
MEMORANDUM

DATE: 4 May 2023

HEARING: Eastern Selwyn Commercial and Mixed-Use Zones and General Industrial Zone Rezoning Requests

HEARING DATE: 14 March 2023

PREPARED BY: Jessica Tuilaepa – Senior Policy Planner

1. Purpose

- 1.1 The purpose of this Memorandum is to comment on the provisions proposed by Gulf Central Properties Ltd & Apton Developments Ltd¹ in their rebuttal evidence². At the conclusion of the Eastern Selwyn Commercial and Industrial Rezoning hearing on 14 March 2023, the panel requested the submitter circulate the provisions proposed (**Appendix A**) for Councils planner to provide comment.
- 1.2 The circulated document (**Appendix A**) included the changes supported in the General Rural Zone s42A Officer's Report (including those proposed by both Ceres Professional Trustee Company Ltd & Sally Jean Tohill (DPR-0346)) and Gulf Properties Ltd & Apton Developments Ltd (DPR-0399) in underlined text. Additional changes proposed by Gulf Properties Ltd & Apton Developments only are in red text and underlined.
- 1.3 This memorandum provides comments from Council officer (Jessica Tuilaepa) on proposed provisions. Changes are reflected using green text and an underline or a strikethrough.

2. Rural Precinct Activities

Definition

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| <u>Rural Precinct Activity</u> | <u>A business undertaken in a rural environment that directly services a rural production activity and/or has a functional or operational need to locate in a Rural Precinct overlay.</u> |
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- 2.1 I consider the definition of 'Rural Precinct Activity' to be problematic. The variety of activities that this definition would enable in the Precinct could include a supermarket or a new inland port as there are no limitations where it can be argued there is functional or operational need for an activity to locate there.
- 2.2 I consider this is beyond the scope for what the submitter has sought. The request for this definition and associated provisions was a late addition (only appearing in rebuttal evidence), therefore the implications of the potential for additional activities have not been assessed in terms of additional

¹ DPR-0399.001 Gulf Central Properties Ltd & Apton Developments Ltd

² Link to [Submitter Evidence](#)

economic (and other expert evidence).

- 2.3 As discussed above, I find the inclusion of the proposed 'Rural Precinct Activity' definition and its associated rule (GRUZ-R8{A}) to be problematic. There could be an argument that this provision would enable the Rural Precinct to be more permissive than a GIZ or TCZ by enabling a supermarket or trade supplier to establish if they could demonstrate a 'need'.
- 2.4 The submitter seeks GRUZ-R8{A} to enable '*A business undertaken in a rural environment that directly services a rural production activity and/or has a functional or operational need to locate in a Rural Precinct overlay*' as a permitted activity in the Precinct.
- 2.5 A "rural production activity" is defined in the PDP as being:
- a. *Any aquaculture, agricultural, pastoral, horticultural, or forestry activities, including farm quarrying;*
 - b. *Includes initial processing, as an ancillary activity, of commodities that result from the listed activities in a);*
 - c. *Includes any land and buildings used for the production of the commodities from a) and used for the initial processing of commodities in b); but*
 - d. *Excludes further processing of those commodities into a different product.*
- 2.6 I consider this to mean that the proposed 'Rural Precinct Activity' rule is not necessary to provide for "*A business undertaken in a rural environment that directly services a rural production activity*" as this is already provided for by the inclusion of the Rural Industry Rule for the Precinct (GRUZ-R8), but would be necessary to permit "*A business... that... has a functional or operational need to locate in a Rural Precinct overlay*". As discussed above, evidence provided by the submitter and subsequently peer reviewed by Council, has not considered the potential economic, transport or other issues that may arise from permitting additional activities in the Precinct.
- 2.7 I do not consider the implications of the scope of activities this would enable has not been sufficiently considered, therefore I do not support the inclusion of the proposed Rural Precinct Activity definition and associated Rule.

3. Rural Industry

- 3.1 As the submitter sought amendments to the Rural Industry Rule, which could result in a change in land use on the site, I still consider the NPS-HPL applies. As set out in the NPS-HPL guidance notes, clause 3.9 is applicable when a plan is being updated. As the proposal fails to pass the test set out in 3.9, the submitter proposes to proceed with the changes to the plan by satisfying the threshold tests in 3.10.
- 3.2 To this extent, I still consider that the level of information provided by the submitter does not satisfy the applicable threshold test. However, if it is determined the proposed provisions are able to satisfy clause 3.10 of the NPS-HPL, then I support the wording for GRUZ-R8.
- 3.3 However, in order for the GRUZ-R8 to 'work as intended', I consider additional amendments are necessary these are shown in green below, as if the exclusion (green text) is not added to column 1 of GRUZ-R8 the Rural Precinct would still be limited by the 200m² limit that applies across SCA-RD1, which is the specific control area within the GRUZ that the subject site is located. The submitted obviously seeks to avoid being limited by the 200m² limit, as the Rural Precinct would provide a 500m² limit.

GRUZ-R8 ~~Rural Service Activity~~ Rural Industry

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| SCA-RD1 (excluding GRUZ PREC1 and GRUZ PREAXB) ... | <p>Activity status: PER</p> <p>1. <u>The establishment of a new, or expansion of an existing rural industry rural service activity.</u></p> <p><u>Where:</u></p> <p>a. <u>The area of land associated with the rural industry rural service activity is less than 200m²</u></p> <p>.</p> <p>And this activity complies with the following rule requirements:</p> <p>GRUZ-REQ6 Hours of Operation</p> <p>GRUZ-REQ7 Full Time Equivalent Staff...</p> | ... |
| GRUZ PREC1 | <p>Activity status: PER</p> <p>7. <u>The establishment of a new, or expansion of an existing rural industry</u></p> <p>And this activity complies with the following rule requirements:</p> <p>GRUZ-REQ6 Hours of Operation</p> | <p>8. <u>When compliance with any rule requirement is not achieved: Refer to relevant Rule Requirement</u></p> |
| GRUZ PREAXB | <p>Activity status: PER</p> <p>9. <u>The establishment of a new, or expansion of an existing rural industry</u></p> <p>And this activity complies with the following rule requirements:</p> <p><u>GRUZ-REQ6 Hours of Operation</u></p> <p><u>GRUZ-REQ17 Outdoor Storage</u></p> <p><u>GRUZ-REQ18 Impermeable Surfaces</u></p> | <p>10. <u>When compliance with any rule requirement is not achieved: Refer to relevant Rule Requirement</u></p> |

4. Rural Precinct Provisions

- 4.1 If the submission is accepted, I support the proposed amendments to GRUZ-REQ1, GRUZ-REQ4, GRUZ-REQ4, GRUZ-REQ17 and GRUZ-MAT6.
- 4.2 If the submission is accepted, I support the proposed amendments to TRAN-R4, TRAN-SCHED6, TRAN-DIA15, TRAN-DIA16 and TRAN-DIA17.
- 4.3 If the submission is accepted, I support the proposed inclusion of a New Rural Precinct on the planning maps and any consequential amendments to the plan that this amendment requires.

Appendix A

Provisions Provided by Applicant post hearing.

Relief Sought

Note: Changes supported in the General Rural Zone s42A Officer's Report (including those proposed by both Ceres Professional Trustee Company Ltd & Sally Jean Tothill (DPR-0346)) and Gulf Properties Ltd & Apton Developments Ltd (DPR-0399) are underlined. Additional changes proposed by Gulf Properties Ltd & Apton Developments only are in red text and underlined. Where a change proposed in the Evidence in chief of Ivan Thomson is not set out below, that relief is no longer sought.

The GRUZ precinct sought by submitter DPR-0399 is labelled as GRUZ-PRECXB below to maintain consistency with the s42A Officer's Report, but it is anticipated that it will be renumbered in any decisions version.

Definitions

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| <u>Rural Precinct Activity</u> | <u>A business undertaken in a rural environment that directly services a rural production activity and/or has a functional or operational need to locate in a Rural Precinct overlay.</u> |
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~~GRUZ-R8 Rural Service Activity~~ Rural Industry

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| <u>GRUZ PREC1</u> | Activity status: PER <u>7. The establishment of a new, or expansion of an existing rural industry</u> <u>And this activity complies with the following rule requirements:</u> <u>GRUZ-REQ6 Hours of Operation</u> | <u>8. When compliance with any rule requirement is not achieved: Refer to relevant Rule Requirement</u> |
| <u>GRUZ PRECXB</u> | Activity status: PER <u>7. The establishment of a new, or expansion of an existing rural industry</u> <u>And this activity complies with the following rule requirements:</u> <u>GRUZ-REQ6 Hours of Operation</u> <u>GRUZ-REQ17 Outdoor Storage</u> <u>GRUZ-REQ18 Impermeable Surfaces</u> | <u>8. When compliance with any rule requirement is not achieved: Refer to relevant Rule Requirement</u> |

GRUZ-R8[A] Rural Precinct Activity

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| <u>GRUZ PRECXB</u> | Activity status: PER <u>1. The establishment of a new, or expansion of an existing Rural Precinct Activity</u> <u>And this activity complies with the following rule requirements:</u> <u>GRUZ-REQ6 Hours of Operation</u> <u>GRUZ-REQ17 Outdoor Storage</u> <u>GRUZ-REQ18 Impermeable Surfaces</u> | <u>2. When compliance with any rule requirement is not achieved: Refer to relevant Rule Requirement</u> |
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GRUZ-REQ1 Building Coverage

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| <p>GRUZ-REQ 1 (Except GRUZ- PREC1 and GRUZ PREC XB).</p> | <p>1. The building coverage on a site shall not exceed: a. A maximum of 35% or 500m², whichever is lesser for sites less than 1ha; or b. 5% for all other sites greater than 1ha.</p> <p>Excludes: a. temporary activities and public amenity structures b. <u>tunnel houses, crop covers, glasshouses and crop protection structures where the building has no built-in floor</u> c. <u>movable pig shelters, including farrowing huts 10m² in area and less than 2m in height.</u></p> | <p>Activity status when compliance not achieved: 2. When compliance with any of GRUZ-REQ1.1 is not achieved: RDIS</p> <p>Matters for discretion: 3. The exercise of discretion in relation to GRUZ-REQ1.2 is restricted to the following matters: a. GRUZ-MAT2 Building Coverage b. NH-MAT5 Wildfire</p> <p>Notification: 4. Any application arising from GRUZ-REQ1.2 shall not be subject to public notification.</p> |
| <p>GRUZ PREC1 and GRUZ PRECXB</p> | <p>5. The building coverage on a site shall not exceed: a. <u>a maximum of 35% or 500m², whichever is the lesser for sites less than 1 ha; or</u> b. <u>a maximum of 20% for all other sites greater than 1 ha.</u></p> <p>Excludes: a. <u>temporary activities and public amenity structures</u> b. <u>tunnel houses, crop covers, glasshouses and crop protection structures where the building has no built-in floor</u> c. <u>movable pig shelters, including farrowing huts 10m² in area and less than 2m in height</u></p> | <p>Activity status when compliance not achieved: 6. When compliance with any of the GRUZ-REQ1.5 is not achieved: RDIS</p> <p>Matters for discretion: 7. The exercise of discretion in relation to GRUZ-REQ1.6 is restricted to the following matters: a. <u>GRUZ-MAT2 Building Coverage</u> b. <u>NH-MAT5 Wildfire</u></p> <p>Notification: 8. Any application arising from GRUZ-REQ1.6 shall not be subject to public notification.</p> |

GRUZ-REQ4 Structure Setbacks

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| <u>GRUZ-PRECB</u> | <p><u>11. A landscape strip at least 5m width shall be provided on all road frontages.</u></p> <p><u>12. Landscaping shall include at least one tree per 10 metres of road frontage capable of growing to a minimum height of 10m at maturity and to be located, along all road frontage setbacks at no less than 10m centres.</u></p> <p><u>13. All trees shall be maintained so as to achieve the above standard.</u></p> <p><u>14. All outdoor storage areas adjoining a required setback under Rule GRUZ-REQ4 shall screened throughout their length by vegetation capable of reaching a minimum height of 3m.</u></p> | <p><u>Activity status when compliance not achieved:</u></p> <p><u>15. when compliance with GRUZ-REQ4.11-14 is not achieved: RDIS</u></p> <p><u>Matters for discretion:</u></p> <p><u>16. The exercise of discretion in relation to GRUZ-REQ4.15 is restricted to the following matters:</u></p> <p><u>a. alternative landscape treatments proposed.</u></p> |
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GRUZ-TABLE1

| Structure Type | Internal boundary | Road boundary with Arterial/Strategic Road | Road Boundary with Other Road |
|--|-------------------|--|-------------------------------|
| Any <u>other</u> structure excluding <u>irrigators, pump sheds</u> , stock fences, fences less than 2m in height, stock water troughs and flag poles | 5m | 10m | 10m |
| <u>Crop Protection Structures and Crop Support Structures to a maximum of 6m in height.</u> | <u>3m</u> | <u>5m</u> | <u>5m</u> |
| <u>Residential unit</u> | <u>30m</u> | <u>20m</u> | <u>10m</u> |
| <u>Any accessory building</u> | <u>5m</u> | <u>10m, except GRUZ-PRECB – 20m</u> | <u>10m</u> |
| Any other building | 5m | 10m | 10m |

GRUZ-REQ17 Outdoor Storage

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| <u>GRUZ-PRECB</u> | 1. All outdoor storage shall comply with the minimum setbacks listed in <u>GRUZ-Table 2</u> . | <u>Activity status when compliance not achieved:</u> 2. When compliance with <u>GRUZ-REQ17.1</u> is not achieved: <u>RDIS</u> <u>Matters for discretion:</u> 3. The exercise of discretion in relation to <u>GRUZ-REQ17.2</u> is restricted to the following matters: a. <u>GRUZ-MAT3 Internal Boundary Setback</u> b. <u>GRUZ-MAT4 Road Boundary Setback</u> c. <u>NH-MAT5 Wildfire</u> |
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GRUZ-TABLE2

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|-------------------------------------|--------------------------|---|--------------------------------------|
| <u>Structure Type</u> | <u>Internal boundary</u> | <u>Road boundary with Arterial/Strategic Road</u> | <u>Road Boundary with Other Road</u> |
| <u>GRUZ-PRECB - outdoor storage</u> | <u>5m</u> | <u>20m</u> | <u>10m</u> |

GRUZ-REQ18 Impermeable Surfaces

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| <u>GRUZ-PRECB</u> | 1. The total area of impermeable surfaces on any site shall not exceed 60% of the site's area | <u>Activity status when compliance not achieved:</u> 2. When compliance with any of <u>GRUZ-REQ18.1</u> is not achieved: <u>RDIS</u> <u>Matters for discretion:</u> 3. The exercise of discretion in relation to <u>GRUZ-REQ18.2</u> is restricted to the following matters: <u>GRUZ-MAT6 Impermeable Surfaces</u> |
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GRUZ-MAT6 Impermeable Surfaces

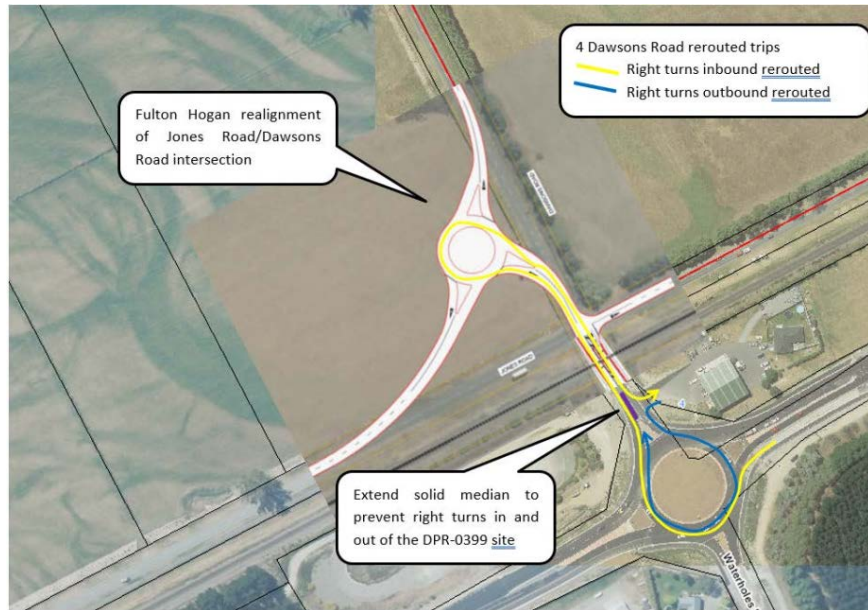
1. The appropriateness of the measures proposed to manage stormwater on the site.

TRAN-R4 Vehicle Crossings

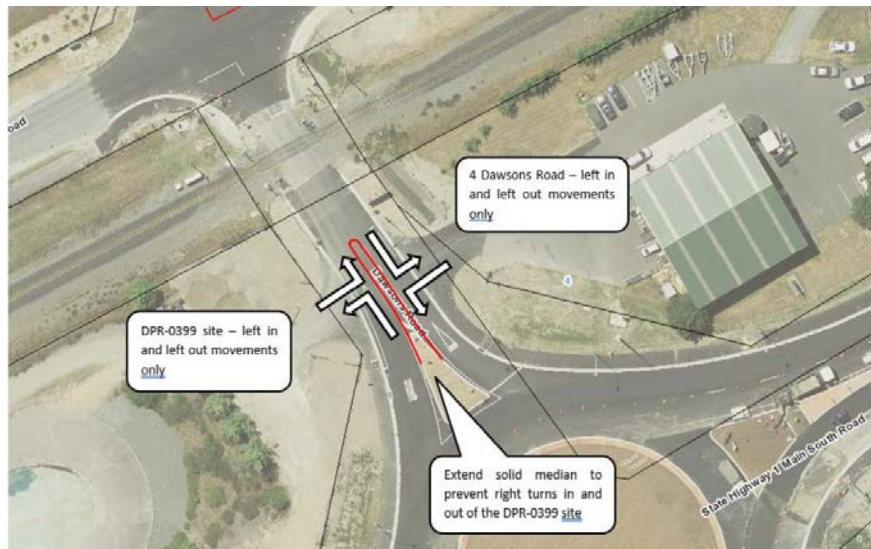
| | | |
|---|---|---|
| <p>GRUZ (except GRUZ- PRECXB)</p> | <p>Activity status:PER</p> <p>1. The establishment of a vehicle crossing.</p> <p>Where</p> <p>a. The vehicle is located no closer to an intersection with a State Highway or arterial road; than:</p> <ul style="list-style-type: none"> i.60m to the departure side of any intersection; and ii.30m to the approach side of any intersection; and <p>b. The vehicle crossing does not service any:</p> <ul style="list-style-type: none"> i.service station; ii.truck stop; or iii.activity that generates more than 40 vm/day, in <u>GRUZ-PREC1, 250vm/day, or in GRUZ-PRECXB 90vm/day</u> | <p>Activity status where compliance is not achieved:</p> <p>2. When compliance with any of TRAN-R4.1 is not achieved: RDIS</p> <p>3. When compliance with any rule requirement is not achieved: Refer to TRAN-Rule Requirements</p> <p>Matters for discretion:</p> <p>4. The exercise of discretion in relation to TRAN-R4.2 is restricted to the following matters:</p> <ul style="list-style-type: none"> a. TRAN-MAT2 Vehicle crossings |
| <p>GRUZ- PRECXB</p> | <p>Activity status: PER</p> <p><u>10. The establishment of a vehicle crossing to GRUZ-PRECXB .</u></p> <p>Where:</p> <p><u>a. The Dawsons Road / Jones Road intersection has been upgraded in accordance with TRAN-SCHED6: DIAGRAM15</u></p> <p><u>b. The solid median strip on Dawsons Road has been extended in accordance with TRAN-SCHED6: DIAGRAM16</u></p> <p><u>c. There are no fences, structures or vegetation higher than 1.1m in the area identified in TRAN-SCHED6: DIAGRAM17</u></p> | <p>Activity status where compliance is not achieved:</p> <p><u>11. when compliance with any of TRAN-4.10 is not achieved: RDIS</u></p> <p>Matters for discretion:</p> <p><u>13. The exercise of discretion in relation to TRAN-R4.11 is restricted to the following matters:</u></p> <ul style="list-style-type: none"> <u>a.TRAN-MAT1 Effects on the wider network</u> <u>b. TRAN-MAT9 Vehicle movements</u> |

TRAN-SCHED6 – GRUZ-PRECB

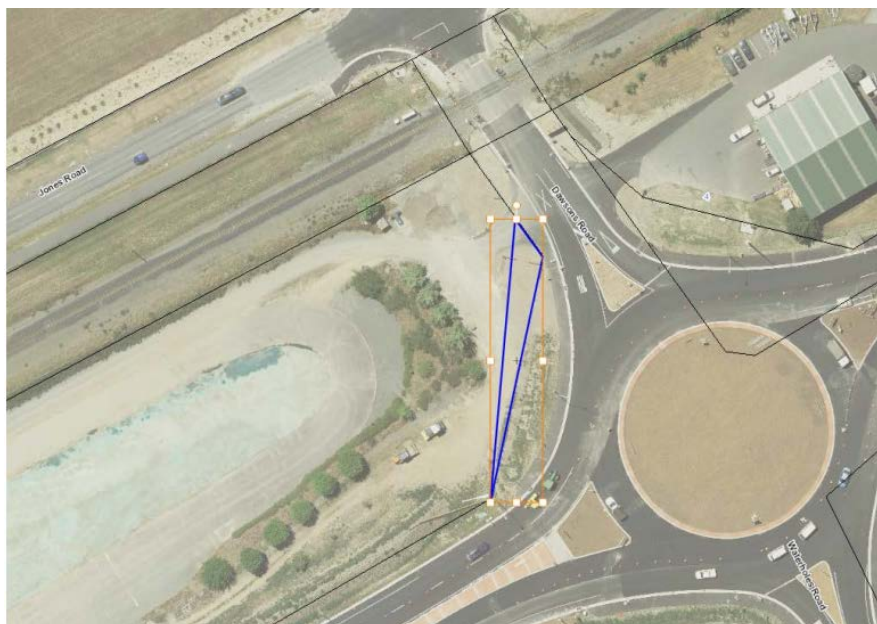
TRAN-DIAGRAM15



TRAN-DIAGRAM16



TRAN-DIAGRAM17



| Map Layer | Description of amendment |
|---------------------|---|
| <u>New Precinct</u> | <u>Insert GRUZ-PRECB on land bound by Curraghs Road, SH1, Dawson's Road and Jones Road as outlined in red on the Figure 1 aerial below.</u> |



Figure 1: Location of GRUZ-PRECB