

# Proposed Selwyn District Plan



## Section 42A Report

Report on submissions and further submissions

National Policy Statement - Highly Productive Land

Jon Trewin

16 December 2022

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## List of original and further submitters addressed in this report

Submission Number	Submitter	Abbreviation
DPR-0032	<i>Christchurch City Council</i>	CCC
DPR-0033	Davina Louise Penny	Davina Penny
DPR-0136	<i>Lynn and Malcolm Stewart, Lynn and Carol Townsend and Rick Fraser</i>	<i>Stewart Townsend and Fraser</i>
DPR-0150	Barry Moir	
DPR-0157	<i>Kevin and Bonnie Williams</i>	<i>The Williams</i>
DPR-0166	Saunders Family Trust	
DPR-0209	<i>Manmeet Singh</i>	
DPR-0212	<i>Ellesmere Sustainable Agriculture Incorporated</i>	ESAI
DPR-0215	<i>Winstone Aggregates</i>	
DPR-0260	<i>Canterbury Regional Council</i>	CRC
DPR-0279	Rex Verity	
DPR-0298	<i>Trices Road Rezoning Group</i>	
DPR-0353	Horticulture New Zealand	HortNZ
DPR-0358	<i>Rolleston West Residential Limited</i>	RWRL
DPR-0384	<i>Rolleston Industrial Developments Limited</i>	RIDL
DPR-0407	<i>Royal Forest and Bird</i>	<i>Forest and Bird</i>
DPR-0422	North Canterbury Federated Farmers	NCFF
DPR-0456	<i>Four Stars Development and Gould Development Ltd</i>	
DPR-0481	Graeme and Virginia Adams	
DPR-0488	<i>Dally Family Trust and Julia McIlraith</i>	
DPR-0494	<i>Julia Banks and Alastair Herreman</i>	
DPR-0508	<i>Cameron and Lydia Adams</i>	
DPR-0524	<i>Nelson Early</i>	
DPR-0527	<i>Dr Peter Almond</i>	

*Italics denote further submitters only*

Please refer to **Appendix 1** to see where each submission point is addressed within this report. The above original submitters are considered to provide scope to amend the PDP to incorporate parts of the NPS-HPL (or are otherwise further submitters on these original submissions). There are also several submitters included who specifically appeared at the GRUZ Hearing where the NPS-HPL is a significant factor weighing on the relief sought.

## Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
APP	Appendix
CE	Coastal Environment
CMUZ	Commercial and Mixed-Use Zone
CRPS	Canterbury Regional Policy Statement 2013
DPZ	Dairy Processing Zone
EI	Energy and Infrastructure
EIB	Ecosystems and Indigenous Biodiversity
EW	Earthworks
GIZ	General Industrial Zone
GRUZ	General Rural Zone
GRZ	General Residential Zone
HH	Historic Heritage
IMP	Mahaanui Iwi Management Plan 2013
LLRZ	Large Lot Residential Zone
NATC	Natural Character
NES-F	National Environmental Standards for Freshwater
NES-PF	National Environmental Standards for Plantation Forestry
NFL	Natural Features and Landscapes
NH	Natural Hazards
NPS	National Planning Standards
NPS-ET	National Policy Statement on Electricity Transmission
NPS-HPL	National Policy Statement on Highly Productive Land
NPS-REG	National Policy Statement on Renewable Electricity Generation
NPS-UD	National Policy Statement on Urban Development
NZCPS	New Zealand Coastal Policy Statement
ONL	Outstanding Natural Landscapes
PDP	Proposed Selwyn District Plan
PORTZ	Port Zone
RESZ	Residential Zone
RMA	Resource Management Act 1991
SASM	Sites and Areas of Significance to Maori
SD	Strategic Directions
TRAN	Transport
VAL	Visual Amenity Landscapes

## 1. Purpose of report

- 1.1 This report is prepared under s42A of the RMA to respond to **Minute 30** from the Hearing Panel which directed that Council prepare a specific NPS-HPL s42A report to address the effect of the NPS-HPL on all chapters of the PDP that have already been heard or where the s42A report has already been prepared. The NPS-HPL s42A report should confirm which chapters of the PDP are affected and recommend amendments required to give effect to the NPS-HPL that are within the scope of submissions. Any amendments required that are outside the scope of submissions will need to be addressed by the Council through a future plan change.
- 1.2 The recommendations are informed by the evaluation undertaken by myself as the planning author. In preparing this report I have had regard to all s42a reports and right of reply reports prepared to date. I note that two s42a reports, Subdivision and Public Access (Hearing 14), prepared by Ms Carruthers and Residential (Hearing 22), prepared by Ms Lewes were drafted following the release of the NPS-HPL. The authors of these reports have therefore had an opportunity to consider the implications of the NPS-HPL on their respective hearing streams. Therefore, I only offer a brief comment on these hearing streams and associated reports.
- 1.3 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

## 2. Qualifications and experience

- 2.1 My full name is Jon Trewin. I am employed by the Council as a Policy Planner. My qualifications include a MSc in Development Planning from Reading University, UK.
- 2.2 I have 15 years' experience as a resource management planner, with this including working in the UK and New Zealand on a variety of policy and planning related work concerning natural resource management, transport planning, economic development and land use planning.
- 2.3 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

## 3. Scope of report and topic overview

- 3.1 Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 2** to this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where no amendments are recommended to a provision, submissions points that sought the retention of

the provision without amendment are not footnoted. Appendix 2 also contains a table setting out recommended spatial amendments to the PDP Planning Maps.

## 4. Statutory requirements

### ***Resource Management Act 1991***

- 4.1 The PDP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; and give effect to any national policy statement, the NZCPS, national planning standards; the CRPS and any regulations<sup>1</sup>. Regard is also to be given to any regional plan, district plans of adjacent territorial authorities, and the IMP.

### ***NPS-HPL 2022***

- 4.2 As set out in the [‘Overview’ Section 32 Report](#), there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. The NPS-HPL commencement however post-dates the release of this report and is therefore not considered.

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<sup>1</sup> Section 74 RMA



*Map of Highly Productive Land in Selwyn District<sup>2</sup>*



4.3 The NPS-HPL sets a high-level objective and nine policies to protect highly productive land and to restrict urban rezoning and inappropriate subdivision, use and development (refer to **Appendix 3** for the full list of these). The NPS-HPL also requires that regional councils and territorial authorities undertake a number of specific implementation measures to give effect to these objectives and policies. These include the following measures:

- 4.3.1 All councils must actively involve and consult with tangata whenua [3.3] when giving effect to this NPS-HPL through regional policy statements, regional and district plans.
- 4.3.2 Regional councils must map highly productive land in a cohesive fashion in rural zones, except land mapped for future urban development, in collaboration with territorial authorities and in consultation with tangata whenua [3.4 and 3.5]. Such a process must be notified no later than three years after the commencement date of the NPS-HPL.
- 4.3.3 Territorial authorities that are Tier 1<sup>3</sup> and Tier 2 may allow urban rezoning subject to a needs test against the NPS-UD and it can be demonstrated that there are no feasible alternative options [3.6].

<sup>2</sup> Class 1, 2 and 3 soils under the Land Use Classification: Source Canterbury Maps Online.

<sup>3</sup> Selwyn District Council is considered to be a Tier 1 authority.

- 4.3.4 Rural lifestyle zoning must be avoided unless it can be demonstrated that the land is subject to long term constraints that make land based primary production<sup>4</sup> infeasible and that significant loss/effects on highly productive land can be avoided [3.7].
- 4.3.5 Subdivision must also be avoided unless it can be demonstrated that the productive potential of the land will be retained or the subdivision is on specified Maori land or the subdivision is for infrastructure or defence purposes. Territorial authorities must also take measures to ensure that the subdivision of highly productive land avoids or mitigates cumulative loss of highly productive land as well as reverse sensitivity effects on neighbouring highly productive land. Territorial authorities must include objectives, policies and rules to give effect to this clause. An exception exists where the land is subject to long term constraints that make primary production infeasible and that significant loss/effects on highly productive land can be avoided [3.8].
- 4.3.6 Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land based primary production. The NPS-HPL specifies those land use that are appropriate. This is explored further in the report below. These appropriate land uses must still minimise or mitigate any cumulative loss of highly productive land and avoid or minimise reverse sensitivity effects on neighbouring land based primary production activities. Territorial authorities must include objectives, policies and rules to give effect to this clause. An exception exists where the land is subject to long term constraints that make primary production infeasible and that significant loss/effects on highly productive land can be avoided [3.9].
- 4.3.7 Territorial authorities may allow highly productive land to be subdivided, used or developed where long term constraints exist although there are a number of strict caveats to this [3.10]:
- 4.3.7.1 The land must be economically unviable for at least 30 years. The onus is on the applicant to demonstrate this having regard to criteria in 3.10.2. In assessing reasonable practicable options under this clause, an evaluation can not take into account of the economic benefit of using the highly productive land for purposes other than land based primary production. It must also consider the impact of the loss of the highly productive land on the landholding and consider the potential of land based primary production on the highly productive land, not limited by its past or present use.
- 4.3.7.2 Significant loss or fragmentation must be avoided. Reverse sensitivity effects on neighbouring highly productive land must be avoided or mitigated.
- 4.3.7.3 The benefits of the loss of highly productive land must outweigh the costs.

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<sup>4</sup> Land-based primary production is defined in the NPS-HPL means production from agricultural, pastoral, horticultural or forestry activities that is reliant on the soil resource of the land.



- 4.3.8 Territorial authorities must enable the maintenance, operation or upgrade of any existing activities on highly productive land [3.11] provided that any loss of highly productive land is minimised.
- 4.3.9 Territorial authorities must prioritise the use of land based primary production over other uses and enable opportunities to maintain or increase the productive capacity of highly productive land where this is consistent with matters of natural importance [3.12].
- 4.3.10 Territorial authorities must identify typical activities and effects associated with land based primary production on highly productive land that should be anticipated and tolerated in a rural environment. They should require the avoidance or mitigation of any potential reverse sensitivity effects from urban rezoning or rural lifestyle development and consider cumulative effects of any subdivision, use or development on the highly productive land [3.13].
- 4.4 All recommended amendments to provisions since the initial s32 evaluation was undertaken must be documented in a subsequent s32AA evaluation. This is included in section 20 of this report.

## 5. Procedural matters and engagement

- 5.1 At the time of writing this s42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic. It is noted that the NPS-HPL commenced on 17 October 2022 which is after most of the topic-based hearings on the PDP have concluded.
- 5.2 It is also noted that the recommended amendments in this s42A report are intended to give effect to the directive wording of the NPS-HPL within the scope of submissions available. Given the limited ability to recommend any alternative approach within this framework, Council intends to consult with tangata whenua as part of the HPL mapping and future plan change process where there is greater ability to shape the outcomes for protecting HPL.

## 6. Chapters in the Proposed District Plan and relevant submissions

- 6.1 The below chapters of this report consider all of the topics that have already been heard or where a S42a report has already been prepared (with the exception of land rezoning which will be subject to a separate process). The report will go sequentially through the plan chapters offering recommendations on whether a change to give effect to the NPS-HPL is required and whether this is within the scope of submissions. For many sections of the PDP, the NPS-HPL will have a minimal effect. However, several chapters are considered to be more heavily affected most notably UG, SUB and GRUZ.
- 6.2 It is noted that there are several submissions which discuss including provisions to protect highly productive land quite broadly and therefore provide scope to make changes. Whilst these may have

already been considered by the Hearing Panel, this was prior to the commencement of the NPS-HPL and therefore, as directed by Minute 30, need to be considered again. Altogether, a number of submission points were made that would be considered to seek a more protective approach to highly productive land (the below list does not include submitters who sort a less restrictive approach)<sup>5</sup>. Some changes have already been recommended to strengthen provisions on soils, based on the below submissions. Where a change to the original Officer recommendation has been made in this report, this is recorded in **Appendix 1**.

6.2.1 HortNZ sought that changes are made to the SD, SUB, PA, UG and GRUZ chapters to better recognise the importance of highly productive land. These include submission points:

6.2.1.1 DPR-0353.014 (HPW13), 079 (UG), 084 (SD), 088 (SD), 174 (PA), 185 (SUB), 190 (SUB), 223 (UG), 224 (UG), 225 (UG), 228 (UG), 287 (GRUZ).

6.2.1.2 A general request was recorded in the summary of submissions for a highly productive land chapter (DPR-0353.301) although on further reading the specific relief appears to relate to an amendment to the subdivision chapter to avoid effects on highly productive land. This submission point was recommended to be rejected on the basis that the NPS-HPL was not yet in effect<sup>6</sup>.

6.2.2 Rex Verity sought the inclusion of an objective and supporting policies and rules concerning soil resources (DPR-0279.003).

6.2.3 NCCFF sought new objectives, policies and rules to assess the impact on versatile soils when developing rural land for new housing (DPR-0422.246, 248). Also see DPR-0422.089 (UG), 203 (SUB), 216 (SUB).

6.2.4 Davina Penny sought that the PDP be amended to include highly productive land and to ensure it is protected in line with the NPS-HPL. She sought that land use as well as development was included and was particularly concerned with mineral extraction activities (DPR-0033.003).

6.2.5 NZ Pork – DPR-0142.016 (DEF) and 076 (SD) also relate to highly productive land.

## 7. Strategic Directions

7.1. Relevant provisions taken from the Strategic Directions Right of Reply report include<sup>7</sup>:

7.1.1. SD-DI-O2 ‘Selwyn’s prosperous economy is supported through the efficient use of land, resources, and infrastructure, while ensuring existing activities are protected from incompatible activities, and reverse sensitivity.’

<sup>5</sup> See Appendix 1 for the submission points in full.

<sup>6</sup> S42a report Part 1 - [https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0014/471011/s42A-report-PART1.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0014/471011/s42A-report-PART1.pdf)

<sup>7</sup> [https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0007/494494/Right-of-Reply-Strategic-Directions.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0007/494494/Right-of-Reply-Strategic-Directions.pdf)

- 7.1.2. SD-UFD-O1 'Urban growth is located only in or adjoining existing townships and in a compact and sustainable form that aligns with its anticipated role in the Township Network, while considering the community's needs, natural landforms, cultural values, highly productive land, and physical features'.
- 7.1.3. SD-DI-O6 'Rural areas and their communities have their economic potential derived from primary production realised.'
- 7.2. The objectives are consistent with the NPS-HPL. NPS-HPL Policy 9 is reflected in SD-DI-O2; Policy 5 in SD-UFD-O1; and Policy 1 and 4 in SD-DI-O6.

### **Recommendations**

- 7.3. I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Strategic Direction Chapter as recommended in the Right of Reply report.

## **8. Energy, Infrastructure and Transport**

- 8.1 Policies 3.8 and 3.9 of the NPS-HPL require the avoidance of subdivision, use or development of highly productive land but provide a number of exceptions to this direction. Two of the exceptions relate to subdivision, use or development for 'specified infrastructure' and 'NZ Defence Force' facilities.
- 8.2 'Specified infrastructure' is defined as:
  - (a) infrastructure that delivers a service operated by a lifeline utility:*
  - (b) infrastructure that is recognised as regionally or nationally significant in a National Policy Statement, New Zealand Coastal Policy Statement, regional policy statement or regional plan:*
  - c) any public flood control, flood protection, or drainage works carried out:*
    - (i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or*
    - (ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908*
- 8.3 The Civil Defence Emergency Management Act definition of 'lifeline utility' referred to in the NPS-HPL<sup>8</sup> matches the definition in the PDP<sup>9</sup> and therefore consistency is achieved.
- 8.4 The PDP definition of 'important infrastructure' has been developed based on the definition of lifeline utility and the CRPS definitions. A comparison between the PDP 'important infrastructure' definition and what constitutes a lifeline utility or CRPS strategic, regionally significant or critical infrastructure has been undertaken to identify any gaps and inconsistencies between the NPS-HPL definition of 'specified infrastructure' (which encompasses lifeline utilities, regionally or nationally

<sup>8</sup> *Lifeline utility* means an entity named or described in [Part A](#) of Schedule 1, or that carries on a business described in [Part B](#) of Schedule 1

<sup>9</sup> An entity named or described in Part A, or that carries on a business described in Part B, of Schedule 1 of the [Civil Defence Emergency Management Act 2002](#).

significant infrastructure and public flood control/protection or drainage works) and the PDP definition of 'important infrastructure'.

- 8.5 This is considered the first step in identifying whether the PDP provisions relevant to important infrastructure are consistent with the NPS-HPL in terms of avoiding subdivision and protecting highly productive land from inappropriate use and development, unless its specified infrastructure or defence facilities operated by NZDF, whereby the relevant policies provide exemptions for such infrastructure (3.8 and 3.9).
- 8.6 The NPS-HPL provides for the "maintenance, operation, upgrade, or expansion of specified infrastructure" which is consistent with the wording used in the EI Chapter with respect to important infrastructure. Therefore, the District's important infrastructure is provided for as an exception to the NPS-HPL policy.
- 8.7 In terms of the transport network specifically, the state highway network falls under the definition of specified infrastructure (being regionally significant). The local road network is a service delivered by a lifeline utility. Both these activities would therefore be provided for on highly productive land.
- 8.8 Specified infrastructure is required to demonstrate that there is an operational or functional requirement to locate on highly productive land (3.8.1.c and 3.9.2.j). Presently, the PDP does not include this as one of the criteria where operational or functional need is required to be demonstrated. There is also a general requirement that any use or development must minimise or mitigate any actual loss or potential cumulative loss of highly productive land and avoid or mitigate reverse sensitivity effects on land based primary production (3.9.3). This requirement is not explicitly included in the EI or TRAN chapters.
- 8.9 The dairy processing plants, West Melton Aerodrome and Rolleston Prison<sup>10</sup> are the only important infrastructure in the context of the PDP which are not defined as 'specified infrastructure' under the NPS-HPL. Each of these infrastructure operators have been analysed against the NPS-HPL below.
- 8.8. The Synlait and Fonterra Dairy Processing Plants are located within a Special Purpose Dairy Processing Zone (DPZ) and are generally not subject to the EI provisions<sup>11</sup> and instead the DPZ Chapter has been designed to be largely self-contained. However, the EI objectives and policies lend weight to the importance of these facilities to the district (and wider region and nationally). The Synlait site is not identified on Canterbury Maps as having LUC Class 1-3 soils and therefore is not subject to the NPS-HPL. The Fonterra site is identified on Canterbury Maps as having LUC Class 3 soil. However, as a special purpose zone, the DPZ is not considered to be highly productive land and therefore is not subject to provisions in the NPS-HPL to restrict inappropriate subdivision, use and development on highly productive land.
- 8.9. West Melton Aerodrome is identified as being predominantly clear of LUC Class 1-3 soils, but some Class 3 soil has been identified at the southern end of the site which would be subject to the NPS-HPL should any subdivision or development be proposed within this area. This is outside of the

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<sup>10</sup> Appendix 2 to the s42a and Right of Reply Reports recommends that Rolleston Prison be added to the definition of important infrastructure

<sup>11</sup> For example, the Right of Reply recommends amendment to EI-R30 and EI-R31 to specifically exclude the DPZ from these rules to make it explicit that the electricity generation is managed by the DPZ provisions.

Outline Development Plan area in the PDP for the Aerodrome and development in this part of the site would default to a discretionary activity. Development in this area would be assessed against the NPS-HPL and any objectives and policies included in GRUZ to implement it.

- 8.10. It is considered appropriate that any relevant land use or subdivision development at the West Melton Aerodrome site within the LUC Class 3 soil area is not exempt from consideration under the NPS-HPL consistent with the intention of EI-R34 and the associated policy (EI-P10), which seeks to recognise and provide for the ongoing development and operation of the West Melton Aerodrome (and that this effectively be in the Outline Development Plan area). Therefore, no amendment is required with respect to the EI provisions in relation to the West Melton Aerodrome as it relates to the NPS-HPL and the NPS-HPL would apply (in part) to the West Melton Aerodrome site given it sits outside the NPS-HPL definition of specified infrastructure.
- 8.11. The Rolleston Prison site is not identified on Canterbury Maps as having LUC Class 1-3 soils and therefore is not subject to the NPS-HPL in any instance.
- 8.12. Given the requirement in the NPS-HPL for infrastructure providers to demonstrate an operational and functional need to locate on the highly productive land, this should be incorporated into EI-P2 and TRAN-P13 alongside the requirement to minimise or mitigate any actual loss or potential cumulative loss of highly productive land and avoid or mitigate reverse sensitivity effects on land based primary production. The scope for this change comes from the submission points by Rex Verity and Davina Penny and general relief sought in terms of providing protection for highly productive land and Davina Penny in particular about implementing the NPS-HPL to protect soil resource<sup>12</sup>.

### ***Recommendations and amendments***

- 8.13. I recommend, for the reasons given above that the Hearings Panel, as set out in **Appendix 2**:
  - 8.13.1. Amend EI-P2 and TRAN-P13 to include highly productive land among the criteria where there should be a demonstrable operation or functional need for important infrastructure and land transport infrastructure to locate.
  - 8.13.2. Amend EI-P2 and TRAN-P13 to require the minimisation or mitigation of any actual loss or potential cumulative loss of highly productive land and avoidance or mitigation of reverse sensitivity effects on land based primary production.
- 8.14. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as show in **Appendix 1**.

## **9. Hazards and Risk**

- 9.1 This section is made up of the following chapters: Contaminated Land, Natural Hazards and Hazardous Substances. These are all considerations that apply to land in addition to the

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<sup>12</sup> DPR-0033.003 and DPR-0279.003.

requirements of the NPS-HPL. As such, it is not considered that any changes are needed to these chapters to give effect to the NPS-HPL.

### ***Recommendations***

- 9.2. I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Contaminated Land, Natural Hazards and Hazardous Substances Chapters as recommended in the respective s42A Right of Reply Reports for each topic-based hearing.

## **10. Historical and Cultural Values**

- 10.1 This section is made up of the following chapters: Historic Heritage, Notable Trees and Sites and Areas of Significance to Maori. These are all considerations that apply to land in addition to the requirements of the NPS-HPL. As such, it is not considered that any changes are needed to these chapters to give effect to the NPS-HPL.

### ***Recommendations***

- 10.2 I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Historic Heritage, Notable Trees and Sites and Areas of Significance to Maori Chapters as recommended in the respective s42A Right of Reply Reports for each topic-based hearing.

## **11. Natural Environment Values**

- 11.1. This section is made up of the following chapters: Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and Landscapes and Public Access. As above, these are all considerations that apply to land in addition to the requirements of the NPS-HPL. As such, it is not considered that any changes are needed to these chapters to give effect to the NPS-HPL.

### ***Recommendations***

- 11.2 I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and Landscapes and Public Access as recommended in the respective s42A Right of Reply Reports for each topic-based hearing.

## **12. Subdivision**

- 12.1 The S42a report for subdivision was published after the NPS-HPL came into effect. Therefore, that S42a report makes recommendations on amendments that are required to the SUB Chapter that should be made to give effect to the NPS-HPL that are within the scope of submissions. Specifically, there is a recommendation to include a policy to ensure that subdivision does not compromise the use of highly productive land. A new matter of discretion is also recommended that requires



consideration of the cumulative loss of highly productive land and how it is to be avoided or mitigated. This is line with Policy of the NPS-HPL and implementation clause 3.8.

### **Recommendations**

- 12.2. Given the author of the s42A for the Subdivision topic has already recommended changes to give effect to the NPS-HPL, I do not make any further recommendations in this report.

## **13. General District Wide Matters**

- 13.1. This section is made up of the following chapters: Activities on the Surface of Water, Coastal Environment, Earthworks, Light, Noise, Signs, Temporary Activities and Urban Growth. Activities on the Surface of Water, Coastal Environment, Light and Noise are considered to apply in addition to the requirements of the NPS-HPL. The PDP already places controls on earthworks and temporary activities to limit their impact on highly productive land. The GRUZ chapter also acts to restrict various land uses that might generate the need for earthworks. Urban Growth is addressed separately below as it is considered this chapter is more pivotal in giving effect to the NPS-HPL. As such, it is not considered that any changes are needed to these chapters (other than Urban Growth) to give effect to the NPS-HPL.

### **Recommendations**

- 13.2. I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Activities on the Surface of Water, Coastal Environment, Earthworks, Light, Noise, Signs, Temporary Activities chapters as recommended in the respective s42A Right of Reply Reports for each topic-based hearing.

## **14. Urban Growth**

- 14.1. Relevant provisions from the Urban Growth Right of Reply include<sup>13</sup>:

- 14.1.1. UG-O1 11. 'Has particular regard to the finite nature and life supporting capacity of highly productive land.'
- 14.1.2. UG-O2 'Townships maintain a consolidated and compact urban form to support:
1. Accessible, sustainable and resilient residential neighbourhoods, commercial centres, industrial hubs, inland ports, or knowledge areas;
  2. The reduction in future effects of climate change and greenhouse gas emissions;
  3. The role and function of each urban area within the District's Township Network and the economic and social prosperity of the District's commercial centres; and

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<sup>13</sup> [https://www.selwyn.govt.nz/\\_data/assets/pdf\\_file/0018/935100/Right-of-Reply-Report-Urban-Growth.pdf](https://www.selwyn.govt.nz/_data/assets/pdf_file/0018/935100/Right-of-Reply-Report-Urban-Growth.pdf)

4. The efficient servicing of townships and integration with existing and planned infrastructure.'

- 14.1.3. UG-P3 'Avoid the zoning of land to establish any new urban areas or extensions to any township boundary in the Greater Christchurch area of the District outside the Urban Growth Overlay, unless it is demonstrated to contribute to a well-functioning urban environment as articulated in UG-O1, UG-O2, and UG-O3'
- 14.1.4. UG-P9 'Protect, to the extent reasonably possible, highly productive land from urban growth.'
- 14.1.5. UG-P11 'When zoning land to establish any new urban area or to extend any township boundary: 1. Avoid reverse sensitivity effects and significant adverse effects on any existing or anticipated activity in an adjoining rural, dairy processing, industrial, inland port, or knowledge zone;'
- 14.2. Generally, the objectives and policies are consistent with the NPS-HPL. NPS-HPL Policy 1 is reflected in UG-O1 11; and NPS-HPL Policy 9 is reflected in UG-P11. However, the wording of UG-P9 needs further discussion regarding NPS-HPL Policy 5. Further, incorporating the direction outlined NPS-HPL 3.6 may require additional changes to the Urban Growth objectives and policies.
- 14.3. The NPS-HPL Policy 5 outlines that urban rezoning of highly productive land is avoided, except as provided within the NPS-HPL. This is similar to the discussion of the 'avoid' policy in the CRPS and Policy 8 of the NPS-UD, which culminated in UG-P3. This policy is recommended to be worded in an 'avoid, unless' approach. NPS-HPL Policy 5 is similarly worded with (avoid, except), while UG-P9 is 'protect, to the extent reasonably possible'. It is recommended that UG-P9 be changed to 'Avoid, unless' to be consistent with other policies. This is supported by submission point DPR-0353.225.
- 14.4. The criteria for 'unless' is outlined in Clause 1 of Section 3.6 of the NPS-HPL. These are:
  - 14.4.1. to provide for minimum necessary sufficient development capacity;
  - 14.4.2. there are no other reasonably practicable and feasible options, including greater intensification in existing areas, land that is not identified as highly productive or lower productive highly productive land to meet the type and location of demand identified in the capacity assessment; and
  - 14.4.3. the benefits outweigh the long-term costs associated with the loss of highly productive land for primary production.
- 14.5. The first clause is covered by UG-O3, where sufficient capacity is required and the third clause is covered by UG-O1, which lists potential elements to evaluate in terms of costs and benefits,

including highly productive land. The second clause outlines greater intensification and an assessment of land and its associated productivity value.

- 14.6. Greater intensification is an element of a consolidated and compact urban form and should be added to UG-O2. A new clause 'X. Greater intensification of existing areas' is recommended. This is supported by submission point DPR-0353.228.
- 14.7. The associated productivity value of other land can be added to UG-P9 as the 'unless' element of the policy. The policy can seek that alternate land of lower productivity value is assessed to meet the type and location of demand identified (an outlined in UG-O3). It is recommended that UG-P9 is reworded to the following: 'Avoid the zoning of highly productive land to establish new urban areas, unless there are no reasonably practicable and feasible lower productive land alternatives'. This is supported by submission point DPR-0353.225<sup>14</sup> as well as DPR-0422.246 and 248.
- 14.8. The Urban Growth Objectives and Policies read as a whole, especially including UG-P3 and the recommended changes to UG-P9 cover the restrictions on urban growth outlined in 3.6 of the NPS-HPL.
- 14.9. Overall, changes to UG-O2 and UG-P9 are recommended.

#### ***Recommendations and amendments***

- 14.10. I recommend, for the reasons given above that the Hearings Panel:

- 14.10.1. Amend UG-O2 and UG-P9 as shown in **Appendix 2** to align with the direction of the NPS-HPL.

- 14.11. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as show in **Appendix 1**.

## **15. Residential Zones**

- 15.1 This section includes the following zone chapters: Large Lot Residential Zone, Low Density Residential Zone, General Residential Zone and Settlement Zone. These areas of land are all zoned for existing urban activities and are not considered to be highly productive land. As such, it is not considered that any changes are needed to these chapters to give effect to the NPS-HPL.

#### ***Recommendations***

- 15.2 I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Residential Chapters as recommended in the Residential s42A Right of Reply Report.

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<sup>14</sup> Both DPR-0353.225 and 228 were originally accepted in part by the Officer. Therefore they are not recorded in Appendix 1 as no change from the original recommendation has been made.

## 16. Rural Zones

### General Discussion

16.1. GRUZ is the section of the PDP considered to require the most amendments to give effect to the NPS-HPL. Implementation clauses 3.9, 3.10, 3.11, 3.12 and 3.13 are most relevant to the GRUZ as these deal with the management of activities on rurally zoned land. Taking each in turn:

#### *3.9 Protecting highly productive land from inappropriate use and development.*

16.2. As directed by the NPS-HPL, this clause requires specific objectives, policies and rules to give effect to the NPS-HPL.

16.3. GRUZ-O1 as notified does not explicitly reference the need to protect highly productive land from inappropriate subdivision, use and development although it is somewhat implicit, primarily through clause 1, 'supports, maintains or enhances the function and form, character and amenity values of rural areas' and clause 2 'prioritises primary production, over other activities to recognise its importance to the economy and wellbeing of the district'. However, this is about rural land in general and not specific to highly productive land. Given the strong direction of the NPS-HPL, most notably the Objective, and Policies 1, 4, 8 and 9, a more explicit reference to the need to protect highly productive land as it exists in rural areas should be included in GRUZ-O1. This can be achieved through an additional clause 5 to seek that highly productive land is protected from inappropriate use and development.

16.4. It is also considered that GRUZ policies, while not explicitly referring to highly productive land, do give effect in part to the NPS-HPL, clause 3.9. GRUZ-P1 seeks to enable primary production, GRUZ-P2 effectively restricts residential development below a size that would enable the productive use of the land, GRUZ-P4 and GRUZ-P5 allow only a limited range of economic activity other than primary production and this must relate to a functional or operational need. Generally, this must relate to a supportive primary production use. GRUZ-P7 requires that reverse sensitivity effects on primary production are avoided. The policy framework effectively functions to limit the possibility of the establishment of non-productive uses on highly productive land and reverse sensitivity effects from those uses.

16.5. The above policy framework goes some way to implementing the NPS-HPL, however in my opinion it still requires a more explicit policy implementing national direction. This is particularly the case given the general 'avoid' approach mandated by the NPS-HPL for use and development, albeit with a narrow range of exceptions that constitute appropriate activities. I therefore recommend an additional policy be added to the GRUZ Chapter to provide explicit protection for highly productive land.

16.6. GRUZ rules significantly restrict residential density and non-productive land uses such as commercial and industrial activities that do not have a functional or operational need to locate in the rural area. There are also limitations on sensitive activities such as educational, health, visitor

accommodation, community and conference facilities that may give rise to reverse sensitivity effects on land based primary-production. I therefore consider that the GRUZ rules largely implement the NPS-HPL by protecting the productive capacity of highly productive land from inappropriate use and development.

- 16.7. Implementation clause 3.9 of the NPS-HPL provides a limited range of instances where a use that is not land based primary production can establish on highly productive land (deemed to be appropriate activities). The following table shows how GRUZ provisions (or other areas of the PDP where the GRUZ Chapter is silent) align with implementation clause 3.9 and thus provide for these uses.

NPS-HPL Clause 3.9	PDP approach
2a Supporting activities	GRUZ-P4 – enables supportive rural activities. These activities are generally provided for in GRUZ rules however larger scale rural business activities require resource consent. The scale of permitted activities enabled by the PDP is not considered to give rise to cumulative effects given restrictions on size, bulk and location, operating hours and staffing. The complimentary nature of these activities to land based primary production would also lessen the likelihood of reverse sensitivity effects.
2b Public health and safety	Addressed in other chapters – e.g. EI, TRAN. Significant new infrastructure activities typically require resource consent or may utilise the designation process and the potential effects on highly productive land and functional/operational need can be considered there. Additional policy clauses in EI-P2 and TRAN-P13 will assist in the assessment of this.
2c Matters of national importance	No specific provisions in GRUZ. Overall, the plan generally provides for these types of beneficial activity within the constraints of protecting the matter of national importance.
2d Specified Maori land	No specific provisions in GRUZ. Specified Maori land is not prevalent in Selwyn District although areas of the district are zoned as MPZ, which is not considered highly productive land under the NPS-HPL.

2e Indigenous biodiversity	No specific provisions in GRUZ. Overall, the plan generally provides for these beneficial types of activity within the constraints of protecting indigenous biodiversity.
2f Retirement of land to protect water quality	No specific policy in GRUZ. Further work is recommended to refine the policy approach in collaboration with ECAN given the interplay with the Canterbury Water Strategy and Land and Water Plan.
2g Small scale or temporary land use	The PDP provides for small-scale temporary activities, primarily through the Temporary Activities Chapter.
2h Designations	The designations process facilitates this and no change is considered necessary.
2i Public access	This is addressed through the Public Access Chapter in the PDP.
2j Infrastructure, defence facilities, mineral extraction	<p>Addressed in other chapters – e.g. EI, TRAN. Significant new infrastructure activities typically require resource consent or may utilise the designation process and the potential effects on highly productive land and functional/operational need can be considered there. Additional policy clauses in EI-P2 and TRAN-P13 will assist in the assessment of this.</p> <p>New, or an expansion of an existing mineral extraction activity, always requires resource consent under GRUZ rules (unless a small farm quarry) however further amendments are required to plan provisions to refer back to the 'regional and national benefit' test in the NPS-HPL.</p>

### *3.10 Exemption for highly productive land subject to permanent or long term constraints.*

16.8. Implementation clause 3.10 provides an exemption to clause 3.9 (and 3.7 and 3.8) provided there are long term, demonstrable constraints on the use of that land for productive purposes. It is incumbent upon the applicant wishing to carry out the non-productive activity to demonstrate this. The NPS-HPL does not specifically require that district plans include provisions to facilitate this and neither does there seem to be scope to incorporate this exceptions clause (as submissions are focussed on increasing protection for highly productive land rather than providing exceptions). However as this seems to be an integral part of the NPS-HPL I recommend that this be considered through a future plan change.



### *3.11 Continuation of existing activities*

16.9. Provisions are required under the NPS-HPL to enable existing activities to continue operating and to upgrade even when located on highly productive land. Maintenance and operational activities are typically enabled through the PDP effectively as permitted activities (subject to controls on, for instance, noise and lighting). Upgrading may be permitted but may also require resource consent depending on the scale of the proposed activity – for instance if the activity is intensified or its footprint increased. Under the NPS-HPL, maintenance, operational and upgrading activities will be required to minimise any loss of highly productive land. Out of these three activities, upgrading is most likely to give rise to the loss of highly productive land. I therefore recommend that a policy is included that requires that existing activities minimise any loss of highly productive land.

### *3.12 Supporting appropriate productive use of highly productive land*

16.10. The NPS-HPL requires that territorial authorities include provisions to prioritise land based primary production on highly productive land and encourage opportunities to increase productive capacity. I consider that this already exists in the GRUZ policy framework through GRUZ-P1, P2, P4 and P5. In addition, the PDP is generally enabling of intensive land based primary production, although controls do exist to allow extra scrutiny through the resource consent process to protect sensitive activities for amenity purposes where the intensive land use is newly established, or an expansion is proposed.

### *3.13 Managing reverse sensitivity and cumulative effects*

- 16.11. This requires that territorial authorities identify typical activities and effects associated with land based primary production on highly productive land. HortNZ<sup>15</sup> requested a more explicit reference to the effects of primary production activities and rural character in the PDP and whilst they were supportive of changes I recommended to the overview of the GRUZ Chapter (as set out in Ms Wharfe's Evidence in Chief at the GRUZ Hearing), they sought further changes to GRUZ-P1. I agree with this change, particularly as it helps implement the NPS-HPL.
- 16.12. The clause also requires avoidance or mitigation of reverse sensitivity effects from urban rezoning or rural lifestyle zoning. The Urban Growth Chapter includes policy to consider these effects – for example UG-P9 - and, where necessary, new urban zoning can incorporate buffer zones or setbacks to protect highly productive land from reverse sensitivity effects.

## **Specific submissions on GRUZ where the NPS-HPL is considered a relevant consideration**

### *Hort NZ*

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<sup>15</sup> DPR-0353.241

16.13. Ms Wharfe stated through GRUZ hearing evidence that generally the matters raised by Hort NZ relating to the Overview for GRUZ have been addressed, with the exception of versatile soil and highly productive land<sup>16</sup>. She recommends the addition of the following to the first paragraph of GRUZ Overview: *The General Rural Zone has large areas of highly productive land which are an important resource that is valued for rural production purposes.* The PDP (as notified) does not specifically have rules to manage effects on highly productive land and versatile soils. However, with the commencement of the NPS-HPL and acknowledging that the Selwyn District does have these resources, I recommend that the additional sentence is included.

### Barry Moir

16.14. Barry Moir appeared at the GRUZ Hearing in support of his submission<sup>17</sup> relating to land in his ownership on Ellesmere Road towards the east of Lincoln and the historic grandfather clause rule.

16.15. Mr Moir wishes to see his land reclassified to allow smaller lots either through a change to rural density (to SCA-RD1 from SCA-RD2) or rezoning to a residential category. The issue as to whether the land should be rezoned as residential is a matter for the rezoning hearings. I note that the area to the north of Moirs Lane has an urban growth overlay in the PDP, is already SCA-RD1, and may be suitable for rural residential. In the S42a report for GRUZ I recommended the submission point (as it relates to rural density south of Moirs Lane) be rejected principally on the basis that the land was still of a productive size of 20ha, that there had been a drafting error on Council's part categorising part of the area as SCA-RD1 when the entire area south of Moirs Lane was intended to be SCA-RD1. Council are also undertaking spatial planning work in the area that will involve a new growth plan for Lincoln. Therefore changing the density may be premature.

16.16. Since then, Private Plan Change 69 has been approved (albeit subject to appeal) which extends the town's growth boundaries south towards Collins Road. As such, it could be argued that the existing rural density boundary along Ellesmere Road has become less defensible and any growth planning in this area has largely been overtaken by events. On the other hand, the NPS-HPL is now a relevant consideration as the area is categorised as having Class 2 and 3 soils. Whilst the proposal does not constitute urban rezoning or rural lifestyle zoning (the underlying zoning would remain GRUZ), it would still enable smaller blocks to be created through subdivision (4ha as opposed to 20ha). It is unlikely that the land subdivided into 4ha blocks will retain as much productive capacity as the larger blocks that presently exist<sup>18</sup>. Without further evidence that the land is subject to long term constraints on productive activities or that the land will retain its productive potential, I continue to recommend that the submission point is rejected as it could enable subdivision, use or development that would reduce the productive potential of the land.

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<sup>16</sup> DPR-0353.287

<sup>17</sup> DPR-0150.001

<sup>18</sup> Ranging from approximately 4.1ha - 21ha.

Approximate location of the submitter's land near Lincoln including LUC 1, 2 and 3 mapping<sup>19</sup>:



<sup>19</sup> Source: Canterbury Maps

*Rural density on Ellesmere Road east of Lincoln (including notified mapping error):*



16.17. Mr Moir also sought the retention of the historic grandfather clause, enabling houses to be built on lots smaller than the required density in the Outer Plains<sup>20</sup>. I do not recommend the retention of the grandfather clause for both reasons explained in the S42a report for GRUZ and above in terms of undermining the productive potential of the soil.

#### *Graeme and Virginia Adams*

16.18. Graeme and Virginia Adams appeared at the GRUZ hearing and submitted a supporting statement from Central Plains Water. The statement, in general, sought the separation of residential land use from farming activities and stated that SCA-RD11 soils have good access to Central Plains Water. Graeme and Virginia Adams in their original submission<sup>21</sup> sought that SCA-RD11, Greendale, is reduced to the existing developed area only and that any land that has not been developed is reclassified as SCA-RD2. I recommended in the S42a report that this be rejected on the basis that

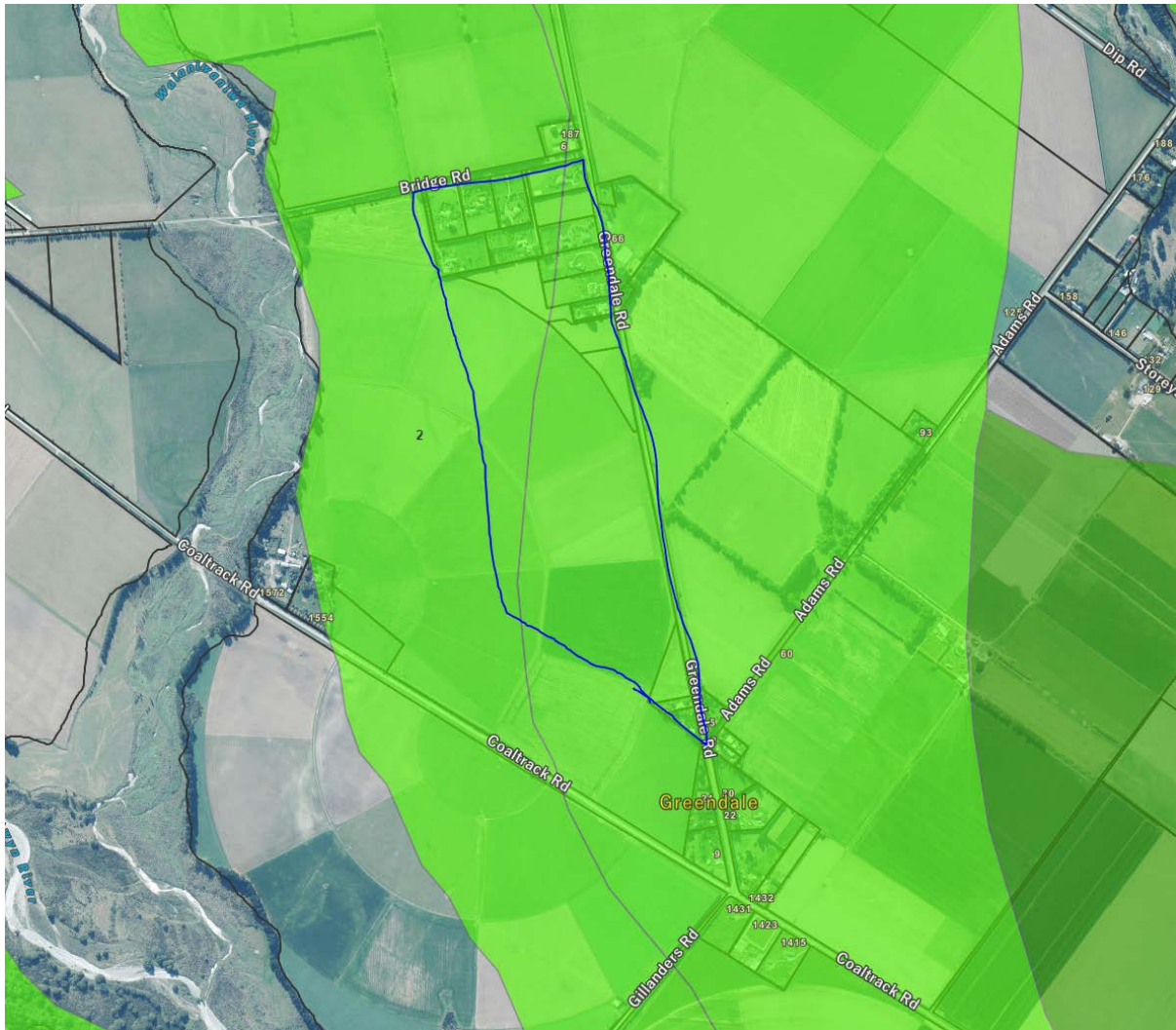
<sup>20</sup> DPR-0150.003

<sup>21</sup> DPR-0481-001, 002 and 003



there was some recent evidence of development occurring (a resource consent for subdivision of four new allotments was recently approved), that this represented a continuation of development rights carried over from the Operative District Plan and that development of SCA-RD11 as envisaged in the PDP would tie together two disparate parts of Greendale.

*Approximate area of SCA-RD11 at Greendale showing LUC 1, 2 and 3<sup>22</sup>*



16.19. At the Hearing, the submitter stated that the S42a report did not fully assess the points in the submission. The S42a report did note that the submitter was concerned about the impact of density on the capacity of services in the area. However upon re-reading the submission, it appears the focus is the loss of highly productive land, the avoidance of reverse sensitivity effects on primary production activities and the lack of alignment with objectives and policies in the PDP. The other issues, while relevant, were mentioned in the separate submission on the same matter by J Philp.

16.20. As a general point, I acknowledge that SCA-RD11 is very much a legacy of an earlier planning framework and does not appear to align with current regional planning direction. The CRPS, through Objective 5.2.1 (Location, Design and Function of Development), requires that development is

<sup>22</sup> Source: Canterbury Maps

located and designed so that it functions in a way that achieves consolidated, well designed and sustainable growth in and around existing urban areas as the primary focus for accommodating the region's growth. Policy 5.3.1 (Regional Growth) requires that, in order to meet the primary focus of the wider region's growth needs, sustainable development patterns need to ensure that any urban growth and limited rural residential development occur in a form that concentrates or is attached to existing urban areas and promotes a coordinated pattern of development. Policy 5.3.2 (Development Conditions) seeks to enable development including regionally significant infrastructure which ensures that adverse effects are avoided, remedied or mitigated, including where these would compromise or foreclose the productivity of the region's soil resources, without regard to the need to make appropriate use of soil which is valued for existing or foreseeable future primary production, or through further fragmentation of rural land.

16.21. The NPS-HPL is also now a relevant consideration. The entire area is classified as having Class 2 soil. Under the NPS-HPL, territorial authorities are required to avoid subdivision of highly productive land unless the applicant can demonstrate the proposed lots will retain the productive capacity of the land over the long term and/or that there is a compelling long term constraint on using the land productively. Enabling highly productive land to be partitioned into 1ha blocks is unlikely to enable the land to be used productively in the future and may give rise to reverse sensitivity effects on neighbouring productive uses which is also inconsistent with the NPS-HPL.

16.22. Overall, I agree with the submitters that the former Greendale EDA (now SCA-RD11) does not have a particular compelling case to develop on what is highly productive land (Class 2 in the Land Use Class Inventory) as originally envisaged because it does not align with higher order objectives and policy in the CRPS or the NPS-HPL. Whilst there is some existing servicing in the Greendale area that could probably absorb the small amount of development that is proposed and it would provide more cohesion by joining two halves of the community together, its fragmented nature on highly productive land means that it is not a particularly efficient use of natural resources. There is also the risk of reverse sensitivity effects on primary production in the Outer Plains. I therefore amend my previous recommendation from the S42a report and instead recommend that the SCA-RD11 be limited to that area that has existing residential development present or a resource consent approved for rural residential type subdivision<sup>23</sup>.

*Davina Penny*

16.23. Ms Penny discussed highly productive land<sup>24</sup> in her evidence at the GRUZ Hearing and the need to protect this from the effects of quarrying activities. Whilst in the CRPS, mineral extraction is not considered primary production<sup>25</sup>, it does meet this definition in the National Planning Standards. However a complicating factor is that the NPS-HPL does not recognise mineral extraction as 'land based primary production'. Implementation clause 3.9 does however recognise mineral extraction that provides a 'significant national public benefit' and aggregate extraction that provides a

<sup>23</sup> RC 195200 was granted in June 2019 for 5 lots, 4 between 1-2ha and the balance to remain in rural use at 32ha.

<sup>24</sup> Based on the Proposed NPS on Highly Productive Land which defined such land as having a land use class as being 1-3.

<sup>25</sup> Quarrying is separately described as a 'rural activity'.



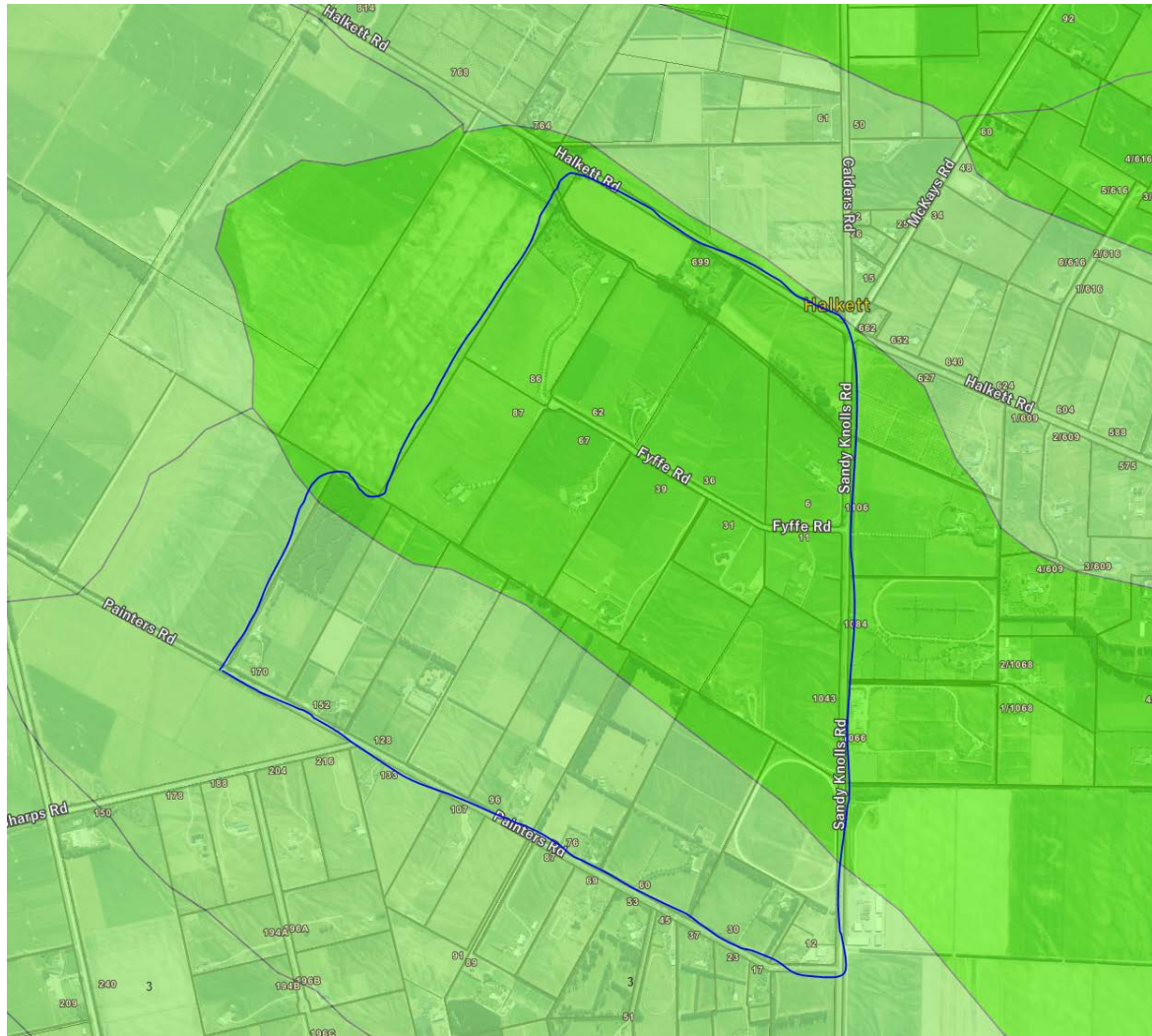
‘significant national or regional public benefit’ as being a potentially appropriate use of the land. This is subject to a functional/operational need test and the minimisation or mitigation of cumulative loss of highly productive land in the district and avoidance or mitigation of reverse sensitivity effects on land based primary production.

16.24. The GRUZ Chapter enables most primary production activities however it is recognised that mineral extraction can give rise to particular adverse effects that need to be mitigated. In addition, due to the proximity of sensitive activities, mineral extraction is not always appropriate in every locality hence the requirement for resource consent. However, given that mineral extraction can only occur where the resource exists, a pragmatic approach must be taken. The NPS-HPL does require that highly productive land be an additional factor in deciding whether mineral extraction is appropriate in a particular location. I recommend therefore that an additional clause be included in GRUZ-P8 and GRUZ-R21 to give effect to the NPS-HPL with the merits of an extraction activity and impact on highly productive land being decided through the resource consent process. I therefore recommend that Ms Penny’s submission point is accepted in part.

#### *Saunders Family Trust*

16.25. The Saunders Family Trust attended the GRUZ hearing with planning and landscape evidence. They sought in their original submission that the boundary between SCA-RD1 and SCA-RD2 is amended by extending the SCA-RD1 boundary north from Sharps Road over Halkett Road through to Old West Coast Road. In the evidence in chief presented by Mr Thomson, the planner acting for the Trust, the Trust now appears to be advocating for a smaller area of adjustment. This is the area bound by Painters Road, Sandy Knolls Road and Halkett Road (the ‘Southern Block’). The Trust owns three land parcels totaling approximately 33ha within the area sought for a change in rural density (from a 20ha to a 4ha minimum allotment size).

Approximate location of 'Southern Block' showing LUC 1, 2 and 3<sup>26</sup>



<sup>26</sup> Source: Canterbury Maps



- 16.26.1. Effects on rural character and amenity.
- 16.26.2. Effects on the integrity of the inner/outer boundary of the rural plains.
- 16.26.3. Current and potential productive use of the land.

Section 42A Report



- 16.27.1. Mr Craig, the landscape architect for the Trust notes that the site does not display the kind of character and amenity expected of the Outer Plains where building density is far lower and open space is more expansive. He opines that the site is well defined on three of its four sides by roads, the site's western boundary although not defined marks a distinctive transition into the Outer Plains due to change in characteristics of site sizes and openness, and vegetation cover will be maintained even with smaller allotments. He also notes that it is contiguous on two sides with smaller 4ha allotments permitted in the Inner Plains. I do not dispute this characterisation of the site and area noting that rural character was assessed on a broad scale through the Selwyn Rural Character Analysis and Selwyn Landscape Study and not at a site specific level.
- 16.27.2. Mr Thomson states that while most rural density boundaries use road boundaries there are short stretches which run along parcel boundaries such as at Motukarara and at Greenpark and Burnham, although in all these cases this was adjusted to include 4ha blocks. In the case of Motukarara, this was 71ha made up of 16 titles – the average size being 4.4ha. Greenpark was 7.4ha made up of three titles with an average of 2.4ha and Burnham at 16.2ha made up of 11 titles, with an average size of 1.4ha. The other example is at Mr Moir's land at Lincoln although this has been found to be a mapping error. Therefore I am not convinced that these examples are particularly compelling as they are either previously developed or consented, and of an average size that matches or in some cases is below the minimum density of the Inner Plains. Including allotments that are 10ha does not align with the general principle of including concentrations of development at or near the 4ha density.
- 16.27.3. Turning to the issue of the productive use of the land, the Rural Zone Density and Minimum Lot Size Report by Macfarlane (2017) found that on their own, 20ha is not likely to be economically viable but these blocks rarely exist in isolation and often support other farming activities. They often exist as part of a larger farm. In addition, smaller blocks may become increasingly viable in the future depending on the development of infrastructure. Additionally, further development of irrigation infrastructure and proximity to Christchurch Airport suggests that smaller blocks in this area may become more viable in the future. The majority of blocks in the parcel however are 10ha with two at 6ha and three at 4ha which is below the 20ha discussed in the Macfarlane report. From a review of aerial imagery, most although not all, have had dwellings already built on. Mr Thomson states that most sites often have a paddock for small scale grazing and I would agree with this looking at aerial imagery and view shafts from nearby roads.
- 16.27.4. Mr Thomson does raise the issue around demand for rural lifestyle sections stating that there is strong evidence that demand exists in the area around West Melton. The demand for rural lifestyle sections has been ongoing for a number of years however often at the expense of productive soils. The Waimakariri District Council for example recently notified its Proposed District Plan which immediately restricted smaller 'lifestyle' sections in the

western part of the district in favour of a new minimum lot size of 20ha on the basis of demand for these blocks and the loss of productive land. Whilst it is important to cater for housing demand, where this in the rural zone this should be carefully balanced against fragmentation and loss of productive land.

- 16.27.5. In this regard, the NPS-HPL is now a relevant consideration. The entire area is classified as having Class 2 soil. Under the NPS-HPL, territorial authorities are required to avoid subdivision of highly productive land unless the applicant can demonstrate the proposed lots will retain the productive capacity of the land over the long term and/or that there is a compelling long-term constraint on using the land productively. This is a high bar and I do not believe that the submitter has demonstrated this in their evidence. Whilst the proposal does not constitute urban rezoning or rural lifestyle zoning (the underlying zoning would remain GRUZ), it would still enable smaller blocks to be created through subdivision. It is unlikely that the land subdivided into 4ha blocks will retain as much productive capacity as the larger blocks that presently exist. Without further evidence that the land is subject to long term constraints on productive activities or that the land will retain its productive potential, I continue to recommend that the submission point is rejected as it could enable subdivision, use or development that would reduce further the productive potential of the land.

### ***Recommendations and amendments***

16.28. I recommend, for the reasons given above that the Hearings Panel, as set out in **Appendix 2**:

- 16.28.1. Amend GRUZ-Overview to include a reference to the need to protect highly productive land.
- 16.28.2. Amend GRUZ-O1 to include an additional clause on protecting highly productive land.
- 16.28.3. Insert a new policy that specifically requires the avoidance of adverse effects on highly productive land.
- 16.28.4. Insert a new policy that enables the maintenance, operation and upgrading of existing activities whilst minimising adverse effects on highly productive land.
- 16.28.5. Amend GRUZ-P1 to specifically identify effects from typical rural activities.
- 16.28.6. Amend GRUZ-P8 to include highly productive land as a consideration when locating mineral extraction activities.
- 16.28.7. Amend GRUZ-R21 to require that mineral extraction on highly productive land is assessed as a discretionary activity.

- 16.28.8. Amend the boundary of SCA-RD11 (Greendale) to exclude land undeveloped or unconsented for development with this balance reclassified as SCA-RD2.
- 16.29. The scope for these changes exists through submission points from Rex Verity, Davina Penny, HortNZ and, in relation to SCA-RD11, Graeme and Virginia Adams.<sup>27</sup>.
- 16.30. It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as show in **Appendix 1**.

## 17. Commercial and Mixed Use Zone/Industrial Zone

- 17.1. This section includes the following zone chapters: Commercial and Mixed Use Zone/Industrial Zone. These areas of land are all zoned for existing urban activities and are not considered to be highly productive land. As such, it is not considered that any changes are needed to these chapters to give effect to the NPS-HPL.

### ***Recommendations***

- 17.2. I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Commercial and Mixed Use and Industrial Zone Chapter as recommended in the respective s42A Right of Reply Reports for each topic-based hearing.

## 18. Special Purpose Zones

- 18.1. This section includes the following zone chapters: DPZ, GRAZ, KNOZ, MPZ, PORTZ, SKIZ and TEZ. Under the NPS-HPL, special purpose zones (except MPZ) are considered to be urban and for urban activities. Whilst this seems somewhat counterintuitive for some special purpose zones that are located rurally, the requirements of the NPS-HPL nevertheless do not apply to these existing zones as they are not considered highly productive land. MPZ will also be exempt from the provisions of the NPS-HPL in the interim and, given the underlying land ownership is likely to be specified Māori land, subdivision, use and development would be deemed appropriate under the NPS-HPL. Overall, it is not considered that any changes are needed to these chapters to give effect to the NPS-HPL.

### ***Recommendations***

- 18.2 I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Special Purpose Zones as recommended in the respective s42A Right of Reply Reports for each topic-based hearing.

## 19. Development Areas and Designations

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<sup>27</sup> DPR-0033.003, DPR-0279.003, DPR-0353.241, DPR-0353.287 and DPR-0481-001, 002 and 003



- 19.1 This section includes development areas and designations. Development areas are areas that have been identified for future urban development and are thus not highly productive land. Designations are an identified use of the land that is appropriate, despite the presence of highly productive land.

***Recommendations***

- 19.2 I recommend, for the reasons given above, that in respect of the NPS-HPL the Hearings Panel retain the Development Areas and Designations as recommended in the respective s42A Right of Reply Reports for these topics.

## 20 s32AA Evaluation

20.1 The following points evaluate the recommended changes under Section 32AA of the RMA. For clarity, the recommended changes are summarised as:

20.1.1 Amend EI-P2 and TRAN-P13 to include highly productive land among the criteria where there should be a demonstrable operation or functional need for important infrastructure and land transport infrastructure to locate.

20.1.2 Amend EI-P2 and TRAN-P13 to require the minimisation or mitigation of any actual loss or potential cumulative loss of highly productive land and avoidance or mitigation of reverse sensitivity effects on land based primary production.

20.1.3 Amend UG-O2 and UG-P9 to align with the direction of the NPS-HPL.

20.1.4 Amend GRUZ-Overview to include a reference to the need to protect highly productive land.

20.1.5 Amend GRUZ-O1 to include an additional clause on protecting highly productive land.

20.1.6 Insert a new policy that specifically requires the avoidance of adverse effects on highly productive land.

20.1.7 Insert a new policy that enables the maintenance, operation and upgrading of existing activities whilst minimising adverse effects on highly productive land.

20.1.8 Amend GRUZ-P1 to specifically identify effects from typical rural activities.

20.1.9 Amend GRUZ-P8 to include highly productive land as a consideration for locating mineral extraction activities.

20.1.10 Amend GRUZ-R21 to require that mineral extraction on highly productive land is assessed as a discretionary activity.

20.1.11 Amend the boundary of SCA-RD11 (Greendale) to exclude land undeveloped or unconsented for development with this balance reclassified as SCA-RD2.

### Effectiveness and efficiency

20.2 The amendments will give effect in part to the NPS-HPL and help to protect highly productive land. Territorial authorities are required to implement the NPS-HPL and whilst there are elements, such as mapping, that must take place at the regional level other parts of the NPS-HPL can be implemented now through the district plan review. Including these amendments now, to the extent afforded by the scope of submissions, enable Council to give effect to the NPS-HPL sooner than it might otherwise.

### Costs and benefits

- 20.3 The benefits are that the changes provide protection for highly productive land from inappropriate subdivision, use and development sooner than waiting for a separate later plan change process after the PDP becomes operative in August 2023.
- 20.4 The costs are that the changes only partially give effect to the NPS-HPL and therefore the package of changes is not complete and may not work in the integrated fashion intended by the NPS-HPL. Landowners may be more constrained by the provisions than they might otherwise be, for example by demonstrating that the land is no longer productive or has long term constraints associated with it that make a productive use infeasible.

### Risk of acting or not acting

- 20.5 Territorial authorities must notify changes to their district plans as soon as practicable but no later than two years after maps of highly productive land in regional policy statement become operative. Regional Councils have up to three years to notify maps of highly productive land. Therefore, Council does have a reasonable amount of time to complete the change to the district plan. However, delaying the changes would mean that highly productive land would be less protected as the district plan would not contain the relevant provision until a later date. The NPS-HPL would still remain a relevant factor when undertaking an assessment against Part 2 of the RMA however (for example under s104 RMA).

### Conclusion as to the most appropriate option

- 20.6 In summary, the changes proposed will give effect to the NPS-HPL in part and therefore strengthen the protection of highly productive land, a finite resource, at an earlier point in time than through a subsequent plan change process.

## 21 Conclusion

- 21.1 For the reasons set out in the Section 32AA evaluation above and included throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.

## Appendix 1: Table of Submission Points

Only includes submission points where there is a change to the original recommendations.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested	Recommendation	Section of report	Original Hearing topic
DPR-0033	Davina Louise Penny	0033	New	Oppose in Part	Amend Proposed District Plan to include Highly Productive Land (Land Use Classes 1 - 3) and to ensure it is protected in line with the Proposed National Policy Statement on Highly Productive Land. Include 'land use' as well as 'development' to avoid loopholes being exploited	Accept in Part	8, 16	GRUZ
DPR-0032	CCC	FS335	New	Support	<i>Introduce a new policy that protects highly productive land from both urban development and other activities that effectively remove its primary production potential.</i>	<i>Accept in part</i>	8, 16	GRUZ
DPR-0136	Stewart Townsend and Fraser	FS006	New	Oppose	<i>Reject submission</i>	<i>Reject</i>	8, 16	GRUZ
DPR-0157	Kevin and Bonnie Williams	FS083	New	Oppose	<i>Reject submission</i>	<i>Reject</i>	8, 16	GRUZ

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested	Recommendation	Section of report	Original Hearing topic
DPR-0209	Manmeet Singh	FS070	New	Oppose	Reject submission	Reject	8, 16	GRUZ
DPR-0298	Trices Road Rezoning Group	FS914	New	Oppose	Reject submission	Reject	8, 16	GRUZ
DPR-0456	Four Stars Development and Gould Development Ltd	FS003	New	Oppose	Reject submission	Reject	8, 16	GRUZ
DPR-0488	Dally Family Trust and Julia McIlraith	FS007	New	Oppose	Reject submission	Reject	8, 16	GRUZ
DPR-0279	Rex Verity	003	New	Oppose in Part	Insert an Objective and supporting Policies and Rules concerning soil resources	Accept in Part	8, 16	Part 1
DPR-0353	HortNZ	301	New	Support	Insert a district wide chapter – Highly Productive Land	Accept in Part	12	Part 1
DPR-0157	Kevin and Bonnie Williams	FS901	New	Oppose	Reject Submission	Reject	12	Part 1
DPR-0209	Manmeet Singh	FS410	New	Oppose	Reject Submission	Reject	12	Part 1
DPR-0215	Winstone Aggregates	FS028	New	Support in Part	Accept submission in part	Accept	12	Part 1

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested	Recommendation	Section of report	Original Hearing topic
DPR-0298	Trices Road Rezoning Group	FS907	New	Oppose	Reject Submission	Reject	12	Part 1
DPR-0422	NCCF	246	New	Neither support nor oppose	Insert new policies and rules to assess the impact on versatile/ productive soils when development of rural land is proposed for new housing and make any consequential amendments.	Accept in Part	14	UG
DPR-0136	Stewart Townsend and Fraser	FS244	New	Oppose	Reject submission	Reject	14	UG
DPR-0157	The Williams	FS868	New	Oppose	Reject submission	Reject	14	UG
DPR-0209	M Singh	FS270	New	Oppose	Reject submission	Reject	14	UG
DPR-0298	Trices Road	FS888	New	Oppose	Reject submission	Reject	14	UG
DPR-0407	Forest and Bird	FS150	New	Support in Part	Accept in part	Accept in part	14	UG
DPR-0488	Dally Family and McIlraith	FS243	New	Oppose in Part	Reject submission in part	Accept in part	14	UG
DPR-0422	NCCF	248	New	Neither support nor oppose	Insert policies and rules to assess the impact on versatile/ productive soils when development of rural land is proposed for new housing.	Accept in Part	14	UG
DPR-0157	The Williams	FS869	New	Oppose	Reject submission	Reject	14	UG

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested	Recommendation	Section of report	Original Hearing topic
DPR-0209	M Singh	FS271	New	Oppose	Reject submission	Reject	14	UG
DPR-0298	Trices Road	FS889	New	Oppose	Reject submission	Reject	14	UG
DPR-0358	RWRL	FS001	New	Oppose	Reject	Reject	14	UG
DPR-0384	RIDL	FS001	New	Oppose	Reject	Reject	14	UG
DPR-0407	Forest and Bird	FS151	New	Support in Part	Accept with amendments to address the reasons set out.	Accept in Part	14	UG
DPR-0481	Graeme and Virginia Adams	001	Rural Density	Oppose	Amend size of SCA-RD11 to reflect existing development	Accept	16	GRUZ
DPR-0422	NCFF	FS186	Rural Density	Support	Allow the submission point	Accept	16	GRUZ
DPR-0494	Julia Banks and Alastair Herreman	FS001	Rural Density	Support	Retain the provision that no further rural land is rezoned to residential or be able to be subdivided smaller than 4ha	Accept	16	GRUZ
DPR-0508	Cameron and Lydia Adams	FS001	Rural Density	Support	That Council shrink the size of SCARD11 to retain current agricultural use. We would like the land area to be zoned as other adjacent land SCARD2. Or any other alteration that achieves the effect.	Accept	16	GRUZ
DPR-0524	Nelson Early	FS001	Rural Density	Support	Amend SCA RD 11 provisions to SCA RD2	Accept	16	GRUZ
DPR-0527	Dr Peter Almond	FS001	Rural Density	Support	Allow submission point in full.	Accept	16	GRUZ

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested	Recommendation	Section of report	Original Hearing topic
DPR-0481	Graeme and Virginia Adams	002	Rural Density	Oppose	Amend zoning for remaining land.	Accept in Part	16	GRUZ
<i>DPR-0422</i>	<i>NCFF</i>	<i>FS187</i>	<i>Rural Density</i>	<i>Support</i>	<i>Allow the submission point</i>	<i>Accept in Part</i>	<i>16</i>	<i>GRUZ</i>
<i>DPR-0508</i>	<i>Cameron and Lydia Adams</i>	<i>FS002</i>	<i>Rural Density</i>	<i>Support</i>	<i>That Council shrink the size of SCARD11 to retain current agricultural use. We would like the land area to be zoned as other adjacent land SCARD2. Or any other alteration that achieves the effect.</i>	<i>Accept in Part</i>	<i>16</i>	<i>GRUZ</i>
<i>DPR-0524</i>	<i>Nelson Early</i>	<i>FS002</i>	<i>Rural Density</i>	<i>Support</i>	<i>Amend SCA RD 11 provisions to SCA RD2</i>	<i>Accept in Part</i>	<i>16</i>	<i>GRUZ</i>
DPR-0481	Graeme and Virginia Adams	003	Rural Density	Oppose	Amend	Accept in Part	16	GRUZ
<i>DPR-0422</i>	<i>NCFF</i>	<i>FS188</i>	<i>Rural Density</i>	<i>Support</i>	<i>Allow the submission point</i>	<i>Accept in Part</i>	<i>16</i>	<i>GRUZ</i>
<i>DPR-0524</i>	<i>Nelson Early</i>	<i>FS003</i>	<i>Rural Density</i>	<i>Support</i>	<i>Amend SCA RD 11 provisions to SCA RD2</i>	<i>Accept in Part</i>	<i>16</i>	<i>GRUZ</i>



## Appendix 2: Recommended amendments

**Yellow** – Changes recommended as a result of the S42a or right of reply report.

**Grey** – Changes recommended as a result of this report.

### Energy and Infrastructure

EI-Policies	
El-P2	<p>Minimise the adverse effects of important infrastructure, and renewable electricity generation on the physical and natural environment by:</p> <ol style="list-style-type: none"> <li>1. encouraging the co-location of structures and facilities where efficient and practicable.</li> <li>2. locating, designing and operating development while minimising the effects on, the amenity values of the surrounding environment, public access and the health and safety of people.</li> <li>3. limiting the presence and effects of development within Outstanding Natural Landscapes, Visual Amenity Landscapes, areas of significant indigenous vegetation and habitats of indigenous fauna, sites of historic heritage and site and areas of significance to Māori to those which:               <ol style="list-style-type: none"> <li>a. are recognised as important infrastructure; and</li> <li>b. can demonstrate an operational, <b>technical</b> or functional requirement for the location; and</li> <li>c. can demonstrate through site, route or method selection the minimisation of effects on the environment; and</li> <li>d. integrate design measures and management methods to mitigate adverse effects.</li> </ol> </li> <li>3a. <b>acknowledging the functional needs or operational needs of important infrastructure, including those practical constraints to locate in a particular area, including areas with high natural, visual amenity, cultural, or historic heritage value; and</b></li> <li>4. requiring restoration of indigenous biodiversity and habitat following construction in areas of areas of significant indigenous vegetation and habitats of indigenous fauna, and the on-going monitoring of that restoration.</li> <li>5. considering biodiversity off-setting or compensation where the loss of significant indigenous vegetation cannot be restored <b>and or the effects on</b> significant habitats of indigenous fauna or wetlands cannot be <b>fully mitigated where the adverse effects cannot be avoided, or remedied or mitigated.</b></li> </ol>

	<p>6. Using the substantial upgrade of important infrastructure and renewable electricity generation as an opportunity to reduce existing adverse effects <u>where the efficiency, effectiveness or resilience of the important infrastructure or renewable electricity generation is not compromised.</u></p> <p>7. <u>providing for the operational, maintenance, upgrade or expansion of important infrastructure on highly productive land where there is a functional or operational requirement for the location whilst:</u></p> <ol style="list-style-type: none"> <li><u>minimising or mitigating any actual or potential cumulative loss of the availability and productive capacity of highly productive land in the district.</u></li> <li><u>Avoid if possible, or otherwise mitigate, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.</u><sup>28</sup></li> </ol>
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TRAN- Policies	
<b>TRAN-P13</b>	<p>Minimise the adverse effects of <u>the development of new</u><sup>29</sup> <u>land transport infrastructure and corridors</u> on the physical and natural environment by:</p> <ol style="list-style-type: none"> <li>1. Locating, designing and operating <u>development new land transport infrastructure and corridors</u> while minimising the effects on, the amenity values of the surrounding environment, public access, and the health and safety of people.</li> <li>2. Encouraging <u>developers of development new land transport infrastructure and corridors</u> to consider alternative sites, routes or methods.</li> <li>3. Limiting the presence and effects of <u>the development of new land transport infrastructure and corridors</u> development within Outstanding Natural Landscapes, Visual Amenity Landscapes, Areas of Significant Indigenous Vegetation and habitats of indigenous fauna, sites of historic heritage and site and areas of significance to Māori to those which: <ol style="list-style-type: none"> <li>a. can demonstrate an operational or functional requirement for the location; and</li> <li>b. can demonstrate through site, route or method selection the minimisation of effects on the environment; and</li> <li>c. integrate design measures and management methods to mitigate adverse effects.</li> </ol> </li> <li>4. Requiring restoration of indigenous biodiversity and habitat following <u>the development of new land transport infrastructure and corridors</u> in areas of Areas of Significant Indigenous Vegetation and habitats of indigenous fauna, and the on-going monitoring of that restoration</li> </ol>

<sup>28</sup> DPR-0033.003, DPR-0279.003

<sup>29</sup> Consequential change required to accommodate new clause 7.

	<p>5. Considering biodiversity off-setting or compensation where the loss of significant indigenous vegetation cannot be restored and significant habitats of indigenous fauna or wetlands cannot be fully mitigated where the adverse effects cannot be avoided or remedied.</p> <p>6. Using the substantial upgrade of land transport infrastructure as an opportunity to reduce existing adverse effects.</p> <p>7. providing for the operational, maintenance, upgrade or expansion of land transport infrastructure and corridors on highly productive land where there is a functional or operational requirement for the location whilst:</p> <ol style="list-style-type: none"> <li>minimising or mitigating any actual or potential cumulative loss of the availability and productive capacity of highly productive land in the district.</li> <li>Avoid if possible, or otherwise mitigate, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.<sup>30</sup></li> </ol>
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## Urban Growth

UG-Objectives	
<b>UG-O2</b>	<p>Townships maintain a consolidated and compact urban form to support:</p> <ol style="list-style-type: none"> <li>Accessible, sustainable and resilient residential neighbourhoods, commercial centres, industrial hubs, inland ports, or knowledge areas;</li> <li>The reduction in future effects of climate change and greenhouse gas emissions.</li> <li>Greater intensification of existing areas;<sup>31</sup></li> <li>The role and function of each urban area within the District's Township Network and the economic and social prosperity of the District's commercial centres; and</li> <li>The efficient servicing of townships and integration with existing and planned infrastructure.</li> </ol>

UG-Policies	
<b>UG-P9</b>	<p>Recognise and provide for the finite nature of the versatile soil resource when zoning land to extend township boundaries to establish new urban areas. Protect, to the extent reasonably possible, highly productive land and adjoining rural land for rural production from inappropriate urban subdivision growth. Avoid the zoning of highly productive land to establish new urban areas, unless there are no reasonably practicable and feasible lower productive land alternatives<sup>32</sup>.</p>

<sup>30</sup> DPR-0033.003, DPR-0279.003

<sup>31</sup> DPR-0353.228

<sup>32</sup> DPR-0353.225

## General Rural Zone

Overview	
<p>Generally, character and amenity within the General Rural zone is characterised by a landscape dominated by openness and vegetation, and with significant visual separation between neighbouring residential buildings. Rural landscapes can include rural production activities, including plantation forestry, mineral extraction, farming (including research farming and associated facilities) and associated structures and buildings as well as rural support services and rural industry. These activities may have associated levels of noise, dust and odour. The General Rural Zone has large areas of highly productive land which are an important resource that is valued for rural production purposes.<sup>33</sup></p> <p>.....</p>	

GRUZ-Objectives	
<b>GRUZ-O1</b>	<p>Subdivision, use, and development in rural areas that:</p> <ol style="list-style-type: none"> <li>1. supports, maintains, or enhances the function and form, character, and amenity value of rural areas;</li> <li>2. prioritises primary production, over other activities to recognise its importance to the economy and wellbeing of the district;</li> <li>3. allows primary production, and those activities that directly support primary production and have a functional or operational need to locate with the rural zone, to operate without being compromised by reverse sensitivity and incompatible activities; and</li> <li>4. retains a contrast in character to urban areas.</li> <li>5. protects the resource potential of highly productive land.<sup>34</sup></li> </ol>

GRUZ-Policies	
<b>GRUZ-Px</b> <b>New</b>	Avoid the inappropriate use and development of highly productive land whilst ensuring that other use and development minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land. <sup>35</sup>

GRUZ-Policies	
<b>GRUZ-Px</b> <b>New</b>	Enable the maintenance, operation or upgrade of any existing activity on highly productive land whilst minimising the loss of highly productive land. <sup>36</sup>

<sup>33</sup> DPR-0353.287

<sup>34</sup> DPR-0033.003, DPR-0279.003

<sup>35</sup> DPR-0033.003, DPR-0279.003

<sup>36</sup> DPR-0033.003, DPR-0279.003

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GRUZ-Policies	
<b>GRUZ-P1</b>	Maintain or enhance rural character and amenity values of rural areas by: ..... 6. Recognising that effects such as noise, odour and dust associated with primary production activities are part of the character of the rural area. <sup>37</sup>

GRUZ-Policies	
<b>GRUZ-P8</b>	Provide for mineral extraction in the General Rural Zone to meet the District's and region's supply needs, <u>including by recognising the need to locate in a specific location to access the most appropriate resource</u> , while:  <u>1. managing the location of mineral extraction activities to maintain the amenity values of sensitive activities and residential areas.</u> 2. internalising adverse environmental effects as far as practicable using industry best practice and management plans; <b>and</b> <u>3. managing the location of mineral extraction activities</u> <u>3. avoiding locating on highly productive land unless there is a functional or operational need and either the mineral extraction provides a significant national public benefit that could not otherwise be achieved using resources within New Zealand or, in the case of aggregate extraction, provides a significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand<sup>38</sup>.</u>

<b>GRUZ-R21</b>	<b>Mineral Extraction</b>	
	<b>Activity Status:</b> RDIS 1. The establishment or expansion of: a. a <u>new mine or quarry</u> , or b. farm quarry that exceeds an area of extraction of 1,500m <sup>2</sup> , or <u>c. associated activities to the principle use as a mine or quarry that involve the recovery of aggregate products.</u>  <b>Where:</b>  a. The activity is setback from the notional boundary of any lawfully established residential activity or visitor accommodation, or	<b>Activity status when compliance not achieved:</b> 3. Activity status when compliance with any of GRUZ-R21.1 is not achieved: DIS

<sup>37</sup> DPR-0353.241,

<sup>38</sup> DPR-0033.003, DPR-0279.003

	<p>the site boundary of any lawfully established community or educational facility, <u>except where located on the same site</u>, by:</p> <ul style="list-style-type: none"> <li>i. 200m for any excavation, <u>excluding excavation for the purposes of avoiding or mitigating adverse effects</u>; and</li> <li>ii. 500m for any activity involving blasting; and</li> <li>iii. 500m for any processing <u>or aggregate recovery</u>.</li> </ul> <p>b. The activity is setback from the boundary of a residential zone by 500m.</p> <p>c. <u>The activity is not located on highly productive land.</u><sup>39</sup></p> <p><b>Matters for discretion:</b></p> <p>2. The exercise of discretion in relation to GRUZ-R21.1 is restricted to the following matters:</p> <ul style="list-style-type: none"> <li>a. Effects on amenity values <u>and rural character</u> during the establishment, <u>rehabilitation</u> and operation of the site from the scale and intensity of the mineral extraction, including any cumulative effect, the location of buildings and plant, <u>but excluding those caused by dust</u>.</li> <li>b. The preparation and <u>commitment to implement</u> of a site rehabilitation plan. This <u>may shall</u> include, but is not limited to: <ul style="list-style-type: none"> <li>i. the end use of the site, <u>which should be suitable for an alternative use that maintains or enhances the amenity of the surrounding area</u> and methods used to achieve this;</li> <li>ii. <u>measures to mitigate potential instability of land and susceptibility to subsidence and erosion</u>;</li> <li>iii. duration <u>and staging</u> of rehabilitation <u>to minimise the period of any adverse amenity affects, such as dust nuisance</u>; and</li> <li>iv. The methods used to rehabilitate the site and any effects that may arise from the method and end use.</li> </ul> </li> <li>c. <u>The safety and efficiency of the surrounding land transport infrastructure; and</u></li> <li>d. Effects on important infrastructure including compliance with NZECP34:2001, and bird strike risk on aircraft if located within 13km of a Christchurch International Airport runway.</li> </ul>	
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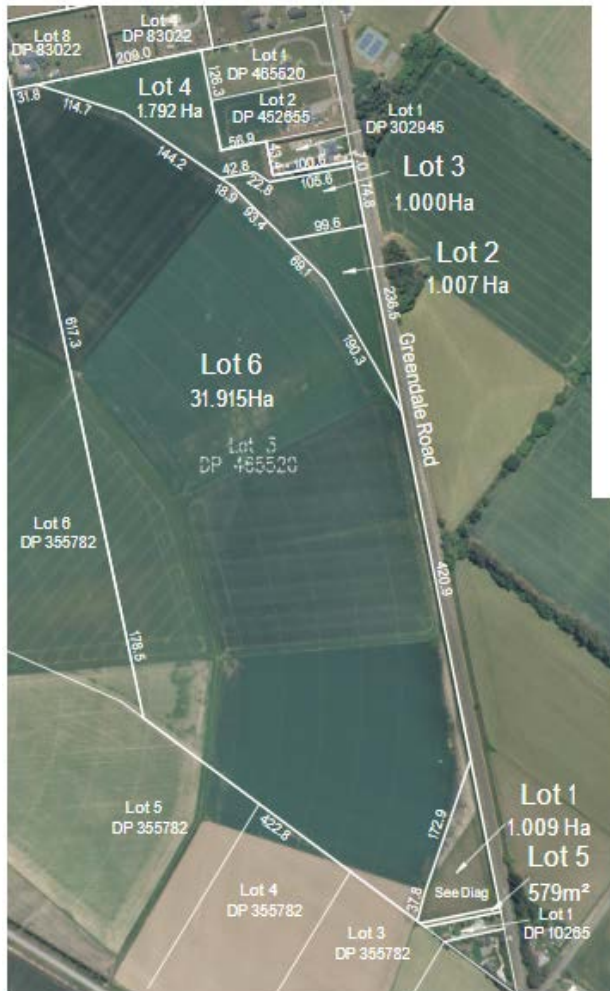
<sup>39</sup> DPR-0033.003, DPR-0279.003

	<p><b>N.B. Note 1</b> this Rule does not apply to Forestry Quarrying as regulated under the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017.</p> <p><b>Note 2</b> this Rule does not apply to rehabilitation activities associated with existing mineral extraction activities. Refer to the Earthworks Chapter for more information on this activity.</p>	
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The following spatial amendments are recommended to PDP Planning Maps:

Map Layer	Description of recommended amendment
Specific Control Area – Rural Density	Amend the boundary of SCA-RD11 (Greendale) to exclude land undeveloped or unconsented for development with this balance reclassified as SCA-RD2. The legal description of the land is Lot 6 DP 539597.

Approved plan for RC195200 including Lot 6 DP 539597





## Appendix 3: NPS-HPL Objective and Policies

### 2.1 Objective

Objective: Highly productive land is protected for use in land-based primary production, both now and for future generations.

### 2.2 Policies

Policy 1: Highly productive land is recognised as a resource with finite characteristics and long-term values for land-based primary production.

Policy 2: The identification and management of highly productive land is undertaken in an integrated way that considers the interactions with freshwater management and urban development.

Policy 3: Highly productive land is mapped and included in regional policy statements and district plans.

Policy 4: The use of highly productive land for land-based primary production is prioritised and supported.

Policy 5: The urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement.

Policy 6: The rezoning and development of highly productive land as rural lifestyle is avoided, except as provided in this National Policy Statement.

Policy 7: The subdivision of highly productive land is avoided, except as provided in this National Policy Statement.

Policy 8: Highly productive land is protected from inappropriate use and development.

Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.

## Appendix 4: Minute 30

<https://extranet.selwyn.govt.nz/sites/consultation/DPR/Shared%20Documents/Hearings%20Panel%20directions%20&%20minutes/Minute%2030%20-%20Directions%20of%20the%20Commisioner%20-%20%20All%20Chapters%20-%20NPS-HPL.pdf>

**DIRECTIONS OF THE COMMISSIONERS  
MINUTE 30  
All Chapters of PDP – NPS-HPL**

- [1] As you may be aware, the *National Policy Statement for Highly Productive Land (NPS-HPL)* takes effect on 17 October 2022.
- [2] The scope of the NPS-HPL is limited to rural land recognised through Land Use Capability (LUC) classifications as having productive value. It does not apply to land currently zoned or identified for urban purposes (including residential, commercial and industrial). The objective is to protect highly productive land for land-based primary production, both now and for future generations. Until regional councils have mapped all highly productive land, a transitional definition applies such that all land zoned general rural, rural production and classed LUC 1, 2, or 3 is deemed highly productive (and therefore subject to the provisions of the NPS-HPL) unless the land:
- is identified by the relevant council for future urban development; or
  - is subject to a council-initiated, or council adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.
- [3] Where, either through the transitional definition or through the subsequent regional council mapping, a site is identified as containing "highly productive land", the NPS-HPL directs that rezoning, subdivision or development of that land is to be avoided except in certain circumstances.
- [4] We recognise the potential implications of the NPS-HPL across the PDP, and that the relief sought in submissions, and the subsequent Council officer recommendations and submitter evidence has been prepared prior to the NPS-HPL having effect.
- [5] As such, we request that the Council prepare a specific NPS-HPL s42A report to address the effect of the NPS-HPL on all chapters of the PDP that have already been heard or where the s42A report has already been prepared<sup>1</sup>. The NPS-HPL s42A report should confirm which chapters of the PDP are affected and recommend amendments required to give effect to the NPS-HPL that are within the scope of submissions. Any amendments required that are outside the scope of submissions will need to be addressed by the Council through a future plan change.
- [6] Accordingly, we direct that:
- a. SDC is to prepare a NPS-HPL s42A report and circulate it to only those submitters who made submissions on the PDP in relation to:
    - i. the protection of versatile soils / highly productive land; or
    - ii. any proposal that enables the subdivision or use/development of highly productive land where it will adversely impact the productive capacity of the land; or
    - iii. the effects of urban growth on highly productive land;
 by **16 December 2022**;
  - b. If the relevant submitters (as noted above) wish to file written statements of evidence in response to the NPS-HPL s42A report, then those statements must be provided to the Hearings Administrator ([hearings@selwyn.govt.nz](mailto:hearings@selwyn.govt.nz)) on or before **10 February 2023**.
- [7] At this stage, we do not foresee the need to hold a hearing to specifically address submissions subject to the NPS-HPL s42A report, however we will confirm our position on this following receipt of written statements from submitters.

<sup>1</sup> The NPS-HPL s42A report will not include submissions seeking to rezone land. These submissions are subject to a separate Rezoning Hearing Topic and the s42A reports for each of these Rezoning hearings will address the NPS-HPL as part of making site-specific recommendations (see Minute 29).



Rob van Voorthuysen  
**Independent Commissioner – Chair - on behalf of the DPR Hearing Panel members**  
17 October 2022