3.6(1) of the NPS-HPL apply.

[28] We recommend these submissions be rejected.

⁷ LLRZ is defined as an 'urban' zone under the NPS-HPL.

5.4 DPR-0272 Damon Lee

- [29] This submission was general in its nature insofar as it supported rezoning TC1 land in Prebbleton as an alternative to TC3 land in Lincoln or Halswell. No expert evidence was provided in support of the submission. Rezoning the land from GRUZ to LLRZ would be inconsistent with Policy 6.3.9 of the CRPS as it is not identified as a ‘rural residential location’ within the Rural Residential Strategy 2014.
- [30] We recommend that the submission is rejected.

5.5 DPR-0394 McMillan Civil Limited

- [31] No specialist evidence was provided to enable the merits of the rezoning to be evaluated. Rezoning the land from GRUZ to LLRZ would be inconsistent with Policy 6.3.9 of the CRPS as it is not identified as a ‘rural residential location’ within the Rural Residential Strategy 2014. It would also undermine the efficient operation of regionally significant infrastructure based on the Significant Electricity Distribution Line corridor and Railway Network Noise Control Overlay. The rezoning request would contribute to the loss of LUC 2 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ must be avoided because none of the matters listed in clause 3.6(1) of the NPS-HPL apply.
- [32] We recommend that the submission is rejected.

5.6 DPR-0405 Franco Farms Limited and DPR-0404 Urban Estates

- [33] No specialist evidence was provided to enable the merits of the rezoning to be evaluated. The properties are not within the UGO and the land is not a ‘rural residential location’ in the Rural Residential Strategy 2014. Rezoning the land from GRUZ to LLRZ would therefore be inconsistent with Policy 6.3.9 of the CRPS. The rezoning request would also contribute to the loss of LUC 1 and 2 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ must be avoided because none of the matters listed in clause 3.6(1) of the NPS-HPL apply.
- [34] We recommend that these submissions be rejected.

5.7 DPR-0413 Blakes Road Kingcraft Group (BRKG)

- [35] BRKG sought for their land⁸ to be rezoned from GRUZ SCA-RD14 Kingcraft Drive to LLRZ. Planning evidence was provided by Mark Brown, but no technical evidence was provided. Mr Brown advised that development in accordance with the LLRZ standards would likely to result in an additional 10 households within this area and that combined with the existing 6 households will give a combined total of 16 households.⁹
- [36] The properties are outside the UGO and are not identified as a ‘rural residential location’ in the RRS14. Nor have they been zoned MRZ under Variation 1.
- [37] At the commencement of the hearing Mr Friedel advised that on the basis of Mr Brown’s evidence he had revised his original assessment and considered that the rezoning the land from GRUZ to LLRZ would not be inconsistent with Policy 6.3.9 of the CRPS.

⁸ Lot 1 DP 315351, Lot 1 DP 361163, Lots 1 and 2 DP 462067, Lot 2 DP 407932 and Lot 2 DP 56097.

⁹ EIC Brown, paragraph 4.39.

- [38] We note that Kingcraft Drive is an Existing Development Area (EDA) under the SDP. EDAs are site specific developments that were formalised through changes to the Transitional District Plan or through resource consents. However, EDAs do not qualify as an ‘urban’ zone as defined in the NPS-HPL. Consequently, as the land is zoned GRUZ we must consider the NPS-HPL. The rezoning request would however contribute to the loss of LUC 1 and 2 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ must be avoided because we find that none of the matters listed in clause 3.6(1) of the NPS-HPL have been demonstrated to apply.
- [39] In that regard Mr Brown suggested that although the land was zoned GRUZ, the provisions of SCA-RD14 meant that the land in question was removed from the ‘rural zoning classifications’ under the NPS-HPL.¹⁰ However, under SCA-RD14 the minimum size of a site is 10,000m². Under a LLRZ the minimum net site area would reduce to 3,000m². In the absence of technical evidence to the contrary, we are not persuaded this would ensure that the LUC 1 and 2 highly productive land would be protected for use in land-based primary production, as is required by the sole objective of the NPS-HPL.
- [40] Mr Brown provided a rudimentary outline development plan that dealt only with a primary road joining to Blakes Road. We make no finding on whether or not that ODP satisfies the requirements of CRPS Policy 6.3.9(6), but note that no evidence was provided on the transportation effects of the proposal. Mr Brown also suggested that the area could be serviced from the SDC’s wastewater network and that stormwater could be dealt with on-site, however no evidence was provided in support of those suggestions.
- [41] For the above reasons we recommend that this submission is rejected.
- [42] Having said that we note Mr Friedel’s advice that the rezoning request would be a strong candidate for consideration within any future spatial planning exercise as the site context means that intensifying the land would have some positive outcomes, including in respect to the form and function of Prebbleton’s urban form.

5.8 DPR-0417 Jenny Fisher, Graham & Racquel Drayton, John & Fiona Kipping, David & Elizabeth Whiten

- [43] The properties are not within the UGO. We received legal submissions from counsel for Jenny Fisher¹¹ in support of the submission, but no expert evidence was provided to enable the merits of the rezoning to be evaluated.
- [44] Counsel advised that Ms Fisher has abandoned the relief relating to rezoning the land from GRUZ to LLRZ. She instead sought that the site be subject to the UGO. However, doing so would be inconsistent with Policy 6.3.9 of the CRPS as it is not identified as a ‘rural residential location’ within the Rural Residential Strategy 2014.
- [45] Making the land subject to the UGO would also contribute to the future loss of LUC 2 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as rural residential must be avoided because there is no evidence that any of the matters listed in clause

¹⁰ EIC Brown, paragraphs 4.2 to 4.13.

¹¹ Counsel noted that she did not represent the other three parties to the submission, namely Graham and Racquel Drayton, John and Fiona Kipping and David and Elizabeth Whiten. We heard no evidence from these other property owners. This weighs against us accepting the rezoning request.

3.6(1) of the NPS-HPL apply. In that regard counsel submitted that the existing residential properties surrounding the small ‘outcrop’ of rural land should be considered a permanent constraint that impacts the viability of the land for rural use¹². However, again no evidence was provided in support of that proposition.

- [46] The other impediment to us finding in favour of a UGO is that we have no idea what the other three landowners would think of that. Even if we accepted counsel’s submissions, it would be both novel and inappropriate to apply a UGO only to the Fisher land.
- [47] We recommend that this submission is rejected.
- [48] Again, we note Mr Friedel’s advice that the rezoning request would be a strong candidate for consideration within any future spatial planning exercise as the site context means that intensifying the land would have some positive outcomes, including in respect to Prebbleton’s consolidated and concentric urban form.

5.9 DPR-0488 Dally Family Trust and Julia McIlraith

- [49] These submissions relate to around 42ha¹³ of land bordered by Blakes and Shands Roads and they seek an LLRZ zoning with a minimum lot size of 1,000m² and an average lot size of not less than 2,000m², or alternatively that the land be included within the UGO. The submissions were supported by expert evidence¹⁴ and legal submissions. For the submitters Fraser Colegrave¹⁵ advised that the particular LLRZ rezoning sought would provide for up to 140 additional rural residential dwellings.
- [50] We firstly note that in the PDP as notified the submitters’ land is zoned GRUZ and it is subject to SCA-RD1 under which the minimum size of a site is 4ha or 40,000m². A ‘normal’ LLRZ¹⁶ has a minimum net site area of 3,000m². In this case the submitters’ proposed minimum site area of 1,000m² is more akin to a Low Density Residential Zone¹⁷.
- [51] Mr Friedel advised that the site is located between the Christchurch Southern Motorway and Prebbleton township. The land is outside the UGO and is not a ‘rural residential location’ in the Rural Residential Strategy 2014. He considered that rezoning the land would be inconsistent with the Urban Growth Objectives (UG-O2) of the PDP and Policy 6.3.9 of the CRPS. We also note the rezoning would contribute to the loss of LUC 2¹⁸ and 3 highly productive land and under Policy 3.6 of the NPS-HPL the urban rezoning of that land as LLRZ must be avoided because none of the matters listed in clause 3.6(1) of the NPS-HPL applied.
- [52] We find that rezoning the land as sought would be contrary to CRPS:
 - Objective 6.2.1(3) which seeks to avoid urban development outside of existing urban areas or Greenfield Priority Areas (GPA) unless expressly provided for in the CRPS;

¹² Paragraph 12.2

¹³ The evidence variously refers to areas between 40 and 42 ha.

¹⁴ Including expert planning, real estate, geotechnical, infrastructure, urban design, contaminated land, economic, transport and primary food production economics assessments.

¹⁵ Rebuttal evidence, Colegrave, paragraph 17.

¹⁶ PDP SUB-Table 1

¹⁷ PDP SUB-Table 1 provides for a minimum net site area of 600m² in the LRZ.

¹⁸ Mr Friedel referred to LUC 1 and 3, but as denoted by the Landcare Research LUC webpage and the Canterbury Maps shown in Figure 1 of the Section 42A Report it is LUC 2 and 3.

- Objective 6.2.2 which seeks an urban form that achieves consolidation and intensification of urban areas, and avoids unplanned expansion of urban areas; and
- Policy 6.3.1 which states that urban development outside of certain identified areas is to be avoided, unless expressly provided for in the CRPS.

[53] The Policy 6.3.1 term ‘identified areas’ refers to Map A of the CRPS, which identifies Greenfield Priority Areas (GFA) for both residential and business land. The GFA were introduced by way of Change 1 to the CRPS, which sought to reflect the outcomes of the updated July 2021 Housing Capacity Assessment (HCA) prepared by the Greater Christchurch Partnership.

[54] The submitters’ land falls outside CRPS Map A’s Prebbleton GPAs. As we noted above, the land is also outside SDC’s Urban Growth Overlay (UGO)¹⁹. This would indicate that urban zoning of the land in question is inappropriate.

[55] However, we must also consider the NPS-UD 2022. Counsel²⁰ for SDC has previously advised that (our emphasis) “...Objectives 2, 5 and 6 and Policies 1, 6 and possibly 8 and Part 3 Implementation [of the NPS-UD] apply, as required by the context, to planning decisions made for the DPR [District Plan Review or PDP].”

[56] NPS-UD Policy 8 states:

Policy 8: Local authority decisions affecting urban environments are responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is:

- (a) unanticipated by RMA planning documents; or
- (b) out-of-sequence with planned land release.

[57] Regarding Policy 8, as noted by Mr Colegrave, rezoning the submitters land would add up to 140 additional residential sites. We accept that would add significantly to Prebbleton’s development capacity. However, we are not persuaded that the rezoning is actually required to provide for sufficient development capacity for Prebbleton²¹.

[58] Relevantly in that regard, NPS-UD Policy 2 is:

Policy 2: Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.

[59] The July 2021 HCA concluded that within Greater Christchurch, at a density of 15hh/ha, there was a surplus of 48,344 households in the long-term, with SDC being the only territorial authority with a shortfall in the long-term (10 years onwards) with that shortfall being around 11,800 lots. In the short (0 – 3 years) and medium term (3 – 10 years) Selwyn District as a whole had surplus development capacity of around 1,900 and 5,000 lots respectively²². We note that for the submitters, economist Fraser Colegrave sought to cast doubt on these HCA figures. We prefer to accept the HCA figures as they stand as the starting point for our assessment.

¹⁹ Both as it exists in the PDP and as it would be amended by Variation 1.

²⁰ Legal advice from Paul Rogers (SDC counsel) dated 13 September 2021. Attachment 1 to the Re-zoning Framework Section 42A Report.

²¹ That being an NPS-HPL clause 3.6(1)(a) exemption to the avoidance of the urban zoning of highly productive land.

²² EIC Kirk Lightbody for CCC, paragraph 8.2.

- [60] Our reasons for saying that is the HCA figures do not allow for the additional development capacity provided by recent private plan changes. In Rolleston alone, according to the evidence of Chris Jones²³, PC64, PC70²⁴, PC71, PC75, PC76 and PC78 collectively provide around an additional 3,650 residential lots.
- [61] Nor do they take into account the implications of more intense residential development that will be enabled by Variation 1 to the PDP in Prebbleton. As noted by counsel²⁵ for CCC/CRC *“This [introduction of MRZ] change will reduce the modelled [HCA] long-term shortfall, adding capacity in the short and medium term.”*
- [62] Consequently, the effect of the private plan changes listed above and the upzoning of the 47 hectares of rural land in Rolleston will yield an additional 4,355 lots.
- [63] We understand that SDC considers West Melton and Prebbleton to form a single housing market due to the similar nature of those townships. The West Melton rezoning Hearing Panel’s recommendations will yield in excess of an additional 500 lots (Hearing 30.6). We observe that PC68 and PC72 (Prebbleton²⁶) will yield another 1,500 or so lots. This amounts to a total of around 2,000 additional lots in the West Melton and Prebbleton area. That will further extend the 2021 HCA medium term surplus of 5,000 lots.²⁷
- [64] We observe that to be a significant surplus, and even if our estimates are incorrect by say 50% it is still significant. In that regard we are satisfied that the issues raised by Mr Colegrave do not detract from a finding that there is no Selwyn-wide capacity shortfall in the medium term. Nor is there likely to be a medium-term capacity shortfall in Prebbleton alone.
- [65] We find that rezoning of the submitters’ land is not required to provide at least sufficient development capacity to meet expected demand for housing land over the short term and medium term in Prebbleton. In other words, there is no need for the rezoning over that period. Whether or not there is a capacity shortfall in the long term depends on how demand and supply play out over the next decade.
- [66] Given that the ‘long-term’ capacity shortfall for the whole of the Selwyn District identified in the HCA extends beyond the life of the PDP, we consider that any additional need for urban zoned land in Prebbleton (including LLRZ) in the long term would be better determined by the Greater Christchurch Spatial Plan (GCSP). We understand that the GCSP will inform a review of the CRPS urban growth provisions, including its Map A.
- [67] Regarding Objective 6.2.2 of the CRPS, Mr Friedel considered the rezoning request would detract from the current situation whereby Shands Road represents a strong western urban growth boundary that maintains a consolidated and integrated settlement pattern for Prebbleton. In response Ms Lauenstein acknowledged²⁸ the role of Shands Road as an important movement corridor to access the southern motorway, resulting in increased traffic volumes at

²³ EIC, August 2022, page 33 of 38.

²⁴ David Compton-Moen advised that *“... I understand that this plan change is still progressing, and being within the FUDA, is highly likely to become urban in the near future.”* EIC, paragraph 45.3.

²⁵ Legal Submissions for Christchurch City Council and Canterbury Regional Council, Hearing Topic 30.1: Rezoning – Rolleston, 20 January 2023, paragraph 6.3.

²⁶ Land within PC68 and PC 72 land was zoned MRZ by Variation 1.

²⁷ We observe that the rezoning of the PC62 area in Leeston and the acceptance of DPR-0162 Millars Machinery in Doyleston will add a further 50 to 60 residential lots.

²⁸ Rebuttal Evidence, Lauenstein, paragraph 13(a).

potentially higher speeds. She considered Shands Road was a suitable limit to the standard urban development densities (GRZ, MDR), but disagreed with the notion that the type of LLRZ as proposed would change Prebbleton’s consolidated urban form.

- [68] We are not persuaded by that evidence, given the intended minimum site size of only 1,000m² or 1/10 of a ha) which as we have observed is more akin to a Low Density Residential Zone. In addition, at that density the proposal would also add a narrow finger of higher density LLRZ to the north west of Shands Road which in our view would not contribute to the compact nature of Prebbleton’s urban form. On that basis we find that the submitters’ proposal would not contribute to a well-functioning urban environment²⁹.
- [69] In saying that we also observe that the PDP already includes three large areas of ‘normal’ LLRZ in close proximity to the Prebbleton central residential area. On that basis, nor are we persuaded that there are no other reasonably practicable and feasible options for providing at least sufficient development capacity, insofar as it relates to rural residential development, within the same locality and market.³⁰
- [70] Regarding the NPS-HPL, counsel submitted that the evidence of Mr Ford and Mr Colegrave suggested that the land has limited potential for primary production and that neither horticultural, pastoral or arable farming was economically viable. While that may possibly be so (we make no finding in that regard), the rezoning still needs to pass the NPS-HPL clause 3.6(1) ‘threshold’ test. As outlined above, on the evidence we are not persuaded that the rezoning would meet the requirements of NPS-HPL clause 3.6(1)(a) and (b)³¹ and so it is therefore not to be allowed. In that regard, Ms Lauenstein³² considered that the land was “...*underdeveloped as it displays a large amount of ‘left over’ land between the existing dwelling[s] ...*”.
- [71] For all of the above reasons we recommend that the submission is rejected.
- [72] For the record, on a more minor matter, Mr Friedel considered that the rezoning would undermine the efficient operation of regionally significant infrastructure based on the Significant Electricity Distribution Line corridor on the PDP planning maps. In response counsel submitted that the Outline Development Plan for the site has been amended to provide setbacks from the Significant Electricity Distribution Line Corridor, which would form a green corridor through the site. We agree that would deal with that concern.

6 Rezone Land in Prebbleton from GRUZ to SPZ

6.1 DPR-0432 Birchs Village Limited

- [73] The submitter sought to rezone Lot 2 DP 365486 (348 Leadleys Road) from GRUZ to a SPZ to reflect the land’s status as a designated and vested recreation reserve. Planning evidence was provided in support of the request.
- [74] Mr Friedel advised that the SDC District Plan Review Committee resolved to rely on the designation of reserves under the PDP rather than creating an Open Space Zone. Prebbleton

²⁹ That being an NPS-HPL clause 3.6(1)(b) exemption to the avoidance of the urban zoning of highly productive land.

³⁰ That being an NPS-HPL clause 3.6(1)(b) exemption to the avoidance of the urban zoning of highly productive land.

³¹ As the sub-clauses are conjunctive, we have no need to consider clause 3.6(1)(c).

³² Tabled Summary Statement, paragraph 8.

Reserve is subject to the GRUZ and is a designated site. He considered that the designation was an appropriate mechanism to establish the intended use of the land for recreation purposes, consistent with other district plans. The underlying zoning would ensure that any proposed activities that did not fall within the purpose of the designation would be evaluated under the GRUZ provisions, which Mr Friedel considered appropriate for a large land holding on the edge of Prebbleton. We agree with Mr Friedel.

[75] We recommend that this submission is rejected.

7 Rezone Land in Prebbleton from GRZ to LLRZ and GRUZ

7.1 DPR-0207 SDC

[76] The SDC sought to correct errors in the PDP maps in two locations in Prebbleton to reflect the zoning that currently applies under the SDP. For the reasons given by Mr Friedel we recommend this submission is accepted.

8 Requests to Intensify the Ballantrae Subdivision in Prebbleton

8.1 DPR-0134 Ballantrae Residents Group

[77] The submitter sought to rezone the 24 properties within the Ballantrae subdivision from LLRZ to GRZ. The proposed rezoning would enable the creation of approximately 55-75 sections through infilling of the existing subdivision. Expert planning, transport and submitter representative evidence was provided in support of the submission. Ivan Thomson, the planner for the submitter, advised that the submitter now sought MRZ over the site and they have submitted on Variation 1 accordingly.³³

[78] Speaking on behalf of the submitter group, Mark Homewood³⁴ said “... *the [Ballantrae Residents] group are united in not wishing to make significant change to the overall character of the area and from canvassing most owners would seek to create between 1 and 3 additional lots per current section, whilst retaining the existing dwellings. Visually, the only people affected by change in character are the property owners themselves as from the outside the subdivision, nothing would look significantly different.*”

[79] Mr Thomson³⁵ considered that the land did not require a ODP because “... *the pattern, scale and timing of future subdivision is difficult to predict due to the number of landowners and corresponding fragmented ownership.*” He also said there would be different amenity effects on individual sites depending on how many houses are established and the lot size.³⁶ Consequently, while we agree with Mr Thomson³⁷ that on its face the land would be suitable for intensification as it will be surrounded on three sides by MRZ, we were not confident that the rezoning would achieve a well-functioning urban environment with appropriate amenity values. On the basis of the evidence before us we were not persuaded that intensive residential development would be appropriate for the land in question.

[80] For the above reasons we recommend that this submission is rejected.

³³ EIC Ivan Thomson, paragraph 2.

³⁴ Mr Homewood did not appear at the hearing but we read his August 2022 evidence.

³⁵ Ibid, paragraph 32.

³⁶ Ibid, paragraph 36.

³⁷ RE Ivan Thomson, paragraph 11.

8.2 DPR-0263 Treacy Clode

- [81] This submitter owns 9 Highland Brae, which is located within the Ballantrae subdivision. In his rebuttal evidence Ivan Thomson³⁸ advised that Treacy Clode had joined the Ballantrae Residents Group. We recommend that the submission is rejected for the same reason as we cited for the Ballantrae Residents Group.

9 Rezone Land in Prebbleton from GRUZ to GRZ

- [82] There were 12 submitters who sought to rezone land from GRUZ to GRZ. Several of the submitters can be grouped as follows.
- [83] The following submitters' land is outside the UGO, it has not been zoned MRZ by Variation 1 and no submitter evidence was provided in support of the GRZ rezoning requests.
- DPR-0153.001 Bernie Breen
 - DPR-0307.001 William John and Helen Mary Bishop
 - DPR-0426.001 Survus Consultants Limited
 - DPR-0430.001 Terrence Richard Waghorn
- [84] The subject land is either LUC 1 or 2 and under Policy 5 of the NPS-HPL the urban rezoning of that land must be avoided because none of the exemptions in NPS-HPL clause 3.6(1) have been shown to apply.
- [85] In that regard we accept the evidence of Mr Lightbody³⁹ for CCC who advised that the NPS-UD sets out (in Part 3) how to determine whether there is sufficient development capacity for housing within a district, with a housing capacity assessment (HCA) playing an important role. Mr Lightbody considered that the shortfall in Selwyn District (as stated in the HCA) will be addressed in the long term. Consequently, he considered there was no requirement to rezone any highly productive land for urban use within Selwyn District, and therefore no available pathway under NPS-HPL clause 3.6.
- [86] We recommend that submissions DPR-0153.001, DPR-0307.001, DPR-0426.001 and DPR-0430.001 be rejected.
- [87] The following submitters' land is outside the UGO and it has not been zoned MRZ by Variation 1. Evidence or legal submissions in support of the rezoning requests was provided. The land is either LUC 1, 2 or 3 and under Policy 5 of the NPS-HPL the urban rezoning of that land must be avoided because none of the exemptions in NPS-HPL clause 3.6(1) have been shown to apply.
- DPR-0044.001 Xiaojiang Chen
 - DPR-0174.001 G and J Drinnan
 - DPR-0203.002 M Springer
 - DPR-0400.001 S Shamy

³⁸ RE Ivan Thomson, paragraph 6.

³⁹ RE Kirk Lightbody, paragraphs 5.1 and 5.3

9.1 DPR-0044 Xiaojiang Chen and DPR-0400 S Shamy

- [88] The Chen and Shamy⁴⁰ land is effectively ‘sandwiched’ between what will be MRZ in the PC68 land and LLRZ to the east of Trents Road. We heard from Xiaojiang Chen and legal submissions were provided on behalf of S Shamy⁴¹. Counsel for S Shamy did not appear at the hearing and asked that her submissions be taken as read.
- [89] In his evidence Mr Chen⁴² asked that 681 Shands Road/308 Trents Road (Pollard property) and 687 Shands Road (Holder property) also be rezoned GRZ. We reject that request because those two property owners did not submit on the PDP.
- [90] At the hearing Mr Chen advised he now sought an MRZ zoning.
- [91] The Chen and Shamy land blocks adjoin each other (the Shamy property is to the southwest of the Chen property) and are LUC 2. We have considered the evidence provided by the submitters, which but for the need to give effect to the UGO and the NPS-HPL, would weigh in favour of rezoning the land, subject to confirmation of infrastructural and transportation matters. In that regard we agreed with Mr Chen that rezoning the land bordered by Trents Road and Shand Road would ‘fill and gap’ and achieve a more logical urban boundary.
- [92] On the evidence before us we concluded that the zoning of the Chen and Shamy land should be determined by the Greater Christchurch Spatial Plan (GCSP). We understand that the GCSP will inform a review of the CRPS urban growth provisions, including its Map A.
- [93] For the above reasons we recommend that submissions DPR-0044.001 and DPR-0400.001 be rejected.
- [94] As noted above Mr Chen sought a MRZ zoning through his submission on Variation 1. We observe the IHP decided to reject the rezoning of the land to MRZ, apart from the property at 184 Hamptons Road.

9.2 DPR-0174 G and J Drinnan⁴³

- [95] Planning evidence for the Drinnan submission was provided by Stewart Fletcher. He advised⁴⁴ that the Drinnan’s wished to amend their submission such that only a 2.2 hectare portion of their property is rezoned, as opposed to the whole property. That reduced area is ‘sandwiched’ between the southern boundary of PC72 and Prebbleton Reserve (or Kakaha Park Reserve)⁴⁵. Technical evidence was provided addressing stormwater management⁴⁶, geotechnical hazards⁴⁷ and soil contamination risk⁴⁸.
- [96] In his rebuttal evidence Mr Fletcher advised that *“Since preparing my evidence [in chief] there has been Court appointed mediation and a preliminary hearing. Ultimately those processes have resulted in a tentative agreement that the only matter which may impact a decision to include*

⁴⁰ A legal memorandum submitted with the Shamy evidence establishes that the submitter seeks to be rezoned from GRUZ to GRZ.

⁴¹ Alanya Limmer, 8 February 2023

⁴² EIC Hen, section 2.3.1

⁴³ Commissioner Reid recused herself from considering this submission.

⁴⁴ EIC Fletcher, paragraph 3.2.

⁴⁵ EIC Fletcher, Figure 1.

⁴⁶ Courtney Environmental Consultants Ltd

⁴⁷ Geotech Consulting Ltd

⁴⁸ Momentum Environmental Ltd.

the subject site as part of the Plan Change[72] area is the National Policy Statement on Highly Productive Land (the NPS-HPL). This means that parties, including Council, have already determined that the zoning of the site as residential is appropriate from various perspectives including urban design, servicing, policy and the National Policy Statement on Urban Development.”

- [97] However, we understand that the Court hearing to decide whether the NPS-HPL applies to the Drinnan land was set down for 19 June 2023.⁴⁹ A Court decision would result sometime after that. We observe that the PC72 Court process relates to the SDP and not the PDP. If the Court decides that the NPS-HPL does not apply to the Drinnan land and that the land should be included in PC72, then we assume the SDC would further vary PC72 to include the Drinnan land as MRZ. That is arguably the more appropriate avenue for considering the Drinnan’s relief. We nevertheless address the NPS-HPL here given the fact that our recommendations will necessarily be finalised in advance of the Court decision.
- [98] Mr Fletcher and counsel for the Drinnan’s both addressed the issue of the NPS-HPL, essentially advancing the same argument. In summary, they suggested that under the SDP land in the Inner Plains zone can be subdivided down to 4 hectare sites. Relying on the Ministry for the Environment Guidance for the NPS-HPL, this is said to be a ‘rural residential’ zoning as defined in the National Planning Standards even though it is not named as such in the SDP. That was then claimed to exempt the land from the NPS-HPL because the NPS-HPL only applies to land that at the commencement of the NPS-HPL was either ‘rural production’ or ‘general rural’.
- [99] We addressed that matter in section 2 of this Recommendation Report and suffice to say here that we are not persuaded that the Drinnan land should be exempt from the NPS-HPL on the basis of the Rural (Inner Plains) zoning in the SDP or the SCA-RD1 overlay in the PDP.
- [100] Having said that, we record that we have considered the Drinnan’s evidence and find that but for the land being outside the UGO and the need to give effect to the NPS-HPL, that evidence would weigh strongly in favour of rezoning the land given it is ‘sandwiched’ between the southern boundary of PC72 and Prebbleton Reserve and the ODP attached to Mr Stewart’s Summary Statement (tabled at the hearing) shows an indicative shared cycle/pedestrian route traversing the land from PC72 to the Reserve.
- [101] For the above reasons we recommend that submission DPR-0174.001 is rejected

9.3 DPR-0203 M Springer

- [102] The Springer land is zoned GRUZ under both the PDP and Variation 1 and it comprises LUC 1 soils. Under Policy 5 of the NPS-HPL the urban rezoning of that land must be avoided because none of the exemptions in NPS-HPL clause 3.6(1) have been shown to apply.
- [103] Ivan Thomson provided Rebuttal Evidence in support of the Springer submission. He suggested that the land was not covered by the NPS-HPL because while the land is GRUZ, it had an ‘Inner Plains overlay’ (or SCA-RD1 under the PDP) which under GRUZ-SCHED2 imposes a minimum site size per residential unit of 4ha. We addressed that argument in section 2 of this Recommendation Report and suffice to say that we are not persuaded that the land is exempted

⁴⁹ Minute of Preliminary Court hearing attached as Appendix 1 to the evidence of Stewart Fletcher.

from the NPS-HPL on the basis of the SCA-RD1 overlay because a large portion of the site appears to be in productive use.

[104] For the above reasons we recommend that submission DPR-0203.002 is rejected

[105] We note that at the hearing Mr Thomson advised that Ms Springer had submitted on Variation 1 seeking MRZ. In response to the evidence presented to them, we observe that the IHP recommended that the land be rezoned MRZ.

9.4 DPR-0143 G and L Burgess

[106] The Burgess land is within RRS14 Area 9 and is within the UGO under both the PDP and Variation 1. However, it is currently undeveloped. The land is LUC 1, but it is not subject to the NPS-HPL given its inclusion in the UGO. Transpower⁵⁰ do not support a residential zoning over that part of the area containing the National Grid Yard.

[107] Mr Friedel recommended rejecting the submission on the basis that the GRZ zoning had been superseded by Variation 1 and the introduction of the MRZ.

[108] We note that planning evidence was provided in support of the submission that contained appendices addressing a range of technical matters. However, the submitter elected not to appear at the hearing and so we could not query that evidence. We consider it appropriate that the land remain GRUZ, with any future rezoning to occur either by way of a plan change or as a result of a SDC spatial planning exercise.

[109] We recommend that the submission is rejected.

9.5 DPR-0206 Urban Holdings Limited, Suburban Estates Limited & Cairnbrae Developments Limited

[110] The submitters land is covered by PC68 which was approved by the independent commissioner and made operative on 3 November 2022. The land has been zoned MRZ under Variation 1.

[111] We consider that where the SDC has included land in Variation 1 and zoned it MRZ it would be administratively inefficient for us to recommend zoning that same land GRZ, given that SDC's decisions on our recommendations are to be released by SDC at the same time as the IHP's decision on Variation 1 is released. If, based on generally the same submitter evidence provided in support of the rezoning submissions seeking GRZ, the IHP finds that a MRZ is not appropriate it follows that neither would a GRZ be appropriate. Conversely if the IHP finds that a MRZ is appropriate, then there is little administrative utility in us recommending a GRZ for that same land.

[112] Having said that, we find that on the evidence available to us we are satisfied that the PC68 land is suitable for residential land use.

[113] We observe that the Variation 1 process retained the MRZ zoning for the land. Consequently, we recommend that submission DPR-0206.002 is rejected. We record that does not mean that the site is unsuitable for residential development. To the contrary, if not for Variation 1 we would have recommended GRZ for the whole site.

⁵⁰ EIC, Ainsley McLeod

9.6 DPR-0432 Birchs Village Limited (BVL)

- [114] The submission on the PDP requests a change from GRUZ to GRZ.⁵¹ The land is covered by PC79, but PC79 was not varied by SDC to include MDRS as a decision on PC79 had not been made prior to the notification of Variation 1. PC79 has subsequently been amended by the applicant and a Living Medium Density 1 zone (which is the equivalent of MRZ) is sought along with a commercial centre.
- [115] The land is outside the UGO. It comprises LUC 1 and 2 soils and under Policy 5 of the NPS-HPL the urban rezoning of that land must be avoided because none of the exemptions in NPS-HPL clause 3.6(1) have been shown to apply. Transpower⁵² do not support a residential zoning over that part of the area containing the National Grid Yard.
- [116] BVL did not appear at the hearing and so even though they had provided evidence in support of their submission we were not able to fully assess the submission on its merits. We recommend that submission DPR-0432.001 is rejected.
- [117] We note that BVL submitted on Variation 1 seeking MRZ over their land and appeared at the ISPP hearing to speak to planning and technical evidence. We observe the IHP for Variation 1 recommended rejecting the BVL submission.

9.7 DPR-0298 Trices Road Re-zoning Group

- [118] The submitters requested that the land be rezoned from GRUZ to GRZ. The land is within the UGO and is included as one of six preferred rural residential areas in Prebbleton in the Rural Residential Strategy 2014.
- [119] Expert evidence⁵³ was provided in support of the submission, including planning, economics, valuation, real estate, contaminated land, services, stormwater, transport and urban design. The land is covered by PC72 which was approved by the SDC in April 2022 and zoned the land as Living Z. That decision has been appealed to the Environment Court by GM and J Drinnan who seek to include 2.2ha of their land in the Plan Change area.⁵⁴
- [120] The entire PC72 site was subsequently included in Variation 1 and which replaced the GRUZ with MRZ.
- [121] We consider that where the SDC has included land in Variation 1 and zoned it MRZ it would be administratively inefficient for us to recommend zoning that same land GRZ, given that SDC's decisions on our recommendations are to be released by SDC at the same time as the Independent Hearings Panel's decision on Variation 1 is released. If, based on generally the same submitter evidence provided in support of the rezoning submissions seeking GRZ, the IHP finds that a MRZ is not appropriate it follows that neither would a GRZ be appropriate. Conversely if the IHP finds that a MRZ is appropriate, then there is little administrative utility in us recommending a GRZ for that same land.
- [122] The ISPP process did not remove the MRZ zoning over the land. In light that outcome we recommend that submissions DPR-0298.001 and DPR-0298.002 are rejected. We record that

⁵¹ Counsel for Birchs Village Limited wrote to SDC on 2 February 2023 advising that "... BVL will lodge evidence and appear at the Variation 1 (Prebbleton) hearings instead of appearing twice on the same matter."

⁵² EIC, Ainsley McLeod

⁵³ That evidence was the same evidence provided in support of PC72.

⁵⁴ The appeal also addresses stormwater management.

does not mean that the site is unsuitable for residential development. To the contrary, if not for Variation 1 we would have recommended GRZ for the whole site.

- [123] Counsel advised that if GRZ was unavailable through the PDP process, and MRZ is declined through Variation 1, then the next preferred zoning was LLRZ with a minimum lot size of 1000m² and an average lot size of 2,000m². We do not need to address that matter as under the ISPP process MRZ has been confirmed for the site.

10 Other Matters

- [124] The recommended amendments to the PDP provisions contained in Appendix 1 are those that result from this Hearing Panel’s assessment of submissions and further submissions. However, readers should note that further or different amendments to these provisions may have been recommended by:

- Hearing Panels considering submissions and further submissions on other chapters of the PDP; and
- the Independent Hearing Panel (IHP) considering submissions and further submissions on Variation 1 to the PDP

- [125] Any such further or different amendments are not shown in Appendix 1 of this Recommendation Report. However, the Chair⁵⁵ and Deputy Chair⁵⁶ of the PDP Hearing Panels have considered the various recommended amendments and have ensured that the overall final wording of the consolidated version of the amended PDP is internally consistent.

- [126] In undertaking that “consistency” exercise, care was taken to ensure that the final wording of the consolidated version of the amended PDP did not alter the intent of the recommended amendments contained in Appendix 1 of this Recommendation Report.

- [127] No other matters were brought to our attention.

⁵⁵ Who is also the Chair of the IHP.

⁵⁶ Who chaired one stream of hearings.

Appendix 1: Recommended Amendments

Note to readers: Only provisions that have recommended amendments are included below. All other provisions remain as notified. Amendments recommended by the Section 42A Report author that have been adopted by the Hearing Panel are shown in strike out and underlining. Further or different amendments recommended by the Hearing Panel are shown in strike out, underlining and red font.

Amendments to the PDP Maps

The following spatial amendments are recommended to PDP Planning Maps:

Map Layer	Description of recommended amendment
Zone Maps	<p>Amend the following property from GRZ to GRUZ⁵⁷</p> <ul style="list-style-type: none">Lot 1 DP 22474 and Part Lot 2 DP 22474 (739 Springs Road) 

⁵⁷ DPR-0210.110 SDC

	<p>Amend the following property from GRZ to LLRZ⁵⁸</p> <ul style="list-style-type: none">• Lot 1 DP 491415 (132 Hamptons Road)• Lot 2 DP 491415 (124 Hamptons Road)• Lot 3 DP 491415 (122 Hamptons Road) 
Rural Density Overlay	<p>Amend SCA-RD1 to include the following properties:</p> <ul style="list-style-type: none">• Lots 1 and 2 DP 22474.⁵⁹

Amendments to the PDP Text

There are no amendments recommended to PDP text arising from our recommendations on the submissions and further submissions covered by this Recommendation Report.

⁵⁸ DPR-0210.110 SDC

⁵⁹ DPR-0210.110 SDC

Appendix 2: List of Appearances and Tabled Evidence

Appearances

Sub #	Submitter	Author	Role
DPR-0032	Christchurch City Council	Kirk Lightbody	Planning
DPR-0044	Xiaojiang Chen	Self	
DPR-0134	Ballantrae Residents Group	Ivan Thomson	Planning
DPR-0174	GM & J Drinnan	Andrew Schulte Stewart Fletcher	Counsel Planning
DPR-0203	M Springer		
DPR-0298	Trices Road Re-zoning Group	Fiona Aston	Planning
DPR-0413	Blakes Road Kingcraft Group	Mark Brown	Planning
DPR-0417	Jenny Fisher, Graham & Racquel Drayton, John & Fiona Kipping, David & Elizabeth Whiten	Jamie Robinson Jenny Fisher	Counsel Self
DPR-0488	Dally Family Trust and Julia McLraith	Robbie McLraith Mick Sidely Wayne Gallot Fraser Colegrave Stuart Ford Nicole Lauenstein Fiona Aston	Representative Real Estate Transport Economics Primary Production Economics Urban Design Planning

Tabled Evidence

Sub #	Submitter	Author	Role
DPR-0446	Transpower	Ainsley McLeod	Planning
DPR-0548	Andrew Maples	Self	