

6.2 DPR-0060 Roger and Viv Hubbard, DPR-0158 Peter Tilling, DPR-0207 SDC, DPR-0221 Jeffery Heyl & Alison Winter, DPR-0266 Richard Graham, DPR-0339 Hayley & Michael Moynihan, DPR-0355 Ellis Darusette, DPR-0404 AJ Cartwright & PA Day, DPR-0411 Hughes Developments Ltd, DPR-0459 Urban Estates, DPR-0461 Dunweavin 2020 Ltd, DPR-0465 Yoursection Ltd, DPR-0492 Kevler Development Ltd

- [19] Apart from DPR-0355 Ellis Darusette, DPR-0465 Yoursection Ltd³ and DPR-0492 Kevler Developments,⁴ no submitter evidence was provided in support of these submissions seeking a GRZ zoning. The subject land is all within the UGO⁵ and under Variation 1 it is proposed to be zoned MRZ with immediate legal effect.
- [20] For the reasons outlined in section 2 of this Report, we consequently adopt Ms Barker’s recommendation that these submissions be rejected. Having said that, we find that the land should be rezoned for residential land use.
- [21] We record that Ivan Thomson presented brief planning evidence on behalf of DPR-0461 Dunweavin 2020 Ltd, DPR-0492 Kevler Development Ltd and DPR-0355 Ellis Darusette⁶. He stated that he did not necessarily agree that as a result of Variation 1 there was no scope to be able to grant the relief being sought through submissions on the PDP for a GRZ. As mentioned above, while we agree that the land should be zoned for residential land use, as outlined in section 2 of this Report, recommending GRZ for the land would be administratively inefficient.
- [22] MON Group Limited as a further submitter provided planning evidence seeking a NCZ area fronting Lincoln Rolleston Road in accordance with their submission on PC75. That evidence was lodged prior to PC75 becoming operative and the operative provisions include an amended ODP which includes NCZ zoning. Therefore, we adopt Ms Barker’s recommendation that this further submission be rejected.

6.3 DPR-0344 Four Stars Development Ltd & Gould Developments Ltd

- [23] The Four Stars Development Ltd & Gould Developments Ltd land is subject to PC71 which sought to rezone approximately 53 hectares of rural land to residential yielding approximately 660 residential sites. An Independent Commissioner recommended that PC71 be approved in part and in August 2022 the SDC approved PC71 in part.
- [24] In terms of the PDP, the submitter is seeking to rezone land outside the Christchurch Airport 50 dB Noise Control Overlay from GRUZ to GRZ along with a Deferred or Future GRZ for land within the Christchurch Airport 50 dB Noise Control Overlay. There is no Deferred or Future GRZ specified in the National Planning Standards. We assume that the equivalent zone would be ‘Future urban zone’, which is one of the special purpose zones specified in the Standards.
- [25] Counsel for the submitter said⁷ *“It is submitted that because the operative 50 Contour is patently inaccurate and out of date, it cannot serve any useful resource management purpose”*. We

³ We note that the IHP decided to recommend zoning the Yoursection land as MRZ.

⁴ The SDC did not peer review that evidence for this hearing as the land is proposed to be zoned MRZ and so the evidence will be considered as part of Variation 1.

⁵ Under the Operative District Pland the Hayley & Michael Moynihan land at 627 East Maddisons Road was been rezoned Living Z as a result of PC76. The Urban Estates land was rezoned Living Z as a result of PC78. The Dunweavin land was rezoned Living Z as a result of PC76.

⁶ Mr Thomson did not attend the hearing and his evidence was presented by Fiona Aston.

⁷ Submissions on behalf of Four Stars Development Limited and Gould Development Limited, paragraph 2.17

acknowledge that the CIAL noise contours are being remodelled, but even if that remodelling exercise was completed, we find that the current Noise Control Overlay (as also shown on Map A of the CRPS) would remain applicable until it was amended through a Schedule 1 process.

- [26] Under section 75(3)(c) of the RMA we must give effect to the CRPS. We have no discretion in that regard. Consequently, we must give effect to the Noise Control Overlay currently contained in the CRPS.
- [27] On that basis we prefer the legal submissions and evidence from Christchurch International Airport Limited (CIAL). Counsel for CIAL submitted⁸ that *“A deferred zoning is only appropriate where the event in anticipation of which the zoning is deferred is certain to occur, or is within the power of the Council or applicant to make happen (for example, future planned provision of servicing). That is not the case here as the Panel and the Submitter do not have the expertise to predict the outcome of the [airport noise contour] peer review process, nor to direct where aircraft noise effects are felt.”*
- [28] We agree with Darryl Millar⁹ that it would be inappropriate to rezone land within the 50 dB Noise Control Overlay from GRUZ to either GRZ Deferred or Future GRZ or Future Urban Zone. To do so would rely on an as yet unknown outcome of CRC’s review of the airport noise contours. It would also not give effect to Objectives 5.2.1(f) and (g) and Policy 6.3.5(4) of the CRPS. As noted by Mr Millar¹⁰, that directive policy requires that new development should only be provided for if it does not affect the efficient operation, use, development, upgrading and safety of existing strategic infrastructure, *“including by avoiding noise sensitive activities within the 50dBA Ldn airport noise contour for Christchurch International Airport, unless the activity is within an existing residentially zoned urban area...”*. As we know from *King Salmon*, the phrase ‘avoiding’ has its ordinary meaning of ‘do not allow’.
- [29] From the verbal evidence presented by CIAL at the hearing, we understand that the process for amending the airport noise contours involves firstly the completion of noise contour modelling, followed by the inclusion of any new contours in the GCP spatial planning exercise that will be a precursor to a change to the CRPS. That CRPS change is scheduled for notification in December 2024 and it will thereafter follow a Schedule 1 process and eventually become operative. Following that the Selwyn District Plan would be changed to reflect any new contours included in the then operative CRPS in an amended CIAL Noise Control Overlay. That District Plan change will then need to follow a First Schedule process. The result is that it could be quite some time before the SDP has an amended Noise Control Overlay that can be considered in rezoning decisions.¹¹ At the hearing counsel for the submitter made the same point.
- [30] We find that the land within the current Christchurch Airport 50 dB Noise Control Overlay should remain GRUZ. We note that to be consistent with Variation 1 which retains that land as GRUZ subject to SCA-RD1.

⁸ Legal submissions on behalf of Christchurch International Airport Limited, paragraph 29.

⁹ CIAL planning expert.

¹⁰ EIC Darryl Millar, paragraph 21.

¹¹ It is of course arguable that amended noise contours in an operative CRPS could be taken to ‘override’ an outdated (at that time) Noise Control Overlay in the Selwyn District Plan as the CRPS is the superior instrument.

- [31] PC71 rezoned the land outside the CIAL 50 dB Noise Control Overlay as Living Z. That land is subject to Variation 1 which proposed to rezone it as MRZ (without immediate legal effect). Submitter evidence has been provided seeking amendment to the approved PC71 ODP. However, given the PC71 land is subject to Variation 1, the SDC did not peer review that evidence as part of this rezoning hearing. It was instead considered as part of the Variation 1 process. We note that the NPS-HPL¹² was also considered as part of the Variation 1 process insofar as it relates to the land within the CIAL 50 dB Noise Control Overlay. For the land within the operative CIAL 50 dB Noise Control Overlay, the IHP recommended rejecting the rezoning of that land from GRUZ to MRZ.
- [32] The Section 42A Report author, Ms Barker, advised that for the land outside the CIAL 50 dB Noise Control Overlay, the GRZ sought by the submitter was no longer available, having been replaced by the MRZ as a result of Variation 1 to the PDP. Conversely, counsel for the submitters was of the view that notwithstanding Variation 1 we could recommend rezoning the land outside the CIAL 50 dB Noise Control Overlay as GRZ.
- [33] On the evidence we consider that the land outside the CIAL 50 dB Noise Control Overlay is suitable for residential use. However, as was discussed in section 2 of this Report, we consider that requests for GRZ are best left to the Variation 1 process. The evidence of Mr Thomson was that Four Stars Development Ltd & Gould Developments Ltd submitted on Variation 1 requesting a MRZ which enables densities in excess of 15 hh/ha on all of the PC71 land. In the event, for the land outside the CIAL 50 dB Noise Control Overlay, the IHP recommended retaining the MRZ as provided for by Variation 1¹³.
- [34] For all of the above reasons we concur with Ms Barker’s recommendation that submission DPR-0344 Four Stars Development Ltd & Gould Developments Ltd be rejected.

7 Land West of Dunns Crossing Road

- [35] In this section we address the submissions of:
- DPR-0302 Alison Smith, David Boyd & John Blanchard;
 - DPR-0358 Rolleston West Residential Limited (RWRL);
 - DPR-0392 CSI Property Ltd; and
 - DPR-0493 Gallina Nominees Ltd & Heinz-Wattie Ltd Pension Plan.¹⁴
- [36] CSI Property Ltd sought to rezone several lots fronting Selwyn and Edwards Roads from GRUZ to GRZ¹⁵. CSI Property Ltd¹⁶ sought to rezone RS 25807 and RS23614 (the property on the corner of Selwyn and Dunns Crossing Roads) from GRUZ to GRZ¹⁷. RWRL¹⁸ sought to rezone the ‘Holmes Block’ and ‘Skellerup Block’ from LLRZ to GRZ and NCZ and that the Outline Development Plans for those two blocks (zoned LLRZ in the PDP) be amended.

¹² The evidence of Ivan Thomson notes that the amount of such land potentially subject to the NPS-HPL is approximately 13 ha, of which a further 1-2ha is identified as a reserve and roading connections.

¹³ Variation 1 established DEV-RO12.

¹⁴ Gallina Nominees Ltd & Heinz-Wattie Ltd Pension Plan¹⁴ are seeking to rezone an approximate 46 hectare site at 201-236 Dunns Crossing Road from GRUZ to GRZ. The site is subject to PC82.

¹⁵ DPR-0392.002 CSI Property Ltd

¹⁶ DPR-0392.003 CSI Property Ltd

¹⁷ The submission from Alison Smith, David Boyd & John Blanchard (DPR-0302) concerns the same land in part.

¹⁸ DPR-0358.001, DPR-0358.002, DPR-0358.386, DPR-0358.387 RWRL.