Proposed Selwyn District Plan

Right of Reply Report

General Rural Zone

Jon Trewin

27 January 2023

Selwyn DISTRICT COUNCIL

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Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
APP	Appendix
CARP	Canterbury Air Regional Plan
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
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-HPL	National Policy Statement on Highly Productive Land
NPS-UD	National Policy Statement on Urban Development
NZCPS	New Zealand Coastal Policy Statement
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
SKIZ	Porters Ski Zone
The Council	Selwyn District Council
TRAN	Transport

List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0033	Davina Louise Penny	
DPR-0043	Poultry Industry Association of New Zealand & Egg Producers Federation of New Zealand	Poultry Industry & Egg Producers
DPR-0080	Philip J Hindin	
DPR-0128	Joyce Family Trust	
DPR-0142	New Zealand Pork Industry Board	NZ Pork
DPR-0144	Mt Algidus Station, Glenthorne Station, Lake Coleridge, Mt Oakden & Acheron Station (The Stations)	The Stations
DPR-0150	Barry Moir	
DPR-0166	Saunders Family Trust	

DPR-0181	Ravensdown Limited	Ravensdown
DPR-0184	Mike Ransome	
DPR-0205	Lincoln University	
DPR-0212	Ellesmere Sustainable Agriculture Inc.	ESAI
DPR-0213	New Zealand Institute for Plant and Food Research Limited (Plant and Food) & Landcare Research (Landcare)	Plant and Food and Landcare
DPR-0260	Canterbury Regional Council	CRC
DPR-0297	Clover Hill Charitable Trust	Clover Hill
DPR-0313	Glen McDonald	
DPR-0314	David Mitton	
DPR-0342	AgResearch Limited	AgResearch
DPR-0346	Ceres Professional Trustee Company Ltd & Sally Jean Tothill	Ceres Ltd
DPR-0353	Horticulture New Zealand	HortNZ
DPR-0359	Fire and Emergency New Zealand	FENZ
DPR-0367	Orion New Zealand Limited	Orion
DPR-0370	Fonterra Ltd	Fonterra
DPR-0371	Christchurch International Airport Limited	CIAL
DPR-0378	The Ministry of Education	MOE
DPR-0382	Ellesmere Motor Racing Club	EMRC
DPR-0385	Aviation New Zealand	
DPR-0415	Fulton Hogan Limited	
DPR-0422	Federated Farmers of New Zealand - North Canterbury	NCFF
DPR-0432	Birchs Village Ltd	
DPR-0437	The Stations	The Stations
DPR-0441	Manawa Ltd	Manawa
DPR-0444	Andover Limited	
DPR-0446	Transpower New Zealand Limited	Transpower
DPR-0448	New Zealand Defence Force	NZDF
DPR-0453	Midland Port, Lyttelton Port Company Limited	LPC
DPR-0472	Gourlie Family	
DPR-0481	Graeme and Virginia Adams	

1. Purpose of report

1.1 The purpose of this report is to respond to matters raised in submitter evidence following the publication of the s42a report, or in response to questions posed to submitters at Hearing 24. It provides an opportunity to propose any further amendments to the notified version of the Proposed District Plan (PDP) above those recommended in the Officers s42a evidence report.

1.2 Amendments to recommendations to accept, accept in part, or reject submission points are shown in a consolidated manner in **Appendix 1**. Recommended amendments to Plan provisions are shown in a consolidated manner in **Appendix 2.**

2. Summary of matters raised at the Hearing:

2.1 The following issues were raised by submitters through evidence, some of whom also attended the Hearing. In each instance the Hearing Panel requested that the matters raised be addressed in the Right of Reply report.

EMRC – Specific Control Area

2.1.1 This relates to the request by the EMRC for a specific control area at the motor racing circuit combined with a noise control overlay to protect the operation of the motor racing circuit. In Minute 16, the Hearings Panel directed a Joint Witness Statement be produced by 30 June between Council and EMRC. This is attached to this report.

HortNZ (Multiple Issues)

2.1.2 HortNZ whilst supportive of many of the recommendations in the S42a report, rejected some of the conclusions reached and sought a number of changes based on their original submission *(some of which are partly addressed in S42a NPS-HPL report)*. Aviation NZ and Ravensdown Ltd supported HortNZ's submission that requested a qualifier in the rule that aircraft movements for rural production also included the incidental landing and take-off of helicopters and aircraft during their normal course of operations.

Mineral Extraction

2.1.3 Davina Penny presented extensive evidence on the effect of quarrying to support her submission seeking that a 500m setback always be required for quarrying from sensitive activities. *(addressed partly in S42a NPS-HPL report).*

2.1.4 Fulton Hogan, whilst supportive of some of the conclusions and recommended amendments of the S42a report, sought a number of changes based on their original submission.

Noise Related Matters (Including Aircraft Noise)

2.1.5. Evidence was presented by CIAL on the relationship between the GRUZ and EI Chapter provisions and the Christchurch International Airport Noise Control Overlays. In Minute 15, the Hearings Panel directed that a Joint Witness Statement be produced by 29 April 2022 between Council and CIAL. LPC vacated their speaking slot on 17 March on the basis that the matter had been addressed at the time of the appearance of CIAL, given the commonalities of the issue at hand.

2.1.6. The Gourlie family requested, as per their submission, that the setback requirement for helicopter landing areas be increased beyond 500m.

2.1.7. CHCT opposed the S42a report recommendation relating to GRUZ-R28 and GRUZ-REQ13 (aircraft movements).

NCFF (multiple issues)

2.1.8 NCFF, whilst supportive of many of the recommendations in the S42a report, rejected some of the conclusions reached and sought several changes based on their original submission.

Other Matters

2.1.9. AgResearch Ltd sought that dairy sheds housing 30 cattle or less are excluded from the definition of 'intensive primary production'.

2.1.10. ESAI sought a minor change to the definition of 'conservation activity'.

2.1.11. MoE opposed what they consider to be onerous restrictions on rural schools.

Rural Service Precinct

2.1.12. Ceres presented on their submission to create a Rural Service Precinct at Shands Road/Trents Road/Christchurch Southern Motorway. Landscape evidence was produced at the Hearing, subsequent to the submission made.

Rural Density (including minor residential units)

2.1.13. Andover Ltd presented on their submission to delete various specific control areas over 42 Gerkins Road, near Tai Tapu to enable a density of 1 household per 4 hectares. Landscape evidence was produced at the Hearing, subsequent to the submission made.

2.1.14. Hugh and Thomas Macartney & Families opposed the change in density in the Port Hills area from 40ha to 100ha per dwelling in the lower slopes and sought transferable development rights be used.

2.1.15. Glen McDonald opposed rural density on his land on Bethels Road and sought the ability to subdivide below the 20ha minimum in that area.

2.1.16. David Mitton appeared to support his submission seeking to allow a minor residential unit anywhere on a 4ha block, without requiring shared servicing (addressed under NCFF).

2.1.17. The Stations requested that building nodes are exempt from the density requirements for new dwellings in the High Country to provide an incentive for them to locate there.

2.1.18. Philip J Hindin and Barry Moir requested, as per their submissions, that historical grandfather rights allowed under the Operative District Plan are restored. Barry Moir also sought that his land at 828 Ellesmere Road have a SCA-RD1 rural density over the entirety of the site *(addressed in S42a NPS-HPL report).*

2.1.19. Graeme and Virginia Adams requested, as per their submission, to reduce SCA-RD11 (Greendale) to the developed area only and that the balance of the land classified as SCA-RD11 be amended to SCA-RD2. *(addressed in S42a NPS-HPL report).*

2.1.20. Saunders Family Trust appeared with planning and landscape evidence to support their submission to realign rural density around the Halkett Road/West Melton area in favour of SCA-RD1. *(addressed in S42a NPS-HPL report).*

2.1.21. Mike Ransome requested, as per his submission, that the 30m distance requirement from the principle dwelling for a minor residential unit be deleted (addressed under NCFF).

Recognition/Protection of Important Infrastructure

2.1.22. Transpower requested more explicit recognition of important infrastructure and to promote it over other uses in the GRUZ Objectives.

2.1.23. Orion requested, consistent with their relief sought during the EI Hearing, that corridor protections provisions for Significant Electricity Distribution Lines (SEDL) are located in the zone chapters rather than the EI Chapter. Evidence tabled during the hearing specifically requested that provisions protecting SEDL from trees be included.

2.1.24. Manawa Energy do not believe that EI-P6 provides sufficient direction to Plan users that reverse sensitivity effects on important infrastructure are to be avoided in the zone chapters such as GRUZ (where their assets are located).

Water Storage Capacity for Fire Fighting

2.1.25. FENZ sought the inclusion of provisions for water storage capacity suitable for firefighting in new rural dwellings.

2.2. The following submitters noted through tabled statements or otherwise appearing at the Hearing that they largely agreed with the conclusions reached in the s42a report:

2.2.1. NZ Pork.

2.2.2. NZDF

2.2.3. NZ Institute for Plant and Food Research Ltd and Landcare Research

2.2.4. Lincoln University

2.2.5. Birchs Village Ltd.

2.2.6. Fonterra.

2.2.7. CRC.

3. NPS-HPL 2022

3.1. **Minute 30** from the Commissioners (dated 17 October 2022) directed Council to prepare a specific S42a report to address the effect of the NPS-HPL on all Chapters of the PDP. This report was provided by 16 December 2022. That report addresses the impact of the NPS-HPL on GRUZ, including any amendments that should be made to the Chapter that are within scope of submissions. The S42a report must be circulated to at least those submitters who made submissions to the PDP in relation to:

3.1.1. the protection of versatile soils/highly productive land;

3.1.2. any proposal that enables subdivision, use or development which will adversely impact the productive capacity of the land; or

3.1.3. the effects of urban growth on high productive land.

3.2. Several submissions relating to GRUZ reference the importance of highly productive land or versatile soils. These include submissions by Davinia Penny (DPR-0033), HortNZ (DPR-0353) and Graeme and Virginia Adams (DPR-0481). In addition, a variety of other submitters sought rural density changes in areas where the underlying soil is identified as being highly productive land[1], which could lead to a loss of soil productivity. Barry Moir (DPR-0150) and the Saunders Family Trust (DPR-0166) specifically appeared at the GRUZ Hearing in this regard.

[1] Defined as being land that is Class 1, 2 or 3 as mapped by the New Zealand Land Resource Inventory or by any more detailed mapping that uses the Land Use Capability classification.

3.3. Whilst most of the matters that were raised at the GRUZ Hearing are addressed below, aspects of the Penny and HortNZ submissions that reference highly productive land are addressed in the S42a NPS-HPL report. In addition, as a major deciding factor with the Adams, Moir and Saunders submissions relates to the potential loss of highly productive land, these submissions are addressed in the S42a NPS-HPL report[2] and not in the body of the report below.

3.4. Since this report was circulated, it has become apparent that there may be some issues between the Ceres submission (DPR-0346) and the NPS-HPL. This is addressed below.

4. EMRC – in relation to a proposed Specific Control Area and Noise Control Overlay at the Club.

4.1. EMRC[3] provided planning, acoustic and company evidence to support their submission for a specific control area at the location of the Club on 38 Southbridge – Dunsandel Road near Leeston and a noise control overlay to protect the Club from reverse sensitivity effects.

4.2. Following the Hearing, the Hearings Panel directed that both the Council and EMRC develop a common position regarding the noise control overlay proposed by EMRC and the provisions to give effect to that if the Panel were minded to include it. The proposed noise control overlay is therefore subject to a Joint Witness Statement (JWS) which is located in **Appendix 4**. The JWS was produced to the panel by the required date of 30 June 2022 and includes a consultation statement from a meeting held at EMRC grounds on 1st June 2022 which I attended. I noted that, from those attending, there was a high level of support for the continuation of the operation of EMRC.

4.3. The Experts (noise and acoustic) agreed with the proposed wording in Mr Joll's Evidence in Chief in relation to provisions on the proposed noise control overlays with the refinement of an additional advisory note for development constructed in the Outer Boundary (Area B) worded as follows: *Consideration should also be given to installing mechanical ventilation so that windows can be kept closed.*

4.4. In addition there was support from the Experts for the terms of the proposed noise management plan that was to be produced as part of the event management plan included in Mr Joll's Evidence in Chief. As this is now a matter of agreement, I recommend that the Hearings Panel adopt the agreed position in the JWS included the recommended text changes to the PDP. These are included in **Appendix 2**.

4.5. The S42a report discussed briefly evidence of existing use rights which included historic building consents for the activity and deeds of license to occupy the Council reserve. The imposition of restrictions on private property rights has to be robustly justified. Whilst it would be beneficial to have more information on the establishment and development of EMRC, overall there was a high level of support for EMRC from those attending the neighbours meeting and the agreed provisions

[2] https://www.selwyn.govt.nz/__data/assets/pdf_file/0005/1417991/S42a-Report-NPS-HPL.pdf
[3] DPR-0382.001

in the JWC to the extent that they place additional requirements of development are confined to a small area around the Club grounds. I note that the proposal from the Club is a modified, less restrictive version of their original submission. The original proposal was for a non-complying activity for new sensitive activities within the inner noise control overlay and noise mitigation requirements within the outer noise control overlay. The new proposal is for noise mitigation only within the inner noise control overlay and voluntary measures to mitigate noise in the outer noise control overlay.

4.6. Turning to a matter not covered by the JWS, in the S42a report for GRUZ, I recommended the insertion of a new policy to manage the location of community facilities that have a functional or operational need to locate in the rural area. I note the Evidence in Chief of Mr Joll which recommends that this go further to also include managing reverse sensitivity effects from noise sensitive activities in identified noise control boundaries. However tabled at the Hearing, Mr Joll recorded that he was satisfied with the amended wording recommended to the new policy on Community Facilities in the Officer's Response to Questions from the Hearings Panel dated 9 March 2022. On further reflection, given the new provisions on noise control are to be located in the Noise Chapter, it would be appropriate to amend NOISE-P6 relating to the Darfield Gun Club to include EMRC, given the similarity in management approaches. I therefore recommend that NOISE-P6 be amended as set out in **Appendix 2.**

4.7. Mr Joll, in his evidence to the Hearing, has provided additional information on the operation of the Club. This has largely addressed the concerns I had in the S42a report where I considered that some detail was lacking. Specifically:

4.7.1. Clarification on the number of practice days per year which will be capped at 20.

4.7.2. Clarification on the number of race days and the operating hours for those races. There will be 15 events a year between the hours of 10-20.00hrs. I note that, whilst not specifically stated in the rule, the Club envisage this is likely to be no more than five hours of racing per day.

4.7.3. A maximum value of 95 dba LAFmax for noise has been calculated.

4.7.4. Clarification that activities at the Club will default to the underlying GRUZ rules in relation to the height of buildings and structures and site coverage.

4.7.5. Clarification that no bespoke sign rules will be required and the rules in the Sign Chapter will apply.

4.7.6. Clarification that the activity will be able to meet the Transport Chapter rules in the PDP and that, notwithstanding this, an Event Management Plan will be produced that includes a Transport Management Plan component.

4.8. Overall, I consider that the amendments as proposed by Mr Joll are appropriate and recommend that they be included in the GRUZ and NOISE Chapter as set out in **Appendix 2**.

4.9. I consider that the s32AA provided by the submitter through Mr Joll's Evidence in Chief on p14 is appropriate and adopt it for the purposes of this change[4].

5. HortNZ – in relation to multiple issues (including submission points by Aviation NZ and Ravensdown on agricultural aircraft movements)

5.1. Ms Wharfe presented on a number of matters that were in the Hort NZ submission[5] but where she disagreed with the conclusions of the S42a report and/or amendments recommended. In relation to highly productive land[6] and the need to better recognise this as an important resource, this issue is discussed further in the S42a report for the NPS-HPL produced under **Minute 30**.

GRUZ-P1, P2, P4, New Policy – Community Facilities, P7

5.2. In terms of GRUZ-P1, Ms Wharfe states that in order to have status in the PDP, it must be referenced in the policies that noise, dust and odour are effects that arise from primary production activities and are part of the character of the rural area. I agree with Ms Wharfe that it would have more status to have this statement in the policy as well as the Overview although prefer the wording that these effects 'may' occur rather than 'will' occur, as there is still a duty under the RMA to avoid, remedy or mitigate adverse effects on the environment.

5.3. In GRUZ-P2, Ms Wharfe whilst supportive of the recommended amendment in the S42a report to include seasonal worker accommodation in GRUZ-P2(c), recommended a further change to amend 'residential unit' to 'residential activity' in the first line of the Policy. The basis for this change is that seasonal worker accommodation would not fit under the definition of a 'residential unit' as the activity would involve providing for a range of individuals, not one household. Having looked at the effect of such a change on the other limbs to this policy, I consider it would be better to include this as a separate policy for clarities sake.

5.4. In GRUZ-P4, Ms Wharfe seeks an additional clause on avoiding reverse sensitivity effects. In the S42a report I recommended that this not be included on the basis that this is already addressed through GRUZ-P7. GRUZ-P4 is fundamentally about enabling compatible development in the rural zone such as rural industry. Whilst it is conceivable that there could be reverse sensitivity effects between rural industry and primary production, it is less likely than with sensitive activities and is not the main focus of the policy. In my opinion it is not necessary to include reverse sensitivity effects in GRUZ-P4.

5.5. Ms Wharfe then discussed the inclusion in the S42a report of a policy managing the location of community facilities. While broadly supportive of the new Policy (given the placeholder 'Policy

[4] https://extranet.selwyn.govt.nz/sites/consultation/DPR/Shared%20Documents/Hearing%2024%20General%20Rural%20Zone/Hearing%2024%20Submitter%20Evidence/DPR-0382%20Ellesmere%20Motor%20Racing%20Club%20-%20Tim%20Joll%20(Planning).pdf

[5] DPR-0353 Various

[6] Based on the Proposed NPS on Highly Productive Land which defined such land as having a land use class as being 1-3.

GRUZ-PNEW2' in **Appendix 2**), she recommended the inclusion of the words 'establishment or expansion' to the wording to broaden consideration of matters beyond 'location'. In the Officer's Response to the Hearing Panel's Question 9 March 2022, I recommended a change of wording to the Policy as originally recommended in the S42a to provide more meaningful guidance to decision makers. The change recommend was as follows: ~~*Manage*~~ *Provide for the establishment or expansion* ~~*the location*~~ *of community facilities that have a functional, or operational need to locate in the rural* ~~*area*~~ *zone, whilst maintaining the character and amenity values of the surrounding area.* This I continue to believe is appropriate, noting that community facilities still must avoid reverse sensitivity effects on productive uses of the land under GRUZ-P7.

5.6. In GRUZ-P7, Ms Wharfe states that a policy gap still remains as there is no clear linkage in other policies of reverse sensitivity with residential activities and that if a residential activity does not meet the permitted activity standards, there needs to be a clear direction that potential for reverse sensitivity is a matter that will be considered as part of a resource consent application. I am still not convinced this is required as the appropriateness and compatibility of this activity in the rural zone is addressed in GRUZ-P2 and GRUZ-P3 in terms of whether the residential unit or minor residential unit can meet the minimum density requirements of the site. GRUZ-P7 then broadly applies in terms of avoiding reverse sensitivity effects.

Artificial crop protection structures

5.7. Ms Wharfe discusses Hort NZ's relief sought to have a suite of provisions to enable 'artificial crop protection structures' in the PDP. Hort NZ's preference is to include the word 'artificial' in the definition, to distinguish the activity from 'live' cover (e.g. shelterbelts) and because this is an industry understood term. Overall, I do not have strong feelings either way but if 'artificial' crop protection structures are an industry wide understood term it might be simpler to use this terminology in the rule. I therefore recommend this is amended as such from the S42a report. Turning to the need to have a stand-alone rule in the PDP to enable artificial crop protection structures, I still do not believe this is required due to the structure of the PDP which is to 'direct' plan users to various rule requirements from a standalone rule permitting buildings/structures. This it to purposely avoid lots of standalone rules permitting different types of building or structure.

5.8. I am still a little unclear of the mechanics of the requested rule in relation to setbacks and the requirement for green and black cloth. As requested, green or black cloth must be used on the vertical face of a crop protection structure within 30m of a property boundary (unless agreed with neighbouring landowners or the road controlling authority), or the structure is setback 3m from the boundary. I am unsure why 30m is required when instead a 3m setback can be utilised with the artificial crop protection structure being any shade such as white. The Opotiki District Plan Rule 8.6.5[7] requires a green or black cloth to be used on horizontal surfaces 30m from any property boundary (including road boundaries) unless otherwise agreed to by the neighbouring property

[7] https://www.odc.govt.nz/repository/libraries/id:2bpcqtp1b1cxby3k9b0b/hierarchy/sitecollectiondocuments/our-council/policies-plans-bylaws/operative-district-plan/Chapters%202021/Chapter%2008%20-%20Rural%20Zone

owner. There is no alternative provision where this requirement is obviated if there is a 3m setback offered. The PDP does not require a darker hue in GRUZ so the default would be that any shade of colour for a structure is a permitted activity. I consider that it is reasonable that where a less restrictive setback is proposed to facilitate artificial crop protection structures closer to the boundary of a site, a darker colour hue is utilised to avoid glare. Therefore I recommend a change to GRUZ-REQ4.

5.9. It is not intended that 'artificial crop protection structures' are covered by rules that pertain to buildings (something that Ms Wharfe discusses in her Evidence in Chief on p17 and 18 where there is some doubt as to whether the structures are buildings). For the avoidance of doubt, I recommend that this exclusion is specifically stated in the rule.

Seasonal worker accommodation

5.10. Ms Wharfe was largely supportive of the approach recommended in the S42a report for seasonal worker accommodation, which Hort NZ sought through their submission to be provided for with bespoke provisions. She noted however that 'residential unit' used in GRUZ-REQ4 (in the S42a report recommended amendments) does not include 'seasonal worker accommodation' and that for similar reasons expressed in relation to GRUZ-P2, recommends the substitution of these terms. I agree that an amendment to GRUZ-REQ4 is necessary to ensure that seasonal worker accommodation is appropriately captured and I discuss this more below at [5.28] in relation to the specific point on GRUZ-REQ4.

Shelterbelts

5.11. Turning to Shelterbelts, Ms Wharfe highlighted two issues of Hort NZ's concern. The first is that a requirement to have a shelterbelt located 30m from a residential unit (GRUZ-R25 and NH-REQ7) could result in the loss of productive land. As such she recommends that there could be an activity standard as follows: *Shelterbelts which are a continuous row of trees over 10m in length which are closer than 30m to a residential unit shall be no more than 5m in height, and 3m wide, be regularly trimmed and trimmings removed from site.* In the S42a report I had concerns over the enforceability of such a rule and that it is better to manage the location of a shelterbelt from the outset. I still maintain that this would be difficult to enforce – shelterbelts are not static and, depending on the species, the rule would rely on regular pruning to maintain a consistent height along potentially several hundred metres.

5.12. The other matter raised by HortNZ is that the recommended amendment of the definition of a shelterbelt in the S42a report to 30m (from 20m), in line with the definition in the National Environmental Standard for Plantation Forestry (NES-PF) is not supported on the basis that the NES-PF definition is linked to the shelterbelt of forest species capable of reaching over 5m in height. A shelterbelt with a tree crown cover of 30m is likely to be wider at the base and the increased width is likely to lead to an increase in understorey litter and hence the risk of wildfire. Retaining the 20m standard could be confusing for plan users when the NES-PF has a different standard in play however I recognise that the NES-PF references forestry species as measured from the crown height. One

option would be to delete the width requirement however I do not believe there is scope to make that change. Instead I recommend that the definition is amended to state that a shelterbelt is 20m in width, unless the species is a forest species where the tree crown cover has, or is likely to have, an average width of less than 30m.

Aircraft movements

5.13. Agricultural aviation was another area where Hort NZ presented. Ms Wharfe was concerned that the amended note recommended to be included in GRUZ-R28 did not have the required status needed to direct decision makers. Instead, she requests that GRUZ-R27 be amended to include the incidental landing and take-off of helicopters and aircraft during their normal course of operations. In the S42a report, I outlined that the purpose of the note was to avoid incidents of aircraft and helicopters landing on a site during, for example topdressing activities, being caught by GRUZ-R28 as a helicopter landing area or airfield. On reflection, I agree with Ms Wharfe that an amendment to the note would not have the required status and that the wording currently in the note could in part be incorporated into GRUZ-R27 as a permitted activity. Aviation NZ and Ravensdown expressed similar concerns to Hort NZ and therefore this amendment would presumably address these concerns as well.

Research activities

5.14. Ms Wharfe also discussed changes recommended to be made in the S42a report to GRUZ-P6 concerning research activities. This was on the basis of several submissions from research institutes and organisations seeking greater recognition of their activities in GRUZ. Of particular concern was the inclusion of 'educational facility' in the definition of research activity as educational facilities are deemed to be a sensitive activity in GRUZ and are a non-complying activity. Ms Wharfe also had concerns about an unqualified reference to conference facilities as these are restricted beyond 100m^2 through GRUZ-R14. Finally she questioned the need to repeat the word 'building' in the rule, as this is already provided for in the wording of the rule.

5.15. Ms Wharfe would support GRUZ-R13 if additional qualifiers were added to the rule to restrict buildings for education purposes to be directly related to research activity on-site and there was a maximum size limit of 100m^2 for both education and conference facilities.

5.16. I agree with Ms Wharfe that, on reflection, the repetition of 'building' is unnecessary given the structure of the rule and therefore revise the recommendation in the s42a report.

5.17. In terms of adding size limits to educational facilities, under the notified version of GRUZ-R13 in the PDP the use of the land for 'education purposes' in association with research facilities is already contemplated as this is included in the body of GRUZ-R13. A recommendation in the s42a report for Hearing 2 also recommended including 'education facilities' in the definition of 'research activity' which Hort NZ considers is potentially broader. I note that on review of Hort NZ's original submission, they were supportive of GRUZ-R13 and sought that it is retained as notified. However a change was recommended in the S42a report for GRUZ to exclude education facilities associated with research

facilities from GRUZ-R36, where they are a non-complying activity. This is to avoid any confusion between the activity rules in the GRUZ Chapter where education facilities would be a permitted activity under GRUZ-R13 (as recommended by the Hearing 2 and GRUZ s42a authors).

5.18. On this basis, I consider there is scope to amend GRUZ-R13 to restrict education facilities in association with a research activity as per Ms Wharfe's Evidence in Chief. In terms of whether this change is necessary or desirable, I do not believe it is as the type of education facility that can establish is limited directly to the *'growing of crops and trees, rearing of livestock and associated monitoring of the environment for research and education purposes and any building or activity* (recommended by the S42a report) *ancillary to this purpose'.* I do not believe this will be a 'backdoor' to more general education activities given the requirement that it has to be tied to a clearly defined activity. One would also expect that there may be a greater degree of tolerance of odour, noise and other effects from rural activities given the focus of the facility. I also have concerns that the proposed 100m^2 may be unnecessary restrictive given this would apply to both the land and buildings where teaching/training is to take place.

5.19. In terms of conference facilities, whilst the definition of 'research activity' includes conference facilities, GRUZ-R13 does not explicitly state this. As conference facilities could be considered to be less fundamentally intertwined with the use of the site for research (where one would expect some educational activities to be undertaken), this could be explicitly excluded from GRUZ-R13 and thus the provisions of GRUZ-R14 would apply.

Rural Selling Places

5.20. Turning to Rural Selling Places, Ms Wharfe requests that GRUZ-R9 is amended to delete the requirement that all produce sold be produced on the same site and instead replaced with a requirement that the produce sold must all be grown or produced by the same operation or business. This is on the basis that growers may have a number of sites on which they grow as part of the same operation and bring the produce to a central location for processing and selling. The intent of rules governing a 'rural selling place' is to enable small-scale activities such as road side stalls that retail products directly from a farm. The change proposed by the submitter could enable a much larger type of activity where a commercial grower brings in produce from a number of sites that they own in order to sell them from a centralised location. It is also harder to monitor where goods are sourced from, if they are not from the same property as the place where they are sold.

5.21. Ms Wharfe then states that Rural Selling Places are anticipated in GRUZ-P4 which provides for economic activity that has a direct relationship with, or is dependent on primary production. She notes that rural industry is provided for with a larger area of land – between 200-500m^2 depending on whether it is to be located in the Inner or Outer Plains. 'Rural Selling Place' however is intended to capture a small roadside stall or farm shop. A larger operation that also allows produce from multiple sites and growers would take on a much more commercial nature – for example a Raeward Fresh or Springfield Farm operation and this would not in my opinion be appropriate to operate as a permitted activity. Maintaining a smaller size is consistent with GRUZ-P5 in terms of avoiding commercial activity that is larger than a rural home business.

Educational facilities

5.22. Hort NZ oppose the recommended amendment to GRUZ-R36 in the S42a to exclude education facilities associated with research activities if their relief sought to place some type of size limit on this type of activity in GRUZ-R13 is not accepted. The amendment recommended to be made to GRUZ-R36 was to reduce the potential for any confusion to arise between general education facilities and the limited scope for this type of activity to be enabled through GRUZ-R13. I have not recommended a change to GRUZ-R13 as I consider the scope for educational facilities is limited. I also do not wish to alter my recommendation for GRUZ-R36 as there is some benefit in providing this clarification.

Conference facilities

5.23. Ms Wharfe then discussed conference facilities (GRUZ-R14) stating that in HortNZ's relief sought in their original submission, it was requested that GRUZ-R14 was deleted as conference facilities are inappropriate in the GRUZ. As a compromise, Ms Wharfe advocates for a 30m[8] setback from the internal site boundary (a 5m setback is currently required in the notified PDP for 'any other building'). I believe this is appropriate as a conference facility could be a sensitive activity, depending on the nature of events that it holds but does not include an element of overnight stay. Where there is a non-compliance with the setback, the activity would be assessed as a restricted discretionary activity where the activity is no greater than 100m^2 in land area. This is appropriate in my view due to the small scale nature of the activity and is also consistent, if the Panel are minded to agree, with the 30m setback for residential activities which was recommended through the Natural Hazards s42a report.

Visitor accommodation

5.24. Turning to Visitor Accommodation, HortNZ seek that there is an effective 30m setback for visitor accommodation from the internal site boundary. HortNZ state that scope for this change exists through their original submission where they sought that all visitor accommodation is a discretionary activity. The requested change by Ms Wharfe is a compromise position and requests that 'residential unit' in GRUZ-REQ4 is amended to 'residential activity' to capture visitor accommodation. GRUZ-REQ4 would also be added as a specific condition in GRUZ-R15. Visitor accommodation at the scale envisaged by GRUZ-R15 is likely to be part of, or closely associated with, any principle residential unit on site (for example a B&B of farmstay type operation). As such, I consider it would be appropriate to include this type of residential activity within the scope of GRUZ-REQ4 and apply a greater setback.

GRUZ-REQ1 – Building Coverage

[8] Hort NZ advocates for both a 10m and 30m setback for conference facilities in the Evidence in Chief from Ms Wharfe.

5.25. Ms Wharfe, whilst supportive of some recommended amendments in the S42a report to GRUZ-REQ1, has recommended some changes through her Evidence in Chief. The issue with regard to the status of 'Artificial Crop Protection Structures' and whether they are a building is addressed in [5.9] above. I support deleting 'crop covers' as sought by Hort NZ, as this is essentially the same as an artificial crop protection structure, as well as amending 'glasshouse' to 'greenhouse' as this aligns with the proposed term that is defined.

5.26. I do not agree with Ms Wharfe that a built-in floor would not reduce the productivity of the soil. Having a built-in floor would mean that the soil resource could not be used as it would be covered by some other material. The amendment in the S42a report was based partly on Mr Frizzell's submission (DPR-0096) which sought the inclusion of certain buildings with no built in floor as an exception to the application of GRUZ-REQ1. I agree with Ms Wharfe however that there is a lack of objectives or policies in the PDP on maintaining the productive potential of the soil. At a high level, there is SD-DI-O2 which states that *Selwyn's prosperous economy is supported through the efficient use of land, resources and infrastructure, while ensuring existing activities are protected from incompatible activities.* More specific policy support is found in CRPS Policy 5.3.2 (1)(c) which requires development …*does not 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.* The S42a report NPS-HPL addresses this issue in more detail.

GRUZ-REQ2 – Structure Height

5.27. Ms Wharfe also sought a change (as per the original submission) to apply GRUZ structure maximum heights in GRUZ-REQ2 to the tower of a frost fan and exclude the blades. In the S42a report, I stated that height restrictions are necessary to maintain character and amenity and in order to maintain a consistent approach across structures in the GRUZ, it was preferable not to exclude parts of a structure. Ms Wharfe suggested as an alternative a maximum height of 15m (including the blades). A review of a popular type of commercial frost fan currently being marketed[9] found a tower height of roughly 10.4m with the blade length likely 3-4m above this height when in the maximum upright position. I therefore agree that, provided 15m is stated in the rule requirement as including the blades, this would be a suitable maximum height for frost fans.

GRUZ-REQ4 – Structure Setbacks

5.28. Ms Wharfe then discussed GRUZ-REQ4, structure setbacks. As discussed above for visitor accommodation, HortNZ seek a broader application of the proposed 30m setback to 'residential activity' rather than a 'residential unit'. The 30m setback, in some way, mirrors the 30m setback in NH-REQ7.1 which requires a 30m setback from any residential unit or other principal building on an adjoining property. This is primarily to prevent wildfire however whereas the GRUZ-REQ4 proposed setback is to prevent wildfire and to minimise reverse sensitivity. As well as advocating that the setback include 'visitor accommodation', HortNZ also seem to be advocating that this include the

[9] https://www.nzfrostfans.com/wp-content/uploads/2021/10/FrostBoss-Fact-Sheet-NZ.pdf

proposed activity 'seasonal worker accommodation'. The structure of the GRUZ Chapter is that a 'residential activity' is a permitted activity with no rule requirements. There are sub-components of this (e.g. residential unit) that do have rule requirements attached. In my opinion, it is therefore more appropriate to be specific about the types of residential activity (e.g. residential unit, visitor accommodation, seasonal worker accommodation) where a setback is to apply. I therefore recommend changes to GRUZ-REQ4.

GRUZ-REQ6 – Hours of Operation

5.29. Ms Wharfe then discussed GRUZ-REQ6 and stated that the proposed wording in GRUZ-REQ6 as recommended in the S42a report did not address HortNZ's concerns. The wording, in the form of a note, stated that this did not include any activity off-site from the place of business which is directly associated with a rural production activity. Ms Wharfe stated that the real issue is the hours that a contractor may leave or return to base, either during a busy season when access to the base outside of these timeframes is required, or in the event of an unplanned event such as a machine breakdown or pump failure where repairs may need to be made in a rapid timeframe. Ms Wharfe suggests wording to go in the rule requirement itself (to have more status) as follows '*This does not include any activity undertaken to operate from or return to the place of business outside the specified hours where necessary to provide a service for rural production activities, particularly on a seasonal basis'.*

5.30. The problem is that it is not clear when 'harvest time' is as it is at different times of year for different crops and it is difficult to pinpoint whether this will be a short term, intermittent activity or one that is effectively normal business year-round making monitoring difficult. Merely going to and from the business itself would be permitted if 'business activity' is clarified to mean 'unloading or loading vehicles and receiving customers of deliveries' (this change was recommended in the s42a report. However, loading/unloading a contractor's van for example would still be caught by this. One solution may be to narrowly exempt a rural service activity (a term which would apply to contractors) from the requirement for the loading or unloading of vehicles between 0700-1900 but to maintain the requirement that the receiving of customer or deliveries takes place only during these daytime hours. This change would require the reinstatement of the term 'rural service activity'. A further requirement for this could be that this is only for activity tied to short term or intermittent activity associated with harvesting or emergency repair of equipment or machinery (notwithstanding the issue with monitoring mentioned above). I therefore recommend an amendment to GRUZ-REQ6.

GRUZ-REQ7 – Full Time Equivalent Staff

5.31. Ms Wharfe recommends a relatively minor change to GRUZ-REQ7. The S42a report recommended that the rule requirement was amended to *1. ~~Any business activity shall have no more than two full time equivalent staff.~~ No more than two full time equivalent staff who are not permanent residents of the site are employed at any one time.* The change was made as a response to HortNZ and NZ Pork who sought that the rule should provide more clarity on what a 'business activity' was. The amendment dropped reference to 'business activity' and aligned the terminology in the rule requirement with that under GRUZ-R10, Rural Home Business. Ms Wharfe suggests a change to: *No more than two full time equivalent staff who are not permanent residents on the site are ~~employed~~*

working on the site *at any one time* to better reflect the intent of the rule requirement. I do not believe a change is required as a business could employ a number of persons however their time must add up to two FTE's. This would mean that a maximum of two persons (not permanently residing on-site) would be working on-site at any time.

GRUZ-MAT3 - Internal Boundary Setback

5.32. Ms Wharfe also sought a change to GRUZ-MAT3, Internal Boundary Setbacks. In her view, the use of the words 'rural activities' is unclear as it is not a defined term in the PDP and that as drafted GRUZ-MAT3(7) should be amended to better align with policy direction. 'Rural activities' is defined in the CRPS but not in the PDP. However I agree with Ms Wharfe that it is preferable to align terminology with that in the PDP and language used in the objectives and policies of the Chapter. Therefore, I amend my original advice in the S42a report to make a change in this regard.

5.33. The amendments as recommended above are in **Appendix 2.** The amendments are addressed by a general s32AA in Section 14 below.

6. Mineral Extraction

Davina Penny – in relation to setbacks from mineral extraction activities

6.1. Davina Penny[10] appeared as the Hearing and presented in support of her submission which was that there should always be a setback from quarries of 500m, regardless of mitigation measures due to high amount of silica in the rock in the region. The key issues highlighted were:

6.1.1. Measuring to dwellings not property boundaries.

6.1.2. The use of quarry zones.

6.1.3. Failure to class quarrying within those proposed distances as prohibited.

6.1.4. Protection of highly productive land.

6.1.5. Failing to recognise the importance of setbacks on health effects.

6.1.6. Discrimination between those in residential zones and those in rural areas.

6.2. Taking each in turn, Ms Penny identifies that extraction distances may be on paper only and that the actual extraction area may not be evidenced until some years into the resource consent is exercised and that over-extraction may occur that reduces setbacks. She requests that the setback is taken from the quarry boundary rather than the area of extraction. I agree with Ms Penny that the measurement of setback distance to the notional boundary of the dwelling does not recognise that a landowner may utilise their land within any setback for productive purposes (including amenity).

[10] DPR-0033.001

However it is important to note that the use of the setback trigger is simply to distinguish between a restricted discretionary and discretionary activity resource consent and an effects assessment will be required regardless. Moreover, as a result of submissions from CRC and CCC, I am recommending that dust is now included as a matter of discretion in GRUZ-R21[11].

6.3. Ms Penny also discusses the use of quarry zones. I discussed this in the S42a report and why they may not work in the Selwyn context.

6.4. Turning to making quarrying within the setback distances a prohibited activity, a prohibited activity under the RMA has a high threshold where effects must be unacceptable or intolerable. Whilst quarrying has the potential to cause adverse effects, the extent to which these effects are unacceptable would need to be determined through an effects assessment and I am not convinced that the effects will always be unacceptable or intolerable. In terms of the health effects of silica dust, this is a matter for CRC through their role in assessing the contaminant potential of dust in consultation with the Medical Officer of health as typically a quarrying activity will require a resource consent under the Canterbury Air Regional Plan (CARP) (handling of bulk solid materials). Typically resource consents for quarrying, where consent from both the regional and district council is required, would be bundled and heard (where a hearing is required) together.

6.5. Ms Penny also discusses highly productive land and the need to protect this from the effects of quarrying activities. This issue is discussed further in the S42a report for the NPS-HPL[12] produced under **Minute 30**.

6.6. Turning to having different setbacks between residential zone and sensitive activities in rural areas, this is based on best practice and 500m represents a more conservative end of the spectrum for setbacks from residential zones[13]. This is considered appropriate as there is a need for more caution to be taken in regard to areas with large numbers of sensitive sites in close proximity to one another (a township), rather than a lone sensitive activity within the rural zone where some dust discharge is expected. This is also more conservative than the CARP, as the CARP only specifies 500m for blasting activities. I note the submitter's concern about quarries in the Yaldhurst area however the setback distances in the CCC District Plan are much less than proposed in the PDP – for example 20m internally from the quarry zone boundary for excavation and a buffer of 250m externally from any quarry zone boundary for new residential units[14]. Again the setback acts as a trigger for resource consent as a restricted discretionary, rather than discretionary activity.

6.7. I also note that Ms Penny discusses rehabilitation. Rehabilitation plans are already required as a condition of consent (this is recommended to be strengthened in policy and rules in the PDP based on a submission made by CCC).

[11] In the S42a report, I question the continued utility of having both a restricted discretionary and discretionary activity status for mineral extraction if dust was included, given the breadth of issues to be considered under the restricted discretionary activity rule. However I also question whether there is scope to delete the restricted discretionary rule (and rely only on the discretionary rule) as no party requested this. On this basis, I recommended it was left in.
[12] https://www.selwyn.govt.nz/__data/assets/pdf_file/0005/1417991/S42a-Report-NPS-HPL.pdf
[13] https://www.selwyn.govt.nz/__data/assets/pdf_file/0004/353362/Setback-Report-post-peer-review-Rural.pdf Page 6 'General overview of territorial and regional authority RMA Plan Provisions.
[14] CCC District Plan – Rule 17.5.2.5 and 17.8.3.7.

6.8. Overall, whilst I consider all of the points Ms Penny makes are valid concerns about the effects of quarrying, I consider that the PDP as amended through recommendations addresses these points to the extent that it can. I do not believe the Selwyn context to be directly comparable to the dust issue in Yaldhurst because all quarrying activities will require resource consent - the setbacks are consent triggers rather than simply allowing the activity to be a permitted activity. There are other matters that she raises that whilst valid, are better addressed by CRC and the health authorities.

Fulton Hogan – in relation to enabling quarrying activities

6.9. Fulton Hogan[15] (through Mr Ensor) maintain their opposition to the term 'mineral extraction' and the use of inconsistent terminology in the PDP referring to 'mining' and 'quarrying'. Mineral extraction is used as a catch-all term to include both mining and quarrying activity in the PDP. I still consider that mineral extraction is a useful term as these activities are often managed together across the chapters of the PDP however I agree with the submitter that there are instances where 'quarry' is used rather than the broader 'quarrying activity' in specific instances (such as GRUZ-R21) and that this should be amended.

6.10. In terms of including 'incompatible activities' in GRUZ-O1, Mr Ensor was of the view that introducing this term could imply competition between primary production activities, for example a quarrying activity might be deemed to be incompatible with a horticultural use. Policies and rules in the GRUZ Chapter are focused on limiting the ability for sensitive activities, which are more likely to give rise to reverse sensitivity effects, from locating in GRUZ. Horticultural activities are not deemed to be a sensitive activity under the PDP definition and therefore would not be prevented from establishing close to a quarrying activity under the PDP. The reverse is likely to be true as well, although the potential effects of dust as a contaminant from the quarry on nearby crops may be separately considered through a regional consent.

6.11. Some sensitive activities may be permissible but a good case would need to be made and reverse sensitivity effects on primary production activities avoided. Therefore I recommend that the wording of GRUZ-O1 is amended in the following way *'incompatible <u>sensitive</u> activities'.*

6.12. Turning to the request to include a new policy in GRUZ on what constitutes character and amenity as including the statement in the Overview does not have appropriate legal status, I tend to agree with this sentiment that text in the Overview or a note does not have appropriate weight and needs to be included in the wording of the policy to be effective. Including this wording in the policy is also consistent with my recommendation for a similar point made by HortNZ.

6.13. Mr Ensor then discusses GRUZ-P8 which is the main policy in the GRUZ Chapter for mineral extraction. Mr Ensor proposes some additional changes to GRUZ-P8. The first is that rather than 'provide' for mineral extraction, the PDP should 'enable' it. This is based on the fact that mineral extraction is primary production and that as such should be prioritised alongside other types of

[15] DPR-0415 Various

primary production noting that GRUZ-O1 seeks generally to promote primary production over other activities in GRUZ. Generally the word 'enable' in policy is implemented through a permitted or controlled activity in rules. In my opinion 'provide' is more akin to a restricted discretionary or discretionary activity where a fuller assessment of effects of the activity is required. Amending the wording to 'enable' in the policy does not reflect how the activity is actually implemented through the rules. GRUZ-P1(2) does enable primary production but recognises that there are adverse effects that may need to be managed from mineral extraction. I agree there is some inconsistency between GRUZ-P1(2) and GRUZ-P8 which is unfortunate. In my opinion there is a difference between mineral extraction and other primary production activities and if the word 'enable' is to be used then this should be conditional on mineral extraction maintaining the amenity values of nearby sensitive areas and appropriately internalising adverse effects.

6.14. Whilst I acknowledge the point that quarrying can only occur where the resource exists this should not be at the absolute expense of established activities in GRUZ and the consideration of setbacks is a relevant factor when determining a resource consent. Even with an excellent aggregate resource present, there may be compelling reasons to impose setbacks or even refuse a location because of the close proximity of sensitive activities. I therefore do not agree that GRUZ-P8 (1) as recommended in the S42a report should be deleted.

6.15. I agree with Mr Ensor that reference to 'appropriate' resource may cover a range of factors, some of which may not be relevant to resource management and therefore prefer the wording suggested in his Evidence in Chief in the introductory text of GRUZ-P8. I also agree that requiring that adverse effects are internalised according to best practice may not be desirable or needed depending on the location of the activity and proximity to sensitive activities. Therefore I agree with the submitter that this should be deleted from Clause 2 of GRUZ-P8 in favour of just requiring that adverse effects should be internalised as far as practicable, providing that Clause 1 is retained requiring the maintenance of amenity values of nearby sensitive activities.

6.16. Turning to GRUZ-P9, Mr Ensor opines that any rehabilitation that enables a permitted land use is highly likely to maintain amenity values as a minimum and that where rehabilitation will support a consented activity, this resource consent will require an assessment of effects on rural amenity based on the merits of the proposed activity at the time. I have concerns with this proposed wording given the new focus of the policy on progressive rehabilitation. It is difficult to progressively rehabilitate a site to a standard for an unknown future consented use (the submitter acknowledges that land use plans can change and sought flexibility to the policy to avoid being bound to rehabilitate to the standard of an unknown future land use). The overall focus of the GRUZ Chapter is to maintain or enhance the character and amenity of the rural area and it is likely that any consented use that eventuates will be assessed on this ability to meet this overall objective. As such, I consider this an appropriate standard to work towards and I do not recommend an amendment to the original wording recommended in the S42a report.

6.17. Fulton Hogan also commented on GRUZ-R21 and the need to exclude certain earthworks associated with quarrying activities from the setbacks prescribed in the rule. This includes earthworks to

mitigate the effect of the quarry such as constructing bunds. The submitter points out that 'quarrying activity' as defined by the NPS contains a multitude of uses associated with a quarry. The important point is to specify the excavations the setbacks apply to rather than those that are excluded. I agree that 'quarrying activity' needs to be specified in the rule (whilst still seeing a role for the umbrella term 'mineral extraction' in the PDP) and I also agree that the setbacks should focus on the actual ongoing excavation activity rather than any other earthworks around the site, including constructing bunds. Therefore I recommend that the wording of GRUZ-R21 relating to 200m setbacks for excavation be amended as per that proposed in Mr Ensor's Evidence in Chief.

6.18. Mr Ensor then addresses the practicalities of including dust with the remit of the rule which was requested by CRC. He states that this will create an overlap between the Regional Air Plan and the PDP – for example by creating multiple management plans to address similar issues. In my view, this is unlikely to be a major issue as resource consents will likely be bundled together and, where a hearing is necessary, heard together. I accept that the management of a dust discharge as a contaminant may also effectively manage the effects of dust on amenity. However as I state in the s42a report, there is value in including dust as GRUZ-R21 can then consider effects on amenity in their totality and whether the effects of the activity are right for the area it is proposed to be located.

6.19. Mr Ensor discusses bird strike within proximity of Christchurch International Airport. As this has been dealt with in the EI Chapter Hearing, including the merits and extent of a setback, I do not comment on this.

6.20. The various amendments are set out in **Appendix 2**. It is not considered that the amendments require a s32AA.

7. Noise Related Matters (Including Aircraft Noise)

CIAL in relation to the Airport Noise Control Overlay, GRUZ and EI Provisions.

7.1. CIAL[16] provided planning, acoustic and company evidence as well as a legal submission and appeared at the Hearing. The focus of the evidence was that the submitter asserted that both the EI and GRUZ Chapters as notified did not give effect to the Canterbury Regional Policy Statement (CRPS), specifically Policies 6.3.5(3), (4) and (5) and Policy 6.3.9. CIAL advanced a similar position at the Noise Hearing.

7.2. Following the Hearing, the Hearings Panel directed that both the Council and CIAL develop a common position regarding the interrelationship between the GRUZ and the EI Chapter, the applicability of CRPS provisions and the relevant noise control overlays in the PDP. A Joint Witness Statement (JWS) (**Appendix5**) was produced by the requested date, 29 April 2022, which showed a large degree of alignment between CIAL's and Council's positions. Several relatively minor issues have not been resolved and these are listed in the Statement. The areas of agreement include:

[16] DPR-0371 Various

7.2.1. That the CRPS includes the following general principles to be 'given effect' to in the Proposed Selwyn District Plan (PDP): (a) the efficient and effective functioning of infrastructure is maintained; (b) new development is only provided for where it does not affect the efficient use, operation, upgrading and safety of significant infrastructure, including by avoiding noise sensitive activities within the 50 dBA Ldn air noise contour; and (c) the effects of land use on infrastructure should be managed to avoid activities that have the potential to limit the efficient and efficient, provision, operation, maintenance or upgrade of strategic infrastructure.

7.2.2. Policy 6.3.9 directs that rural residential development is a noise sensitive activity that is also to be avoided within the 50 dBA Ldn air noise contour.

7.2.3. That the Airport 50 dB Ldn and 55 dB Ldn Noise Control Overlays in the PDP (analogous to the 50 and 55dBA Ldn air noise contours in the CRPS) are overlapping and additional. That is, the provisions would seek to 'avoid' noise sensitive activities regardless of whether these were contained within the Airport 50dB Ldn or 55dB Ldn Noise Control Overlays. The rule relating to noise mitigation within the 55dB Ldn Noise Control Overlay (NOISE-R4) is additional to those rules in the GRUZ Chapter applicable to the 50 dB Ldn Noise Control Overlay that seek to avoid new noise sensitive activities and manage density.

7.2.4. The PDP, as notified, does not fully give effect to the CRPS, specifically Policy 6.3.5(4) with respect to the 'avoidance' of noise sensitive activities within the 50dB Ldn Noise Control Overlay. CPRS Policy 6.3.5 serves an important and directive purpose. The PDP needs amending to give effect to CRPS Policy 6.3.5.

7.2.5. It is necessary to amend the provisions of the GRUZ and NOISE Chapters to give effect to the CRPS with respect to avoiding noise sensitive activities within the 50dB Ldn Noise Control Overlay and requiring noise mitigation for permitted residential activities (where in conjunction with a compliant rural density) within the 55dB Ldn Noise Control Overlay, which is in effect the only noise sensitive activity not otherwise non-complying in the GRUZ.

7.3. I note that the JWS omitted a necessary change to GRUZ-R5 to restrict residential units on undersized sites within the 50dB Ldn Noise Control Overlay to implement the change to GRUZ-P2. This is clearly what CIAL intended however as it is included in Mr Bonis' Evidence in Chief for CIAL. I therefore recommend this change is made.

7.4. I am aware that the NPS require that noise related provisions are located in the Noise Chapter. Whilst in the JWS the recommended rules relating to the 50dB Ldn Noise Control Overlay are located in GRUZ for ease of use, in order to comply with the NPS, it may be necessary to locate them in NOISE with appropriate cross referencing from GRUZ. Additionally, the provisions also relate to important infrastructure (the airport and port) which under the NPS would be expected to be located in the EI Chapter (as a rule requirement) with appropriate cross-referencing from GRUZ rules. This was not considered in the drafting of the JWS and is not in the agreed position but it something to bear in mind. Regardless of this point which relates to the mechanics of how the

provisions are structured, I recommend that the Hearings Panel adopt the substance of the agreed position in the JWS and incorporate the recommended text changes into the PDP. These are included in **Appendix 2**. The changes are addressed in the general s32AA assessment in Section 14.

7.5. As stated, there are several areas of relatively minor disagreement between parties in the JWS. For completion these are as follows:

7.5.1. CIAL, through their planning expert Mr Bonis, considers that the enablement of 'minor residential unit' for the purpose of GRUZ-P3 and GRUZ-R6 leads to a regulatory approach that, at most, provides for Family Flats (limited to family members only) which do not exceed 70m^2 in GFA as were provided by the operative Plan as at 2008. Mr Bonis also retains his view that more directive amendments to EI-P6 remain the more appropriate, to the extent and for the reasons outlined in his Evidence in Chief (EiC).

7.5.2. I am of the view that the use of the term 'family flat' revisits a term that is considered to be inefficient in the Operative Selwyn District Plan as it was found to be hard to enforce and not wholly related to effects (only immediate family members could inhabit the family flat but this does not account for modern family dynamics). In addition, the term 'minor residential unit' is preferred as this is a NPS definition and used throughout the PDP. In my opinion the limit on size (and thus living space) is a more efficient instrument to manage reverse sensitivity effects as a result of a minor dwelling, which I concede could be 70m^2, based on the baseline that exists in the Operative District Plan, within the 50dBA Ldn Noise Control Overlay.

7.5.3. I do not agree with amending GRUZ-R37 Landfill back to a non-complying activity (as in the notified PDP) and I consider that a discretionary activity remains more appropriate for reasons set out in the S42a report (notwithstanding any specific provision to avoid landfills within 13km from the thresholds of runways at Christchurch International Airport for reasons of bird strike risk).

7.5.4. Ms Barker does not agree with the need for further amendment to EI-P6 and considers that when EI-P6 is read in conjunction with amended NOISE-P3 and the GRUZ policies, is sufficiently directive and gives effect to the CRPS. Mr Bonis disagrees for the reasons set out in his evidence.

7.5.5. Where there is disagreement, this is shown as highlighted in the recommended text changes for the PDP in the JWS. Only the officer recommended changes are shown in this Right of Reply, noting that CIAL may disagree with these changes.

LPC - in relation to the Port Noise Control Overlay, GRUZ Provisions

7.6. The evidence of Mr Bonis in relation to LPC[17] covers similar ground to that of CIAL advocating that as the Port is important infrastructure and needs to be protected from the reverse sensitivity effects of sensitive activities.

7.7. The amendment to GRUZ-P2 in relation to excluding land within the Port 45bB Noise Control Overlay from the exceptions to the minimum density requirements (GRUZ-P2 a-c) was agreed upon in the JWS between CIAL and Council. While this change was not specifically commented on in the JWS, I accept that the Port in the Izone is defined as Important Infrastructure in the PDP and the intensification of residential development in close proximity to the Port could give rise to reverse sensitivity effects. Whilst mechanisms exist through the PDP (NOISE-R5) to mitigate noise from sensitive activities, this is based on a density of one dwelling per 4ha of land and not further intensification. The change to GRUZ-P2 would need to be implemented through the rules through a change to GRUZ-R5 as proposed in Mr Bonis's Evidence in Chief to restrict residential development on undersized sites within the Port 45dB Noise Control Overlay.

7.8. Mr Bonis is also seeking an amendment to GRUZ-R6 to restrict 'family flats' from the 45dB Noise Control Overlay. While I agree with restricting the sizing to 70m^2 GFA consistent with the standard in the Operative District Plan, I do not agree with the occupation restriction for reasons explained above under the discussion on CIAL's evidence.

7.9. An amendment to GRUZ-P7 is sought to include the term 'important infrastructure'. Whilst I have been reluctant to recommend including infrastructure provisions outside of the EI Chapter due to the need to ensure consistency with the NPS, the inclusion of 'important infrastructure' in GRUZ-P7 would support the rules that strictly limit sensitive activities within the Noise Control Overlays for the Port and Airport in the GRUZ Chapter.

7.10. Amendments are included in **Appendix 2**. The changes are addressed in the general s32AA assessment in Section 14.

Gourlie Family - in relation to Helicopter Landing Area Setbacks

7.11. The Gourlie Family[18] attended the Hearing and tabled a statement which expanded on the submission. The key issue made in the submission was that the 500m setback for helicopter landing areas from sensitive activities was too close and that further restrictions were needed, including restricting the use of contractors using helicopter landing areas and publicly notifying each resource consent. I outline my recommendation to reject this submission point in the S42a report.

7.12. While I appreciate the concern expressed in the submission and further at the Hearing in person and through the statement there is a limit to what Council can control. Aircraft height is indeed something that falls within the remit of the Civil Aviation Authority (CAA). CAA Rule 91.311, Minimum Height for

[17] DPR-0453.075-080
[18] DPR-0472.001-003

Visual Flight Rules, requires that aircraft must operate at a height of 1000ft above an urban area or 500ft in any other area (except take-off and landing). If a pilot is breaching these rules then there is the opportunity to seek redress through notifying the CAA. However as I understand it, with the specific case referenced by the submitter, the pilot is at the minimum of 500ft and is therefore compliant with CAA rules, although may not be conforming to CAA practice that seeks to minimise nuisance to neighbours. However this is outside of the control of Council which cannot control aircraft noise in flight (RMA s326 (1)(a)), only at airports (s9(8). The CAA does have the power to restrict aircraft around sensitive areas however I am unsure what the scope of these powers are outside of obvious locations such as airport approach/take-off vectors.

7.13. I note the point made by the submitter about the growth of townships and the effect of helicopter landing areas – the rule requirement (GRUZ-REQ12) requires a 2km setback in these instances. Overall I consider that 500m from a sensitive activity strikes a balance between allowing helicopter operations to take place in GRUZ whilst limiting the ability for the activity to establish near sensitive activities and do not change my original recommendation in the S42a report.

Clover Hill– in relation to Aircraft Movements and Noise

7.14. Clover Hill[19] tabled evidence but did not appear at the Hearing. Whilst supportive of most of the changes recommended they did not support the recommendations in the S42a report relating to GRUZ-R28 and GRUZ-REQ13. The Trust considers that the Canterbury Gliding Club history shows that compliance with noise rules is an appropriate method for managing the effects of airfield activities and that the advantage of utilising noise limits is that it provides flexibility for variation in aircraft noise characteristics and flight numbers, rather than using the relatively blunt tool of limiting aircraft movements. Further the Club experience is that quieter modern aircraft are able to comply with noise standards, with higher numbers of aircraft movements than that proposed in the PDP rules, and appropriately manage effects on rural amenity values.

7.15. In the S42a report, I note that the general day time noise standard in the PDP is an average and not well suited to frequent day time flight operations on any certain day and which may peak at certain times. Flight operations can usually comply with this standard. I note in the Right of Reply for the Noise Hearing that there is recommended to be an exemption for aircraft from the application of the zone noise limits due to this limitation of using the zone noise standard to adequately manage noise from airfields/helicopter landing areas. Therefore control on noise is to be managed exclusively through setbacks from sensitive activities and restrictions on aircraft/helicopter movements. This approach is similar to that used in Queenstown Lakes District (QLD) except that setbacks, flight limits and a noise standard are all used in combination, a relatively conservative approach. Overall I consider the approach taken in the PDP, which has been tested through the QLD Plan process, to be an appropriate compromise.

[19] DPR-0297.001-006

8. NCFF – in relation to multiple issues (including submission points by David Mitton and Mike Ransome on Minor Residential Units)

8.1. NCFF[20] tabled evidence but did not appear at the Hearing. Whilst supportive of most of the changes recommended they requested a few additional changes, consistent with the points made in the original submission:

8.1.1. Amending 'building' to 'buildings' in the definition of Seasonal Worker Accommodation as set out in the S42a report to include the situation where there is more than one building housing workers. I agree that this is change is warranted and fits within the intent of the definition. An amendment is proposed using Clause 16 (2) RMA.

8.1.2. Strengthening the Overview to state that rural landscapes 'do' include rural production activities rather than 'can' include rural production activities. However I notice that the term 'rural production activities' as used in the Overview includes 'mineral extraction'. Mineral extraction is not part of rural production but is part of primary production. On reflection, I consider it would be more appropriate to delete 'rural production activity' in the Overview and list the specific activities that occur: e.g. agricultural, pastoral, horticultural, mineral extraction and forestry.

8.1.3. Amending GRUZ-P1 to delete maintaining a 'predominance of vegetation cover'. NCFF state that the requirement could be misinterpreted as rural production activities may need to clear vegetation cover to increase production, sow new crops or renew pasture. In the S42a report I recommended this point was rejected on the basis that this is a relevant feature of GRUZ. There are no specific rules that manage vegetation clearance in GRUZ which would prevent the removal of exotic species (indigenous vegetation clearance is managed in the EIB Chapter). However given that most of GRUZ is covered in vegetation (e.g. grass) which is tied to productive rural land use (e.g. pastoral farming), it is appropriate to recognise this in the policy.

8.1.4. Amending GRUZ-R6 to remove the maximum distance of 30m. NCFF state that there are a myriad of reasons why it might be needed to have a minor residential unit more than 30m from a principal dwelling, including the need for privacy. I note that it is not entirely clear from the rule whether the 30m maximum distance applies from the building curtilage or whether the entire minor residential unit must be within 30m. I recommend this is clarified in the rule. I still believe that 30m is appropriate, given the need to 'anchor' a unit to the principal dwelling. However I note that the matters of discretion in the recommended restricted discretionary activity rule could be expanded to enable a number of other matters which might be of benefit to both resource consent applicants and Council. This includes (1) The ability to mitigate any adverse effects by way of provision of landscaping and screening

[20] DPR-0422 Various

and (2) The location of the unit in relation to the principal dwelling – whether the breach is of a minor nature or whether the unit is to be located far from the main dwelling.

8.1.5. David Mitton[21] and Mike Ransome[22] appeared at the Hearing to discuss a similar point, as set out in their submissions. Whilst the above amendment is unlikely to fully address the relief sought in their submissions to delete the 30m requirement, it may at least allow an applicant to make a broader merit based case as to why the minor unit should be situated further away.

8.2. The various amendments are set out in **Appendix 2**. It is not considered that the amendments are of a scale that require a s32AA.

9. Other Matters

AgResearch in relation to the definition of 'intensive indoor primary production'

9.1. AgResearch[23] agreed with most of the recommendations of the S42a report however request that Council consider excluding 'the accommodation of 30 cattle or less' from the definition of 'intensive indoor primary production' consistent with the permitted activity status of this activity under the CARP. The Decision Report and Recommendations of the Hearing Commissioners for the CARP justified introducing the cattle permitted threshold on the basis that *"the rule could capture a variety of animal health and research facilities that would not be of a scale to give rise to appreciable odour effects"*[24]. Whilst I agree with this point, I do not believe there is scope to make this change as this was not the subject of a submission point by AgResearch nor any other submitter (the submission point by AgResearch was for the same setback of 500m as is in the CARP to be applied to cattle sheds with over 30 cattle).

ESAI – in relation to a minor amendment to the definition of a 'conservation activity'

9.2. ESAI[25] tabled evidence but did not appear at the Hearing. Whilst supportive of most of the changes recommended they requested an additional change, consistent with a point made in the original submission. This was to amend the definition of conservation activity in the following way (bolded text emphasised by the submitter): '*the use of land for <u>any activity undertaken for the purposes of</u> the management, maintenance and enhancement of <u>natural, historic and/**or**</u> ecological values*.' This is so that natural, historical and ecological values can be considered as either singular or combined values. I agree with this change as within the intent of the definition and recommend it is adopted.

MoE – in relation to rural schools

[21] DPR-0314.001-002.
[22] DPR-0184.001-003
[23] DPR-0342.006-021
[24] Paragraph 315" of the "Report and Recommendations of the Hearing Commissioners" regarding the Proposed Canterbury Air Regional Plan.
[25] DPR-0212 Various

9.3 .With regard to the submission by MoE[26], I note the additional evidence tabled at the Hearing however I am not persuaded to amend my original recommendations in the S42a report.

10. Rural Service Precinct – in relation to Ceres Ltd

10.1. Ceres[27] presented Planning, Landscape and Legal evidence. Overall I was supportive in the S42a report of the proposed precinct and most of the proposed provisions by the submitter.

10.2. One issue where I sought further clarification from the submitter was over the matter of whether a 20% building site coverage maximum permitted threshold was sought regardless of site size. This was on the basis that a site formed within the precinct that was under 1ha could be subject to the GRUZ underlying zone standard of 35% or 500m^2, which may in fact be more generous than 20% depending on the site size. Ms Rykers has stated that the intention is for 20% to apply on any site formed or present in the precinct and there is no intention in any case to amend the subdivision rules that require a minimum of 4ha in size in SCA-RD1. It is of note that both sites in the precinct are already below 4ha and are subject to various other constraints that would impede further subdivision. Overall, I agree with the submitter that 20% is appropriate, taking into account the purpose of the precinct and level of development that is anticipated to be more intense than the underlying GRUZ zone. However, there are some issues with allowing this and the NPS-HPL (see below).

10.3. In terms of tree planting under transmission lines, I acknowledge that the Electricity (Hazards from Trees) Regulations 2003 will apply. Given the specific constraints of the site and presence of the Transpower lines, an advice note would be useful.

10.4. Landscape evidence from Ms Manaway does dispute Mr Head's peer review of the landscape plan that accompanied the submission. Mr Head recommended a 10m landscape strip around the perimeter of the sites compared with the 5m in the landscape plan. Ms Manaway states that the previously consented planting plan at Nor West Contracting on the southerly site (Area 2) comprised a 6m planting strip except the western boundary where a 3m strip was utilised (due to constraints with the Shands Road embankment). She states in her evidence that a consistent 6m strip around the sites, except 3m at the western boundary, would be appropriate due to the nature of the site and how it would be viewed from nearby roads.

10.5. From a planning perspective, I acknowledge the existing consented landscape plan and site constraints and agree that it would be preferable to align the width of the landscape strip with what has already been considered and consented previously. I therefore recommend a 6m strip is adopted around both Area A and B, except 3m on the western boundary with Shands Road.

10.6. In terms of the height of the trees, the consented landscape plan for Area 2 requires planting 12m in height with a 4m height (on a bund) along the southern boundary to avoid shading. Mr Head

[26] DPR-0378.027
[27] DPR-0346.001-017

recommends a height of 8m at one tree per 10m of road frontage, which Ms Manaway agrees with. I also agree with Ms Manaway however that tree shading could be a concern and it is preferable to limit the height of trees on the southern boundary of the sites to 4m.

10.7. There is some disagreement between the experts over the need to include tree planting to compensate for areas of hardstand. Mr Head recommended one tree per 50m^2 of hardstand to integrate the proposal with the rural zone, which Ms Manaway considers excessive and not necessary given the immediate developed surroundings of the site. Ms Manaway's proposal to limit hardstanding to 45% of total site area to retain openness is I believe appropriate as the surrounding area is not characterised as being particularly vegetated and retaining a sense of openness is most important. Again this would be under the proviso that the use is not inconsistent with the NPS-HPL.

10.8. There is also some disagreement between the experts over the placement of fences. Mr Head sought that fences should be located at the midpoint of the landscape strip. Ms Manaway stated that the most likely fencing around the site (except the acoustic fence fronting the motorway) will be permeable and this is unlikely to affect visual amenity. I note that the height of the fence would be limited to 2m under GRUZ-REQ4 which requires a setback of 10m or more for structures except (among other things) fences less than 2m in height for road boundaries. A condition could be inserted that requires that all fences (other than those fronting the CSM) to be permeable if the Panel are minded although there is not this requirement elsewhere in GRUZ. Overall, I recommend in the context of the site, that there are no controls on fencing beyond what is already provided for in the GRUZ Chapter.

10.9. Turning to the NPS-HPL, the site is mapped as having Class 2 soils. Whilst the proposed precinct does not constitute urban rezoning under cl.3.6 of the NPS-HPL as the land is to remain as GRUZ, the proposed change does not constitute a productive use of the soil for rural production activities (cl.3.9). It does enable the continuation of established consented activities such as a maze, where a resource consent granted in 2018 is still active and a contractor's yard, where consent was granted in 2021 (cl.11). However other uses could be enabled on site that do not accord with cl.3.9 (for instance rural industry or rural tourism) and potentially larger areas of the site could be taken out of rural productive use.

10.10. I believe there are valid long-term constraints that could meet cl3.10 as the site is unique and fragmented, divided by the Christchurch Southern Motorway and far too small to support large scale rural production activities. This is discussed to some extent in the s32 report accompanying the Ceres submission (which predated the NPS-HPL) where it is stated that the sites have not been used for traditional primary production for 34 years and have been characterised by activities with larger building footprints and hardstand areas and, that the area is also non-contiguous with other productive land. [28]It is important to add however that this does not constitute a full assessment under the NPS-HPL in terms of satisfying cl.3.10. The submitter may however provide additional evidence to address this by the 10 February 2023 (as per **Minute 30**).

[28] http://teamspace/sites/consultation/DPR/Shared%20Documents/PDF%20for%20markup%20Ceres%20Professional%20Trustee%20Company%20Ltd%20and%20Sally%20Jean%20Tothill.pdf

11. Rural Density (including Minor Residential Units)

Andover Ltd - in relation to rural density at 42 Gerkins Road[29].

11.1. Andover Ltd[30] provided landscape evidence in the Hearing to support their submission to retain SCA-RD1 at 42 Gerkins Road, Tai Tapu and remove SCA-RD4, SCA-RD5 and SCA-RD6 which also cover the same site. The main issue is with SCA-RD5, which is the application of VAL above the 60m contour line at a site density of 1:40ha. SCA-RD1 and SCA-RD4 are the same density so will not impact on the ability to develop the site and SCA-RD6 which relates to ONL is very marginal, being a small slither of land on the southern boundary of the site.

11.2. The landscape evidence by Ms Moginie finds that, in her opinion, the site can support a 1:4ha density, regardless of the application of the 60m contour. Further she states at [11] of her evidence that whilst the 60m line is a defined boundary relevant to rural density based on a broad scale landscape character assessment (combined to include the relationship of landform, land cover and land use) within these broad factors there are many variables and, in this instance the 60m contour does not relate to the existing rural landscape character and amenity values and landscape values in the immediate area surrounding Gerkins Road (noting the nearby Rocklands development which is of a higher density).

11.3. Mr Bentley, having reviewed Ms Moginie's evidence, agrees (attached as **Appendix 3**) with the description of the receiving environment in paragraphs 35-48 of her evidence and that the landscape values of the Site are predominantly associated with the open rural farmland character, where the Site retains moderate levels of naturalness.

11.4. The key issue here is the purpose and application of the 60m contour, accepting that landscape assessed as being VAL can be of similar characteristics (as Ms Moginie has assessed) at points above and below the 60m contour. The 60m contour was seen as a compromise to an original proposal that would have seen densities set entirely on mapped landscape values. The 60m contour is akin to the boundary of the Inner Plains and Port Hills Zone in the Operative District Plan – below the 60m contour a 1:4ha density applied and above 60m a 1:40ha density applied. In this it reflects a general presumption that the lower down the slope, there is a reduced effect on amenity as development will be less prominent as well as the fact that there is a greater degree of development already present as the land transitions into the Inner Plains zone. The status quo under the Operative District Plan would see the majority of the site (that upwards of the 60m contour) be classified as 1:40ha.

11.5. The question is, if the relief is accepted, would it erode the purpose and integrity of the 60m contour? There is some tension with the retention of the use of the 60m contour to determine densities as it reflects quasi-landscape principles which conflates with the intended purpose of using mapped landscape values to drive density. As Mr Bentley states the 60m contour line on this Site

[29] The site is not in an area of mapped highly productive land and therefore the NPS-HPL is not considered to apply.
[30] DPR-0444.001-006

does not contribute in anyway in determining the existing landscape value (and therefore appropriateness of potential development). The lack of a firm landscape basis for the 60m contour makes it of limited benefit where a site specific landscape assessment has been undertaken, as is the case here. Therefore the use of the 60m contour is not defensible to site specific landscape assessments which demonstrate that the effects on landscape would only be affected in a minor way to a change in density.

11.6. Mr Bentley agrees with Ms Moginie that the Site does have capacity from a landscape and visual perspective to accommodate an additional dwelling however he caveats this by stating that the bold grassy spur is a distinctive feature of the Site and any form of development that would interrupt or be discordant with the openness of this spur, should be avoided. Careful site analysis is required to ensure that any new house site is located in a way that maintains the amenity of the VAL. In addition to location, further controls on planting, building height and colour could also assist.

11.7. The alternative to specific recognition in the PDP would be to seek resource consent which would default to a non-complying activity under the rules of the PDP on rural density (GRUZ-R5.3). As stated, density in the Port Hills area is largely landscape driven. In a practical sense, it has already been demonstrated through the landscape assessment that the effects on landscape values from the proposed density increase are tolerable provided (as Mr Bentley states) careful siting and landscape integration. However given GRUZ-P2 adopts a strict 'avoid' approach on rural density (subject to very few exceptions) it gives to uncertainty about whether such a consent would be approved despite the landscape analysis.

11.8. Mr Bentley comes to the same conclusion and states that the preferred approach to dealing with landscape density, especially on this Site, is through thorough landscape assessment, examining the Site's distinctive character and values and ability to absorb further change. The consenting framework creates an arbitrary line presenting a range of density opportunities which may not create good landscape outcomes.

11.9. Given this, I recommend that the relief is accepted in part. The application of SCA-RD4 however as proposed by Ms Moginie would be confusing in my opinion as this relates to land below the 60m contour. I recommend that the site be designated a new SCA-RD19 at 1:4ha (42 Gerkins Road). Taking into account Mr Bentley's concerns on appropriate siting and screening, I recommend that development of a residential unit is subject to a restricted activity consent to control bulk, location and screening to maintain the amenity of the VAL.

11.10. Overall I do not believe this approach will set a precedent as all future proposed residential activity that departs from the density standards in the PDP will still have to be assessed on a case by case basis taking into account effects on landscape values and compliance with strict rural density policy in the GRUZ Chapter.

11.11. The amendments are shown in **Appendix 2**. The changes are addressed in the general s32AA assessment in Section 14. As a final comment, I note that the site is not highly productive land as shown on Canterbury Maps and therefore not subject to the NPS-HPL.

Glen MacDonald, Hugh and Thomas Macartney & Families

11.12. With regard to submissions by Glen MacDonald, Hugh and Thomas Macartney & Families, I note the additional evidence tabled at the Hearing however I am not persuaded to amend my original recommendations in the S42a report.

The Stations – in relation to building nodes and density

11.13. The Stations[31] (through Ms Harte) tabled a statement and appeared at the Hearing reaffirming their submission point seeking that there be no requirement to meet the density requirements in the High Country where development is to take place in a Building Node. The rationale is that this approach acknowledges that these nodes are part of the historic character of high country stations and that building within these nodes is building in an area that can absorb change. I agree with this sentiment.

11.14. I recommended in the S42a report that the requirement that balance land is located at least along 50% of the site boundary not apply where the proposed balance site is in the high country. This was to recognise the complicated land tenure arrangements that exist in the High Country where much of the land is owned and leased by the crown. I also noted that, as a response to HortNZ's submission point, a framework for seasonal worker accommodation would be beneficial to High Country Stations.

11.15. Whilst acknowledging that enabling seasonal worker accommodation would be helpful in the High Country for part time workers such as shearers and hunters, the Stations state that it would not address the point about permanent accommodation. In addition the greater flexibility on meeting balance land requirements (by not requiring that 50% of the balance site adjoin a site boundary) does not address the more fundamental issue of having freehold land of sufficient size to meet the need for additional residential units and to provide balance land.

11.16. The Stations are correct that the intent of the PDP in the NFL Chapter is to concentrate development into building nodes. The NFL Chapter also seeks a low sense of human occupation (NFL-P1(c)). The GRUZ Chapter contains restrictive policy that seeks to avoid the development of residential units on sites that are smaller than the required minimum site size with several narrow exceptions. Whilst it is desirable for development is to be concentrated into building nodes, there must still be an overall sense of low human occupation. Therefore I am concerned that dispensing with density standards in favour of allowing the building-up of building nodes may not appropriate in ONL and VAL (where High Country Stations are typically located) without careful assessment. However, I accept the point that there may be no opportunity to source balance land if no freehold land is available. I therefore recommend that any additional residential unit in a building node be a discretionary activity, where no balance land is available through and amendment to GRUZ-R5. This should only be where the residential unit is necessary for the continued maintenance and operation of the station. An

[31] DPR-0144.004

amendment to GRUZ-P2 is also necessary to provide an exception to the 'avoid' regime in the circumstances to be outlined in the new rule.

11.17. The amendments are shown in **Appendix 2**. The changes are addressed in the general s32AA assessment in Section 14.

Philip J Hindin – in relation to historic grandfather clause rights

11.18. Phillip J Hindin[32], tabled a statement at the Hearing seeking that historic grandfather clause rights are retained. He cited a particular example at Bankside which was created in 1886 and sits at 9.2Ha, therefore undersized when compared to both the current Operative District Plan (20ha) and PDP (increased to 40ha for SCA-RD3)[33]. The situation described by the submitter, where there are already house foundations on the site, is somewhat of a unique example. The submitter could seek a Certificate of Compliance, to enable the continuation of grandfather clause rights under the Operative District Plan for another five years. Overall however, I see no reasons to amend my original advice in the S42a report that these historic grandfather clause rights not be carried over into the PDP.

12. Recognition/Protection of Important Infrastructure

Transpower – in relation to avoiding reverse sensitivity activities on important infrastructure

12.1. Transpower[34] provided a statement at the Hearing. Their chief concern was that GRUZ-O1 as drafted appeared to prioritise primary production over all activities in GRUZ, including important infrastructure. They recommend an amendment to clause 2 of GRUZ-O1 which would delete the word 'other' and insert 'residential, commercial or industrial' so as to make it clear that this does not include activities such as important infrastructure. In the S42a report, I stated that important infrastructure is provided for in the EI Chapter and, under the NPS, the provisions need to be standalone in that Chapter. I also had concerns with the proposed wording by Transpower as these might miss sensitive activities not considered to be residential, commercial or industrial (e.g. a school). However as discussed in relation to hearing evidence by CIAL, LPC and Manawa Energy, an amendment is recommended to include 'important infrastructure' in GRUZ-O1 and GRUZ-P7 to support provisions which seek to manage reverse sensitivity effects on important infrastructure from activities in the rural zone and to support Plan consistency. I therefore recommend the submission point is accepted in part – that important infrastructure is given greater recognition in the objective and policy framework of the GRUZ Chapter in terms of the avoidance of reverse sensitivity effects.

[32] DPR-0080.001
[33] A grandfather clause applies to development in SCA-RD3 enabling the development of sites at the Operative District Plan standard of 20ha.
[34] DPR-0446.122

12.2. The amendments are shown in **Appendix 2**. The changes are addressed in the general s32AA assessment in Section 14.

Orion – in relation to the location of corridor protection structure provisions and setback from Significant Electricity Distribution Lines from trees

12.3. Orion[35] maintain the stance that corridor protection provisions should be located in the relevant zone chapters (such as GRUZ), not in the EI Chapter. However I disagree as I consider that the appropriate place is in the EI Chapter, as per direction in the NPS[36]. This is consistent with the discussion and conclusions reached by the author of the EI Chapter in the S42a report for that Hearing. Orion also state that if this is not accepted, appropriate cross referencing between the GRUZ and EI Chapters should be included to provide for corridor protection provisions. This would need careful consideration as there are other activities where setbacks are required from important infrastructure, including the National Grid and renewable electricity generation activities. If this relief was accepted, corridor protection rules would need to be restructured in the EI Chapter as rule requirements with links from relevant activities in the zone chapters. It may therefore be simpler for these provisions to remain as a rule in the EI Chapter.

12.4. Orion also raise the issue about protecting Significant Electricity Distribution Lines (SEDL) from Trees – there are currently no rules to manage this activity in the PDP. Generally speaking, the PDP has avoided duplicating other standards where they manage an activity. The Electricity (Hazards from Trees) Regulations 2003 (the Regulations) provide a management tool for trees in close proximity to electricity lines and provide avenues for lines companies to enforce compliance, for example where the owner of a tree allows it to impinge the growth limit zone prescribed in the Regulations. As I understand it, as reported in Mr Heyes summary of evidence and Ms Foote's Evidence in Chief, the Regulations are deficient in some regard and the electricity distribution industry have been lobbying Central Government for a review of the Regulations however this has not yet occurred. Ms Foote suggests that the Regulations are a better tool for managing existing trees, where notices to trim to landowners can be issued, rather than managing new plantings in close proximity to SEDL which would be more suitable for a corridor setback rule in the PDP. In essence, the PDP can prescribe setbacks of new plantings from SEDL, whereas the Regulations cannot prescribe setbacks for plantings but rather can manage the encroachment of tree branches into the growth limit zone.

12.5. In considering this issue, I reviewed the background as to why the PDP included corridor protection rules on buildings, structures and fences as this is an issue addressed by NZECP34:2001 (New Zealand Code of Practice for Electrical Safe Distances). Council commissioned legal advice on the relationship of NZECP34:2001 and the provisions Orion sought in pre-notification consultation during the district plan review in relation to setbacks for buildings and structures from Orion owned assets. In essence, legal advice found that there needed to be good evidence why Orion provisions are more onerous than that referenced in NZECP34:2001 however it was appropriate to include those rules relating to

[35] DPR-0367.128-134

[36] *5. Provisions relating to energy, infrastructure and transport that are not specific to the Special purpose zones chapter or sections must be located in one or more chapters under the Energy, infrastructure and transport heading. These provisions may include… c. the management of reverse sensitivity effects between infrastructure and other activities.*

safe distances into the PDP with reference to NZECP34:2001[37]. It would seem that the preference for Orion is a setback distance of 5m for buildings and structures from all SEDL (excluding the double circuit 110kV Islington to Springston line which runs on towers) which is actually less onerous than the 6-8m in the NZCEP34:2001.

12.6. Upon review of Ms Foote's proposed rule for trees, it appears that the 5m is about equal with the notice zone given to landowners in the Regulations for 50kV electricity distribution lines or greater. A SEDL in the PDP is defined as being greater than 33kV. Under the Regulations, a 3.5m notice zone is mandated for a 33kV electricity distribution line. Orion have however advocated generally (refer to the evidence of Mr Harris submitted for the EI Chapter Hearing[38]) for a stricter setback for SEDL as many 33kV have the capability to be upgraded to 66kV and a stricter setback would futureproof protection of the asset. Most of the existing SEDL network runs in the road reserve although there are also some lines that run over property boundaries.

12.7. The main issue, as I see it, would arise from boundary plantings such as shelterbelts which often run close to the road boundary where power lines are located. Other larger scale planting activities managed in GRUZ include amenity planting, woodlots, conservation activities and plantation forestry. The management of these specific activities are height restricted in relation to the approach and take-off vectors for Springfield Airfield and West Melton Aerodrome. I therefore agree with the principle that some control could be exercised over larger planting type activities through setback requirements in the PDP. I am unconvinced that the planting of every individual tree needs to be controlled however as the Regulations appear suited to manage this type of activity. Plantation forestry is also managed separately under the National Environmental Standards for Plantation Forestry (NES-PF) where setbacks are provided for (though not specifically from power lines)[39]. The imposition of a setback would be more onerous than the Regulations but I agree that they serve to manage different aspects of the issue – a setback in the PDP to restrict the problem arising in the future and the Regulations to control the problem as it is now.

12.8. It appears that the rule proposed by Ms Foote in her summary evidence statement is for inclusion in the GRUZ Chapter. Given that the NPS require that infrastructure related provisions should be in the EI Chapter, I consider a rule requirement in the EI Chapter, appropriately cross-referenced from the activity rules in the GRUZ Chapter is the most appropriate structure. I note that for CIAL, LPC, Transpower and Manawa Energy, I am recommending that consideration of important infrastructure is included in the objectives and policies of the GRUZ Chapter in addition to provisions to protect CIAL and LPC assets from reverse sensitivity from noise. However, for reasons of Plan efficiency, as corridor protection rules for structures have been included in the EI Chapter, I consider this should also be the case for trees.

[37] https://www.selwyn.govt.nz/__data/assets/pdf_file/0009/294228/1-Preferred-Option-Document-Orion-Protection.pdf (Appendix 5)
[38] https://extranet.selwyn.govt.nz/sites/consultation/DPR/Shared%20Documents/Hearing%204%20Energy%20&%20Infrastructure%20-%20Evidence/Hearing%204%20Submitter%20evidence/DPR-0367%20Orion%20New%20Zealand%20Limited%20-%20Simon%20Harris.pdf
[39] 10m from a boundary under cl14.1a where the boundary is owned by a different landowner, unless plantation forest is on the neighbouring land.

12.9. The amendments are shown in **Appendix 2**. The changes are addressed in the general s32AA assessment in Section 14.

Manawa Energy – in relation to the lack of guidance in GRUZ on important infrastructure

12.10. Manawa[40] (submitting as Trustpower) tabled evidence but did not appear at the Hearing. The key matter of contention is that they do not believe that EI-P6 provides sufficient direction to Plan users that reverse sensitivity effects on important infrastructure are to be avoided in the zone chapters such as GRUZ (where their assets are located). This is based on the submitter's belief that there is a lack of cross referencing between the GRUZ and EI Chapter and, as such, there is a lack of guidance for activities taking place in GRUZ to avoid adverse effects on important infrastructure. The NPS direct that provisions relating to infrastructure are to be included in the EI Chapter. However, I have accepted the case by CIAL and LPC that stronger protection is needed in the GRUZ Chapter to avoid reverse sensitivity effects on Christchurch International Airport and the Port at Izone, both important infrastructure. Given this specifically relates and is tied to controls on landuse activities in the GRUZ Chapter, it would improve plan usability in this instance to include 'important infrastructure' in GRUZ-P7 on reverse sensitivity rather than relying on EI-P6 separately. I therefore recommend that the submitter's relief is accepted for this particular point.

13. Water storage capacity for firefighting - FENZ

13.1. FENZ[41] provided further planning evidence on the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (the 'Code of Practice'). A representative from FENZ was also present to explain the operational requirements that have informed the development of the Code of Practice. The key points in their evidence were that:

13.1.1. Fire is an effect under s3 RMA that includes low probability, high impact events such as fire. Provision for water supply to fight fire is a preventative mitigation measure for this effect.

13.1.2. The Code of Practice provides more certainty as to what standards would be appropriate, is nationally recognised and is flexible enough to consider each development scenario and an appropriate level of water supply. It may not be necessary, for example, to require a 40,000 litre tank depending on site specific variables and one water storage solution could supply firefighting water to an entire development.

13.1.3. There are other examples of preventative mitigation measures in district plan provisions, for example the application of standards for required minimum separation distances from telecommunications and electricity transmission infrastructure and flooding overlays.

[40] DPR-0441.142-153
[41] DPR-0359.065

13.1.4. Other district councils such as Christchurch City Council and Hurunui District Council include rules for the management of fire risk in compliance with the Code of Practice where a reticulated source of water is not available.

13.2. I also note that s6 RMA was amended in the Resource Legislation Amendment Act 2017 to include a new matter of national importance, s6(h), the management of significant risks from natural hazards of which fire is a constituent.

13.3. The Canterbury Regional Policy Statement (CRPS) requires a general risk management approach through Policy 11.3.5 for natural hazards not otherwise addressed in the policy statement (which includes fire). Policy 11.3.5 requires that both the likelihood and potential consequence of a natural hazard event must be considered and when there is uncertainty, a precautionary approach shall be adopted.

13.4. The PDP adopts a precautionary approach to wildfires by managing setbacks between shelterbelts and habitable buildings for the purpose of wildfire prevention through requiring a setback of 30m between a new shelterbelt and an existing habitable building. The S42a report for the Natural Hazards Chapter recommends this goes further and that there is also a reciprocal setback between new residential buildings and existing shelterbelts. The PDP does therefore attempt to manage the risk of fire to private property although this is the spread of wildfires rather than fire arising from the property itself.

13.5. The basis for a 40,000 litre tank which is mentioned in the S42a report for GRUZ is through Table 1 – Method for determining required water supply classification (p19) and Table 2 – Method for determining firefighting water supply) in the Code of Practice. Non sprinklered family homes are required to provide a 45m^3 (roughly 45,000 litre tank) within a distance of 90m from the dwelling. Appendix B to the Code of Practice includes alternative methods of firefighting which must be followed to ensure accessibility and usability of alternative firefighting water sources. This should be discussed with FENZ personnel.

13.6. The cost of a 45,000 litre tank is likely to be between $5-6000[42] based on having to provide two 25,000 litre water tanks (as no 45,000 litre water tank is currently available for purchase in New Zealand), which is a significant cost for a property owner. A coupling may also be needed which could cost approximately $1,500 and hardstand and access to the tank may also be required which will need to support the weight of the fire appliance. In addition, the water cannot be used for an alternative use as the water must always be available for firefighting.

13.7. This issue was the subject of a recent Plan Change in the Kaipara District Plan and subsequent Environment Court appeal and issued consent order (Fire and Emergency New Zealand vs Kaipara District Council ENV-2018-AKL-00012) which removed the need to comply with the Code of Practice at the time of building and introduced a new risk based approach. The Plan Change was a response

[42] https://www.kaipara.govt.nz/uploads/districtplan_operative/planchanges/s42A%20report%20KDC%20PC4%2018%20July%202017%20FINAL.pdf Page 25

to feedback the Council had received on the cost of compliance with the original Kaipara District Plan rule that required adherence to the Code of Practice however rather than a 45m^3 minimum storage volume, FENZ frequently agreed to a lesser amount of 10m^3 through a resource consent. A minimum storage requirement was eventually rejected by the Hearings Panel decision for the Plan Change (upheld in the Environment Court decision) for the following reasons

13.7.1. Storage is often in a position on a site where it cannot be accessed during the fire;

13.7.2. The length of time it takes to reach a building that is on fire;

13.7.3. The often unsightly nature of water storage tanks on individual sites;

13.7.4. The limited risk of fire occurring.

13.8. These are issues that I believe are applicable to the Selwyn context – rural properties can be remote and the time it takes to reach them may negate the benefits of providing a water tank. In addition, whilst fire can be catastrophic the actual risk to property and life is low (in Kaipara District, the annual risk of a fire was estimated at 0.0023% for a residential dwelling). Water tanks may also be unsightly, particularly in an ONL or VAL. Overall I am not convinced that mandatory requirement with the Code of Practice is the most efficient or effective method of reducing the risk from fire.

13.9. Retained wording in the Kaipara District Plan consent order included a requirement that buildings must not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes. An advice note also recommended either a fire sprinkler system or that sufficient water supply is provided if a sprinkler system is not being installed (with reference to appropriate New Zealand Standards).

13.10. Whilst setbacks are an important mechanism for reducing the risk from wildfire, which is the primary natural hazard derived fire risk in Selwyn District and can affect many properties, I am not convinced that there is the same policy imperative to manage property specific fire. Even if there was, I do not believe that adherence to the Code of Practice is an efficient method of managing the issue as the cost of compliance is high relative to the risk that is low. Additionally the utility of using the water tank during a fire response may be limited.

13.11. The proposed wording as agreed by the consent order that requires that any building does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes does appear to be a sensible inclusion however there may not be scope within the FENZ submission to include this within a rule/rule requirement in the PDP. An advice note could however reference the Code of Practice and NZ Standards on fire sprinkler systems as per the agreed outcome in the consent order. I therefore recommend an amendment to GRUZ-R3 accordingly.

13.12. The recommended amendment is shown in **Appendix 2 in GRUZ-R3.** The scale of this change does not require a s32AA assessment.

14. S32AA assessment

14.1. The following points evaluate the recommended amendments under S32AA of the RMA. Amendments to the provisions set out in the Officer's Reply Report are proposed to:

14.1.1. Improve clarity and ease of use for Plan Users.

14.1.2. To more effectively and efficiently facilitate rural production activities (and activities associated with this) in GRUZ.

14.1.3. To protect important infrastructure, such as the Airport and Port from reverse sensitivity effects from noise sensitive activities that seek to locate in GRUZ.

14.1.4. To protect Significant Electricity Distribution Lines from potentially incompatible activities.

14.1.5. To facilitate minor density changes whilst protecting important landscape values.

14.1.6. To protect rural production activities from reverse sensitivity effects from sensitive activities.

Effectiveness and efficiency

14.2. I consider that the amendments recommended in this report would be a more effective and efficient way to achieve the objectives, compared to the notified version and the versions included in the S42a report. The amendments will facilitate rural production and activities that service rural production, align protection of important infrastructure with higher order planning documents (such as the CRPS), protect rural activities from reverse sensitivity effects and enable minor density changes, provided landscape values can be protected.

Costs and benefits

14.3. The amendments would enable those carrying out rural production activities to make reasonable use of their land and important infrastructure operators to make reasonable use of their land and facilities.

Risks of acting or not acting

14.4. The changes are consistent with the purpose of GRUZ or are otherwise needed to give effect to higher order planning documents. A risk of not acting is that the PDP may be inconsistent with the CRPS.

Conclusion as to the most appropriate option

14.5. The recommended amendments are considered the most appropriate way to achieve the objectives and direction in higher order planning documents compared to the notified version and version included in the S42a report.

15. Reporting Officer's Proposed Provision Amendments

15.1. Amendments to officer recommendations on submission points, based on the right of reply report, are available in **Appendix 1** below (coloured yellow).

15.2. Amendments to the text of the PDP based on the right of reply report are available in **Appendix 2** below (S42a changes against the notified PDP are coloured yellow and further changes based on the right of reply report are coloured blue).