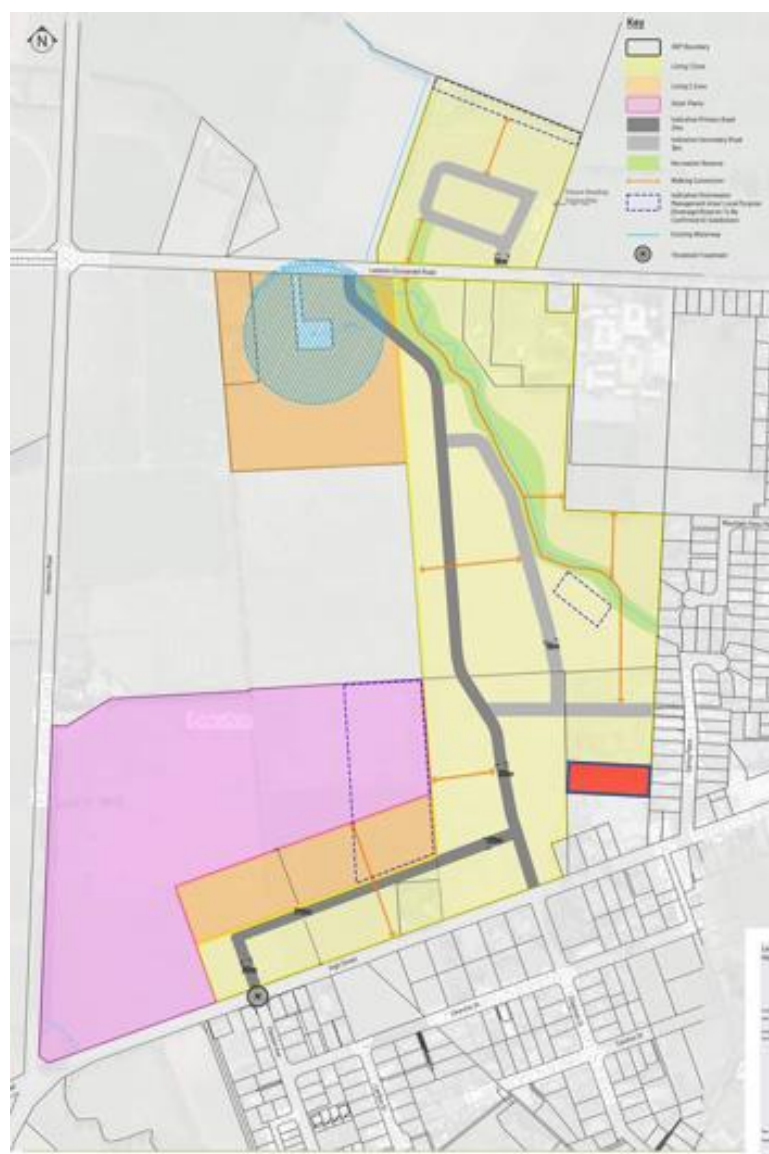


1. Purpose

- 1.1 The purpose of this memo is to alert the panel to any updates to the Officer report and any responses from the expert peer reviewers following receipt of the rebuttal evidence.

2. DPR-0155 Cochranes– Planning Rebuttal Evidence - Leeston

- 2.1 I have read and considered planning rebuttal evidence provided by Ms West. My position as outlined in my s42a report remains unchanged in relation to submission DPR-0155.
- 2.2 However, Ms West raises elements of recommendations relation to ‘West Leeston’ submissions.¹
- 2.3 I agree that in relation to the recommendations of the s42a on the ‘West Leeston’ submissions, the zoning references in the recommended ODP should be altered to include the TCZ² at the location identified in red of on the plan below.



¹ DPR-0053 – T & M Saunders, DPR-0130- S Farrant, DPR-0362 – J Ferguson, DPR-0364 – BAFFT, DPR-0369 – Holly Farm

² Ms West’s view is that this should be GIZ in line with the DPR-0155 Cochranes

3. Further submission - DPR – 0212 – Further Submissions FS039, FS040, FS041, FS042, FS043 and FS045 - Ellesmere Sustainable Agriculture Incorporated – Leeston and Doyleston

- 3.1 I have read and considered the rebuttal letter from Ellesmere Sustainable Agriculture Incorporated in relation to zoning requests in Leeston³ and Doyleston⁴. My position as outlined in my s42a report remains unchanged in relation to those submissions.

4. DPR-0436 – P B and J C Nahkies - Dunsandel

- 4.1 P B and JC Nahkies (the Nahkies) have provided a suite of rebuttal evidence, which has been provided to the Panel.
- 4.2 Firstly, I would like to raise a reference error in the s42a report for clarity. In my s42a I refer to a noise peer review from Mr. James Boland of Acoustic Engineering Services Ltd (AES). Mr. Boland provided an initial peer review of the Nahkies' noise evidence. The submitter has also referenced Mr Boland. However, Mr Boland left AES before the s42a was submitted. To provide continuity Mr Jeremy Trevathan, also of AES, reviewed Mr Boland's peer review and adopted it as his own. Mr Trevathan's signed version of the peer review was uploaded in Appendix 3 to the s42a report. However, references are still made to Mr Boland in the s42a report. As Mr Trevathan and Mr Boland's reviews are the same the result does not materially impact the s42a assessment and recommendations. This is matter of having the names incorrectly stated and has little to no impact on the assessments, including rebuttal evidence in my view. Mr Trevathan has also provided the response to the submitters noise rebuttal evidence.
- 4.3 Reviews of the submitter's rebuttal evidence have been provided from the following. These reviews are provided at Appendices 1 -3 to this memo.

[1] Economic – Mr Derek Foy

- Mr. Foy's retains his original position but provides further commentary and views on the expert evidence provided, which is outlined in the planning discussion below.

[2] Noise – Mr Jeremy Trevathan

- Mr Trevathan's opinion and recommendation remain unchanged, including the recommendation that a buffer, together with the proposed noise barriers, is identified on the ODP along the eastern boundary.

[3] Urban Design – Mr. Hugh Nicholson

- Mr Nicholson retains his original position but provides commentary on the expert evidence provided, which is outlined in the planning discussion below.

³ Further Submission numbers FS039, FS041, FS042, FS043 and FS045 from ESAI opposed the submissions of T & M Saunders (DPR-0053), J Ferguson (DPR-0362), B A Freeman Family Trust ((DPR-0364) and Holly Farm (DPR-0369) which sought to rezone areas of land between High Street, Harmans Road and Leeston Dunsandel Road from 2 GRUZ to a combination of GRZ and LLRZ in west Leeston.

⁴ Further Submission number FS040 from ESAI opposed the submission of Millar's Machinery Limited DPR-0162.

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4.4 New evidence that has been introduced by the submitter through rebuttal process includes:

[1] Soil Evidence - Mr Victor Mthamo

[2] Minimum floor levels evidence - Mr Ben Throssell

4.5 This new evidence has not been peer reviewed. I am not qualified to comment on the technical aspects of this work. However, in relation to the flooding evidence I note that the map at Figure 1 of Mr Throssell's rebuttal evidence is used to identify the flooding areas for a 200-year event. However, this does not seem to reflect the flooding map outlined in the Proposed District Plan, which I understand to represent a 200-year flood event. These are provided side by side below for comparison. I may have misunderstood Mr Throssell's evidence, but this is something for the Commissioners to consider.

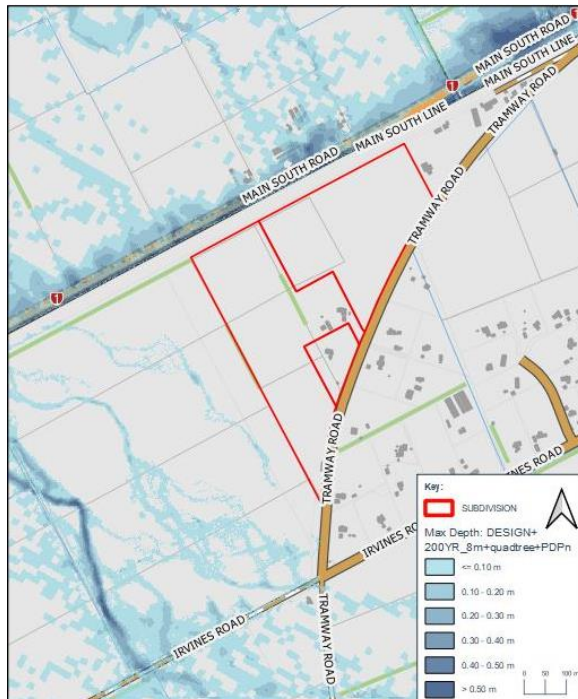


Figure 1 of Mr Throssell's Rebuttal Evidence



Proposed District Plan 'Plains Flood Management Overlay'

Consideration of rebuttal evidence and Reviews

4.6 The rebuttal evidence provided by the submitter in relation the s42a report and supporting documents traverse a number of areas. However, three key issues stand out in relation to the assessment and recommendation of the s42a report, as other aspects of the Rural Residential Framework were considered to be satisfied through either the evidence provide, future assessments under the PDP or with recommended changes in relation reverse sensitivity (i.e additional noise buffer)

4.7 These issues, in my opinion, are relevant to whether the submission could be recommended for accepting. These are:

[1] Sufficient Development Capacity in Dunsandel;

[2] Meeting the requirements of the NPS-HPL; and

[3] Urban Form

- 4.8 The three issues are interrelated, particularly in relation to ensuring the requirements of the NPS-HPL are met.
- 4.9 Before addressing these issues, I restate my opinion that the subject site is subject to the NPS-HPL. Mr Johnson in his planning rebuttal evidence outlines his view that the subject site is exempt from considerations against the NPS-HPL⁵ as the site is identified in a strategic planning document⁶, the Ellesmere Area Plan (EAP) in this instance, as an area suitable for commencing urban development over the next 10 years.
- 4.10 In the s42a report I outline my view and reasoning for why this site, identified as a *'Possible Future Development Area...'* in the EAP, should not be exempt from consideration against the NPS-HPL. My opinion on this matter has not changed.
- 4.11 Mr Johnson also states that the submission site, or rather Dunsandel, is not subject aspects of the NPS-HPL, particular the 'tests' under section 3.6(1) as the location is not part of the Tier 1 Council area of Selwyn. Mr Johnson's view is that is limited to just the Greater Christchurch area that the requirements in Section 3.6(4) of the NPS-HPL are applicable instead. I disagree with that and in my view the NPS-UD Tier 1 area is the entire district as defined in the NPS-UD⁷.
- 4.12 My opinion remains that the submitter's site is subject to the NPS-HPL, including section 3.6(1). Regardless of these opposing views Mr. Johnson has still provided an assessment against the provision of the NPS-HPL, in particular Section 3.6, which is helpful for further consideration of the submission.

Sufficient Development Capacity in Dunsandel

- 4.13 This was a key element raised as part of the s42a report, not in relation to whether more growth should occur in Dunsandel generally, but rather how the requirements of the NPS-HPL, section 3.6(1)(a)⁸, could be shown to be satisfied with the information available. Mr. Nahkies has provided further information on this point in his expert evidence on supply and demand, which Mr Foy, in his expert review, agrees with.
- 4.14 Mr. Foy has stated that he stands by his original review, but has made comment on aspects considering new information by Mr. Nahkies. In particular Mr. Foy accepts Mr. Nahkies' assessment of demand that realistic demand for new dwellings in Dunsandel is around five dwellings per year⁹, based on strong uptake of the only recent residential subdivision in the town and high growth projected elsewhere in Selwyn.
- 4.15 Mr Foy accepts Mr Nahkies' assessment of that demand, and his observation that there is inevitably uncertainty associated with demand projections. While these projections are higher

⁵ NPS-HPL, s3.5(7)(b)(i)

⁶ NPS-HPL, s3.5(7)(b)(i)

⁷ 'Tier 1 local authority means each local authority listed in column 2 of table 1 in the Appendix..'. This table lists Selwyn District Council

⁸ NPS-HPL, 3.6(1)(a) - the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020;

⁹ Brief of Evidence in Reply of Peter Brent Nahkies on behalf of PB and JC Nahkies, paragraph 27

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than SDC's projected demand for Dunsandel, the difference is negligible in the context of the over all growth projections.

- 4.16 Even taking a conservative approach and assuming all the identified existing capacity in Dunsandel was available (43 potential houses), this would still not be sufficient to meet the agreed level of demand outlined above over 10 years¹⁰ (50 houses), with additional capacity. Mr. Foy generally accepts that there is a low likelihood of infill housing establishing in Dunsandel, and agrees with Mr. Nahkies that half (i.e. six) of the 12 infill potential sites identified in the Selwyn Capacity for Growth Model (SCGM) are *"likely to be reasonably expected to be realized"*.¹¹
- 4.17 This further reduces likely existing capacity in Dunsandel and supports the view of the submitters' that sufficient development capacity is not being met in Dunsandel. In light of Mr Nahkies rebuttal evidence and Mr Foy's review of this I would agree that additional capacity is required in Dunsandel. This is a change in view from the s42a report that relied on the SCGM numbers, but is in acknowledgement of new specific demand information from the submitter and verified by Mr Foy.
- 4.18 I do note that Mr Nahkies is the submitter and is also providing expert evidence. He has also provided a statement as a submitter. This could bring into question the objectivity of the technical evidence Mr Nahkies has provided. However, Mr Foy in his expert review has supported the positions reached by Mr Nahkies and I have relied on Mr Foy's objective expert review to help form my opinion and recommendations in this memo.

Meeting requirements of the NPS-HPL

- 4.19 Mr Mthamo's rebuttal evidence on the soil composition is acknowledged. However, the NPS-HPL is clear on what constitutes HPL in the absence of an assessment and mapping of HPL by the Regional Council¹². The submitter site has a combination of LUC 2 and 3 and so the provisions of s3.6(1)-(3) and (5) of the NPS-HPL apply.
- 4.20 In my view the submitter has addressed section 3.6(1)(a- c), (2) and (3) to a satisfactory degree in Mr. Johnson's Attachment A to his planning rebuttal evidence and Mr. Nahkies expert evidence in relation to demand and supply, which Mr Foy has supported.
- 4.21 Having particular regard to section 3.6(1)(a) and (b) I make the following comments in relation to the rebuttal evidence and Councils review of that:
- [1]** The need for further development capacity is discussed above in paragraphs 4.12-4.17, which addresses S3.6(1)(a) of the NPS-HPL.
- [2]** With regard to 3.6(1)(a) I am aware that the MfE NPS-HPL guidance indicates that Clause 3.6(1) should only be applied where there is short- or medium-term housing capacity shortfalls¹³. However, I do not consider that the intention stated in the Guidance reflects the wording outlined in the NPS-UD. The view outlined in the guidance conflicts with the direction in Clause 3.4 of the NPS-UD, which does not preclude a local authority from zoning land to support long-

¹⁰ The medium term in the NPS-UD for which Territorial Authorities must have Sufficient Development Capacity either zoned in an operative plan or in a proposed plan

¹¹ Brief of Evidence in Reply of Peter Brent Nahkies on behalf of PB and JC Nahkies, paragraph 14

¹² NPS-HPL, 3.4(5)(a) and S3.5(7) (a)(ii)

¹³ <https://environment.govt.nz/assets/publications/NPS-Highly-Productive-Land-Guideto-implementation.pdf>, Pg 42.

term development capacity.

[3] Mr. Foy has also supported the assessments on the NPS-HPL by the submitter and agreed that intensification may not occur as anticipated by the SCGM, which limits other reasonable and feasible options for growth in Dunsandel. Mr Foy has also supported the view that Dunsandel is a separate market and locality to Greater Christchurch. This means sufficient development capacity should be looked at more locally in Dunsandel, rather than relying on capacity elsewhere in the District (such as in Rolleston). These elements address section 3.6(1)(b) of the NPS-HPL.

[4] It noted that section 3.6(b) refers to *"...providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment"*. This could be read that Section 3.6(1)(b) only applies to the 'urban environment' and in the Selwyn context that is the Greater Christchurch Area, which Dunsandel is not part of. However, I have read Section 3.6(1) to apply to the entire Selwyn District as a Tier 1 territorial authority. In reading and applying 3.6(b) I have taken the view that the assessment on other reasonably practicable options for providing sufficient development capacity needs to be considered the same locality and market, which for Dunsandel (as described above) is separate to Greater Christchurch. As the submitter site is not within the Greater Christchurch Area, and of a relatively small scale, it does not impact the ability to achieve a 'well functioning urban environment', or in other words it does not impact the ability Greater Christchurch to be a well function urban environment.

4.22 The only aspect not covered in detail in relation to the NPS-HPL is section 3.6(5) which states:

(5) Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.

4.23 Aspects of this subclause have been discussed in Mr. Johnson's Rebuttal Evidence, but there has not been assessment on whether the *"...it provides a high yield of housing to meet the demand for housing, rather than lower density residential development which depletes more HPL"*¹⁴. Although this has not been assessed in detail, the ability to provide higher densities in Dunsandel is somewhat limited due to infrastructure constraints as outlined in Mr. England's Infrastructure peer review. In that review, Mr. England describes¹⁵ quite limited capacity for water servicing and relies on transfer of consents to service the submission proposal. A greater yield may not be feasible from infrastructure servicing perspective. Mr. Johnson in his rebuttal evidence¹⁶ also outlines that the site is predominately over a lower class of soil (LUC3) compared to other areas of Dunsandel that are LUC 2. In my view the above combined with a need to provide sufficient development capacity addresses Section 3.6(5) of the NPS-HPL.

4.24 Considering the above it is my opinion that there rezoning submission now satisfies clauses 3.6 (1)-(5) of the NPS-HPL which enables the urban rezoning of highly productive land.

¹⁴ <https://environment.govt.nz/assets/publications/NPS-Highly-Productive-Land-Guideto-implementation.pdf>, Clause 3.6(5) – loss of HPL to be minimized, Pg 49.

¹⁵ Peer Review Infrastructure Servicing, para 19.

¹⁶ MR Johnsons Planning Rebuttal evidence, Attachment 1, para. 24-26

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Urban Form

- 4.25 The submitters have provided no expert evidence in relation to Urban Design of the submission site. Mr. Nahkies and Mr. Johnson for the submitter outline their views on the urban design matters raised by Mr. Nicholson in his peer review.
- 4.26 In his review of the rebuttal evidence, Mr Nicholson retains his view that the proposed rezoning does not contribute to a compact or consolidated urban form. He does outline that the sequencing, or lack of Development being progressed in other areas of Dunsandel, have informed his view.
- 4.27 Mr Nicholson retains his view that other areas identified in the Ellesmere Area Plan (EAP) are more appropriate from an urban form perspective, given their more central location, and in principle I agree. However, he also acknowledges that should those be developed then the Nahkies submission site would be a logical location for further urban expansion. The development of these other locations is a matter of timing and that development has not occurred. The submitter has rightly pointed out that there remains no other meaningful submission to rezone land in Dunsandel given that DPR-0107 - Country Garden Group Limited has not provided any substantial evidence to support their rezoning.
- 4.28 The wider urban form issues in relation to the submitter site relate to matter of timing and lack of development in other locations, which the submitter cannot address. There may be other options for achieving this (eg a Council Plan Change) but no other commitments to zoning or increasing development capacity exist at present other than the Nahkies' submissions.
- 4.29 Ultimately, the urban form issues raised by Mr. Nicholson need to be balanced against the fact that there is now a recognized capacity issue in Dunsandel in the medium term that, under the NPS-UD¹⁷, needs to be addressed.
- 4.30 In balancing these aspects, it is my opinion that more weight should be given to the issue of a lack of sufficient development capacity. This is particularly the case given the urban form concerns are not so much in relation to the submitter site location in principle but in the timing of it coming ahead of other locations. Ultimately as Dunsandel grows, these other locations may develop and address the urban form concerns raised.
- 4.31 Mr Nicholson in his original peer review outlines a number of amendments that could improve the request from an urban design perspective, if the submission was accepted. Mr Johnson has outlined a response and recommended changes to these in his planning rebuttal evidence¹⁸. I support his recommended changes, noting that the reverse sensitivity issues raised by Mr Nicholson in his peer review are better addressed by the noise experts.
- 4.32 Given the above discussion in response to the rebuttal evidence, it is consequently my opinion that the submission could be now be accepted, subject to the recommended changes outlined below.
- 4.33 Recommended changes to DPR-0436 – Nahkies

¹⁷ NPS-UD, Section 3.2(1)

¹⁸ Mr Johnson's Rebuttal Planning Evidence at Paragraph 128

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- Accept the changes outlined in the Mr Johnsons Rebuttal Planning Evidence at Paragraph 128
- That a buffer, together with the proposed noise barriers, is identified on the ODP along the eastern boundary.



Ben Rhodes

S42a Reporting Officer – Ellesmere Rezoning Requests

Appendix 1: Memo from Mr. Foy – SDC Economic expert

Appendix 2: Memo from Mr. Trevathan – SDC Noise expert

Appendix 3: Memo from Mr. Nicholson – SDC Urban Design expert