

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ**

Decision No. [2026] NZEnvC 241

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First
Schedule of the Act

BETWEEN THE BROKEN RIVER TRUST

(ENV-2025-CHC-49)

Appellant

AND WAIMAKARIRI DISTRICT
COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 18 September 2026

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991 (the Act), the
Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Waimakariri District Council
is to amend the Partially Operative Waimakariri District Plan
provisions in accordance with Appendix 1, attached to and forming
part of this consent order; and



(2) the appeal is otherwise dismissed.

B: Under s285 of the Act, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by The Broken River Trust (Trust) against a decision of the Waimakariri District Council (WDC) concerning the Proposed Waimakariri District Plan (PDP). The PDP is now referred to as the Partially Operative Waimakariri District Plan (PODP).

[2] Prior to the PDP the Trust's land at 685 Depot Road, Burnt Hill, Oxford,¹ (site) was zoned as Rural Zone (RU). The Trust opposed the PDP's notified rezoning of the site to General Rural Zone (GRUZ) on the basis that it would constrain the site's development potential by increasing the minimum lot size from 4ha to 20ha; rendering any proposal to subdivide into 4ha lots a non-complying activity. The submission requested the site be rezoned as Rural Lifestyle Zone (RLZ). The rules for the RLZ impose a 4ha minimum allotment area for subdivision.

[3] That submission was rejected, and the decisions version PDP retained the site's GRUZ zoning. The Trust's appeal sought rezoning of the site GRUZ to RLZ.

Agreement reached

[4] I have read and considered the consent memorandum of the parties dated 14 August 2026 which outlines the agreement reached between the parties to

¹ Legally described as Lot 97 DP 454478 held under RT 583564.

resolve the appeal. The agreement reached involves:

- (a) inserting a Specific Control over the site (Specific Control – Rural Density 1 (SC-RD1)), to be included in the Planning Map, while retaining the GRUZ zoning of the site;
- (b) amending Policy RURZ-P1(3) and Policy GRUZ-P2 to include references to SC-RD1;
- (c) the addition of:
 - (i) an exception to rule SUB-R13 to avoid subdivision within the specific control area being subject to the GRUZ’s minimum allotment area of less than 20ha as a non-complying activity;
 - (ii) an amendment to standard SUB-S1 in Table SUB-1 to provide for a 4ha minimum allotment size within the specific control area SC-RD1;
 - (iii) an amendment to Rule GRUZ-R3 to add a specific control exception for a 4ha residential density to avoid the 20 ha minimum density requirement; and
- (d) an amendment to the Abbreviations Chapter to include SC-RD1.

[5] The relief agreed by the parties has been assessed by planners Ms Jessica Manhire and Mr Andrew Ross (the planners) who provided a joint statement of evidence dated 14 August 2026.

[6] The site is classified as Land Use Capability Class 3, as mapped by the New Zealand Land Resource Inventory, and is defined as Highly Productive Land under the National Policy Statement for Highly Productive Land 2022 (NPS-HPL). As this region has not yet been mapped in the Canterbury Regional Policy Statement in accordance with cl 3.5 of the NPS-HPL the site is considered to be Highly Productive Land (HPL) pursuant to cl 3.5(7).

[7] Relevantly, cl 3.7(1) of the NPS-HPL directs that the rezoning of HPL to RLZ must be avoided, except as provided in cl 3.10 of the NPS-HPL.

[8] The planners record that cl 3.7(1) is not strictly triggered by the parties' agreed relief because the site is not proposed to be rezoned to RLZ and will retain the GRUZ zoning. The agreed SC-RD1 will enable greater opportunities for subdivision within the site, as it would provide for a reduction in the minimum residential site size and minimum subdivision site size from 20ha down to 4ha.

[9] Nonetheless, the parties have provided a joint statement of evidence dated 13 August 2026, from Messrs Stuart Ford and Gary Walton on the site's potential for rural productivity. In summary:

- (a) the site is immediately surrounded by lifestyle properties (most of which are approximately 4ha in area) on all boundaries apart from the South East where its boundary is Depot Road;
- (b) the site has several significant permanent and/or long-term land use constraints;
- (c) the loss of HPL is not significant in the context of the surrounding HPL land and will not contribute to additional fragmentation;
- (d) the proposal mitigates potential reverse sensitivity effects on surrounding land-based primary production. This is because much of the surrounding land comprises rural lifestyle properties (most of which are approximately 4ha in area);
- (e) the socio-economic benefits of the proposal will outweigh the socio-economic costs associated with the loss of HPL land for land-based primary production.

[10] They conclude that the proposal for the site to remain zoned as GRUZ but being granted status as a Specific Control Area in the PODP meets all of the limbs in the cl 3.10 tests.

[11] Further, the planners have assessed the agreement reached in terms of s32AA RMA and consider the proposed amendments the most appropriate and effective outcome under the RMA. The planners agreed that rezoning the site to

RLZ is not appropriate and instead consider a dual zone approach of GRUZ and RLZ appropriate. They state the agreement reached gives effect to the NPS-HPL, and reduces the risk of reverse sensitivity to surrounding residential units by reducing the likelihood of incompatible activities occurring between rural production and residential units.

[12] The agreement reached also maintains the quality of the environment, sought by objective 5.2.1(2)(i) under the Canterbury Regional Policy Statement. Further, the planners agree the environmental, social, cultural and economic benefits of the subdivision, use, or development outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production.

[13] I am satisfied that the evidence addresses the scope to make the changes sought and the rational of the agreed changes in terms of s32AA of the Act. The planners have assured me that the agreement reached is the most appropriate way to achieve and implement the PODP objectives for the site, and is an appropriate outcome under the Act.

Other relevant matters

[14] There are no interested parties under s274 of the Act.

[15] No party has sought costs, instead agreeing that costs should lie where they fall.

[16] The consent memorandum records the parties' assurances that there are no issues of scope and that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act, including, in particular Pt 2.

Outcome

[17] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.

Orders

[18] The court makes this order under s279(1) of the Act, by consent, rather than as a decision or determination on the merits under s297.

[19] This order is made based on the joint memorandum recording the parties' full agreement.

[20] Based on the information provided and the assurances received, the court is satisfied that the orders will promote the purpose of the Act. Accordingly, the appeal is allowed to the extent that WDC is directed to amend the PODP provisions in accordance with Appendix 1, attached to and forming part of this consent order.

[21] The appeal is otherwise dismissed.

[22] Under s285 of the Act, there is no order as to costs.



P A Steven
Environment Judge





Appendix 1

The additional text is shown in **bold blue underline text** and the deletions are shown in ~~**bold red strikethrough**~~

Part 1 – Introduction and general provisions

Te whakamāramatanga - Interpretation

Abbreviations	
<u>SC-RD1</u>	<u>Specific Control – Rural Density 1</u>

Part 2 – District-wide matters

SUB - Wāwāhia whenua - Subdivision

Activity Rules

SUB-R13	Subdivision	
General Rural Zone	Activity status: NC Where: 1. subdivision creates an allotment with a minimum allotment area less than 20ha, except where a subdivision takes place to accommodate infrastructure <u>or is located within SC-RD1.</u>	Activity status when compliance not achieved: N/A

Subdivision Standards

SUB-S1 Allotment size and dimensions	
1. All allotments created shall comply with Table SUB-1.	Activity status when compliance not achieved: - In the Medium Density Residential Zone, any Industrial Zone and Special Purpose Zone (Kaiapoi Regeneration): DIS - In any other zone: NC
Table SUB-1: Minimum allotment sizes and dimensions The following shall apply: - For unit title or cross-lease allotments, the allotment area shall be calculated per allotment over the area of the parent site. - The subdivision is of a fee simple allotment from an approved cross lease site, where the exclusive use areas shown on the existing cross lease plan are not altered, are exempt from the minimum site sizes in Table SUB-1. - Minimum areas and dimensions of allotments in Table SUB-1 for Commercial and Mixed Use Zones, Industrial Zones, Residential Zones and the Special Purpose Zone (Rangiora Airfield) shall be the net site area. - Allotments for unstaffed infrastructure, accessway or road, excluding for any balance area, are exempt from the minimum site sizes in Table SUB-1. - Allotments for a reserve created under the Reserves Act 1977 or any esplanade reserves allotment, are exempt from the minimum, site sizes in Table SUB-1.	

Zone	Minimum allotment area	Internal square	Frontage (excluding rear lots)
<i>Rural Zones</i>			
General Rural Zone ₁ except for SC-RD1	20ha	n/a	n/a
General Rural Zone – SC-RD1	4ha	n/a	n/a
Rural Lifestyle Zone	4ha	n/a	n/a

Bonus allotment	1ha	n/a	n/a
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Part 3 – Area specific matters

Zones

RURZ – Whaitua Taiwhenua – Rural Zones

RURZ - General Objectives and Policies for all Rural Zones

Policies	
RURZ-P1	Rural character and amenity values Recognise that rural character and amenity values vary across the Rural Zones due to the combination of the natural and physical resources present and how they are utilised by primary production and other rural activities, and maintain those amenity values in the Rural Zone by: 1. requiring separation between buildings on adjoining properties to maintain privacy and a sense of openness; 2. retaining generally low levels of signs, noise, traffic, odour, outdoor lighting, and built form from activities while recognising that primary production, rural industry and other rural activities, that are part of the character of each rural zone: a. can have odour, noise, dust, traffic and outdoor lighting effects; and b. may have a functional need to utilise large buildings. 3. restricting the density of residential units and minor residential units that can be established on a site consistent with the character of each rural zone, unless a development right has been protected through a legacy provision, or is associated with a bonus allotment, <u>or is associated with SC-RD1</u>.

Part 3 – Area specific matters

Zones

GRUZ – General Rural Zone

Policies	
GRUZ-P2	Limiting fragmentation of land Maintain opportunities for land to be used for primary production activities within the zone by limiting further fragmentation of land in a manner that avoids sites being created, or residential units being erected, on sites that are less than 20ha, unless: 1. associated with the development of infrastructure which reduces the size of the balance lot or sites to below 20ha; 2. associated with the establishment of a bonus residential unit or creation of a bonus allotment; 3. the erection of a residential unit is protected by a legacy provision in this District Plan; 4. it is for the establishment of a minor residential unit, where the site containing a residential unit is 20ha or greater, or is protected by a legacy provision in this District Plan; and 5. <u>provided for as a SC-RD1; and</u> 56.it does not result in the loss of productive capacity of any highly productive land.

Activity Rules

GRUZ-R3 Residential unit	
<i>This rule does not apply to any minor residential unit provided for under GRUZ-R4 or any bonus residential unit provided for under GRUZ-R19.</i>	
Activity status: PER Where: 1. each residential unit shall be located on a site with a minimum area of 20ha, except where provided for in (3), (4), (5), (6), (7), and (8) <u>and (9)</u> below;	Activity status when compliance with GRUZ-R3 (2)(b) or GRUZ-R3 (2)(c) not achieved: DIS Activity status when compliance with GRUZ-R3 (1), GRUZ-R3 (2)(a), GRUZ-R3 (3), GRUZ-R3 (4), GRUZ-R3 (5), GRUZ-R3 (6), or GRUZ-R3 (7), or GRUZ-R3 (8), <u>or GRUZ-R3 (9)</u> not achieved: NC

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| <ol style="list-style-type: none"> 2. there is more than one residential unit on a site, each residential unit shall be contained within its own delineated area and each delineated area shall be treated as though it is a site, which shall: <ol style="list-style-type: none"> a. have a minimum area of 20ha per delineated area, and b. have no overlap between delineated areas, and c. have legal and physical access from any residential unit to a legal road; and d. comply with built form standards as though each delineated area was a site; 3. a site with a minimum area of 4ha or more, but less than 20 ha, which does not have a residential unit erected on it, existed prior to 18 September 2021, one residential unit may be erected; 4. a site with a minimum area of 4ha or more but less than 20ha, which does not have a residential unit erected on it, is subject to a subdivision consent that was granted prior to 18 September 2021 but had not been issued with certification under section 224 of the RMA, one residential unit may be erected; 5. a site with a minimum area less than 4ha exists and it is a site or an allotment that was created by subdivision and was on a subdivision consent between 1 October 1991 and 24 February 2001 (inclusive of both dates) one residential unit may be erected; 6. a site contains its own delineated area that existed prior to 18 September 2021 that has a minimum area of 4ha or more but less than 20ha, one residential unit may be erected; 7. a site with a minimum area of less than 20ha exists and is a site or an allotment that was associated with the development of infrastructure, which prior to the development of the infrastructure was 20ha or more, one residential unit may be erected; and 8. one residential unit may be established on a bonus allotment; and 9. <u>one residential unit may be established on a site with a minimum net area of 4ha or more in SC-RD1.</u> | |
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Amendments to PODP Planning Maps

Insert the Specific Control – Rural Density 1 (SC-RD1) as shown in the figure below:

