IN THE MATTER AND IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing of Submissions and Further Submissions on the Proposed Gore District Plan

---

Gore District Plan - Decisions on Submissions

Topic 26: New Vale

Hearings Panel Members

Keith Hovell

Glenys Dickson

Cliff Bolger

Maria Bartlett

Date of Hearing
23 - 24 July 2024

Index

Page

1. Introduction

1.1 Scope of this Decision 1

1.2 Abbreviations 1

1.3 Statutory Considerations 1

1.4 Procedural Matters 2

2. The Hearing

2.1 McNab Hearing 2

3. Background

3.1 Current Zoning and Consents 3

3.2 Greenbriar Submissions 4

4. Evidence and Submissions

4.1 Section 42A Report 4

4.2 Greenbriar Evidence 5

4.3 Supplementary Evidence from the Council 8

4.4 Legal Submissions 9

5. Additional Matters Raised at the Hearing

5.1 Bridget Irving 11

5.2 John Howes 11

5.3 Andrew Shultz 11

5.4 Meagan Justice 11

5.5 Michael Garbett 12

5.6 Joanne Skuse 12

6. Panel Considerations and Decision

6.1 Introduction 12

6.2 Higher Order and Other Relevant Documents 13

6.3 Approved Resource Consent 17

6.4 Precinct Boundary 18

6.5 Plan Provisions 18

6.6 Section 32AA 18

6.7 Decision 19

1 Introduction

1.1 Scope of this Decision

1.1.1 This document details the evaluation and decisions of the Hearings Panel on the submissions and evidence of Greenbriar Ltd considered in relation to the New Vale Mine.

1.1.2 This Decision is one of an integrated series of Decisions considering submissions to the Rural Zones, as follows:

- Decision 15 Rural Zones - General Provisions and Definitions
- Decision 16 General Rural Zone
- Decision 17 Rural Lifestyle Zone
- Decision 18 Settlement Zone
- Decision 26 New Vale Precinct

1.1.3 The Hearings Commissioners comprising the panel for these hearings was Commissioners Keith Hovell, Maria Bartlett, Cliff Bolger and Glenys Dickson.

1.1.4 Appendix A contains the summary of submissions of Greenbriar Ltd relevant to this Decision. Appendix B sets out changes to the District Plan provisions arising from this decision. These changes have been incorporated predominantly into the General Rural Zone chapter of the Proposed Plan, together with consequential additions to the Introductory and Noise chapters of the Plan. Changes made in response to submissions are shown in normal black font, with text either <u>underlined</u> for additions or as ~~strikethrough~~ for deletions. A reference is also provided of the decision and paragraph number giving rise to the changes in response to submissions. Amendments made to the PDP pursuant to clause 16(2) are shown in the updated District Plan chapters in a green font. Shown in a red font are consequential numbering changes arising from provisions being added or deleted.

1.2 Abbreviations

1.2.1 In preparing this decision the Panel has used the following abbreviations:

Full Text	Abbreviation
Greenbriar Ltd	Greenbriar
Hearings Panel	Panel
Mana Whenua	MW
National Planning Standards 2019	National Standards
National Policy Statement for Highly Productive Land	NPSHPL
New Zealand Transport Agency Waka Kotahi	NZTA
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under section 42A of the RMA	s42A Report
Resource Management Act 1991	RMA
RMA section	s
Southland Regional Policy Statement	RPS

1.3 Statutory Considerations

1.3.1 The Panel's Decision1 Preliminary Matters and Statutory Requirements Relevant to Decisions sets out the legal framework and requirements for preparing a District Plan, as well as case law referred to in legal submissions and evidence provided to the

Panel. This framework is not repeated in this Decision. Rather, this Decision should be read in conjunction with Decision1.

1.3.2 In the s42A reports to the Panel, the authors are required to consider any alternative provisions put forward in the context of what s32 requires, and when changes are recommended, a further assessment under s 32AA is provided if the change is a material departure from what was notified. That same obligation to make a further assessment under Section 32AA also applies to the Panel if it decides to recommend changes as a result of submissions which materially depart from the notified version.

1.3.3 Through Minute 5, the Panel requested submitters seeking changes to PDP provisions to have regard to the Section 32 provisions and provide material to the Panel that would facilitate any additional s32AA assessment required, if it was of a mind to accept the changes they sought.

1.3.4 Where the Panel has made amendments to the PDP that are consistent with the recommendations contained within the s42A Reports and / or rights-of-reply, the Panel has adopted the s32AA analysis contained within those reports, unless expressly stated otherwise. Those reports are part of the public record and are available on the Council's website.

1.3.5 Where the Panel has made amendments to the PDP that are not contained within the s42A Report, or which were not subject to a Section 32AA assessment provided by submitters, the Panel has undertaken the required Section 32AA analysis and has incorporated it into the body of the decision, with the required assessment forming part of the evaluation. The Panel is satisfied that the required substantive assessment has been undertaken where required.

1.4 Procedural matters

1.4.1 At paragraph 48 of her s42A Report Joanne Skuse advised that, together with Matt Heale, a meeting was held with Greenbriar, at the request of the submitter, to discuss the submission lodged and the relief sought. That meeting was undertaken in accordance with clause 8AA of Schedule 1.

1.4.2 No members of the Panel identified any conflicts of interest.

1.4.3 No procedural matters were raised at the hearing.

1.4.4 No matters of trade competition were raised.

2 The Hearing

2.1 McNab Hearing

2.1.1 The hearing in relation to the various rural zones was held on 23 - 24 July 2024 at the Gore District Council administration building, in Gore.

2.1.2 Prior to the hearing, with regard to the Greenbriar submissions the Panel received the following reports, evidence and submissions:

Author	Description
Joanne Skuse	S42A Report
The Property Group	Planning for Growth
The Property Group	Economic and Population Growth Analysis
Meg Justice	Planning evidence on behalf of Greenbriar
Andrew Schoultz	Economics evidence on behalf of Greenbriar

John Howes	Mining operations evidence on behalf of Greenbriar
Bridget Irving Hannah Perkin	Legal submissions on behalf of Greenbriar
Michael Garbett	Legal submissions on behalf of the Gore District Council
Joanne Skuse	Statement of supplementary planning evidence for GDC
Natalie Hampson	Peer review of Greenbriar economics evidence for GDC

2.1.3 Persons attending the hearing are shown in Table 2.

Table 2: Attendees at the Hearing: New Vale

No.	Party	Attendees	Nature of Evidence
S128	Greenbriar Ltd	Bridget Irving Hannah Perkin John Howes Antony Stoddard Andrew Shultz Megan Justice	In person In person In person In person Video Link Video Link
N/A	Gore District Council	Joanne Skuse Michael Garbett	In person In person

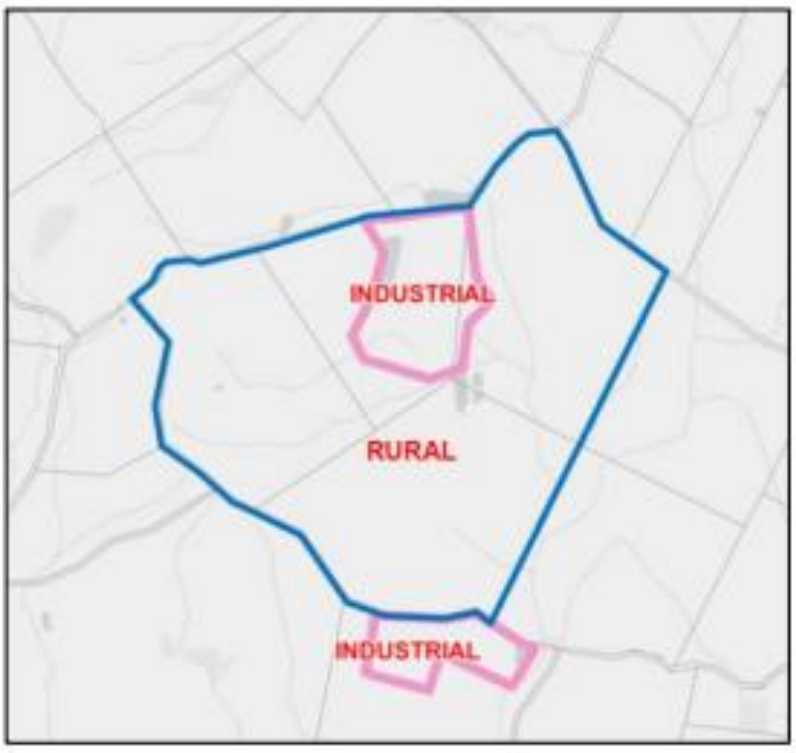
2.1.4 All written material received by the Panel is available on the Council's web site.

2.1.5 The Panel wishes to record that prior to the hearing it undertook a visit to the New Vale Mine and was escorted around the site by John Howes who explained the activities on the site and responded to questions from the Panel members.

3 Background

3.1 Current Zoning and Consents

3.1.1 The land subject to the Greenbriar submission is shown outlined in blue on the plan below. In the Operative District Plan a small portion of this is zoned Industrial. The remainder of the site is zoned Rural.



3.1.2 In the PDP as notified the entire site is zoned General Rural.

3.1.3 Greenbriar Ltd, trading as New Vale Coal, was granted resource consent in 2007 (LU 2006/13) that enables mining and associated activities over an area of land comprising 178 hectares (ha). At the time of the hearing, Greenbriar was seeking a further consent (LU24023) to expand the existing mining operation area by a further 145 ha, to enable the extraction of coal from a 30ha area outside the boundaries of the earlier resource consents, as well as additional areas of soil stockpiling and environmental restoration.

3.1.4 This consent was approved subject to conditions on 17 September 2024 and is referred to in section 6.3 of this decision.

3.2 Greenbriar Submissions

3.2.1 The primary relief sought in the submissions lodged by Greenbriar was the inclusion of a New Vale Mine Special Purpose Zone with the adoption of a Plan chapter in the same format as other chapters in the PDP, namely:

- Overview and Purpose
- Four objectives
- Three policies
- A permitted activity rule, New Vale Mining Activity, (with an associated definition) subject to five conditions which if not met would require consideration as a controlled activity.
- Three other rules, one of which is a discretionary status for any activity otherwise not listed.

3.2.2 The purpose of the New Vale Special Purpose Zone was described as enabling the sustainable management, operation and development of the New Vale Mine. The Objectives relate to the ongoing efficient operation of the New Vale mine minimising effects to the extent practicable, undertaking activities in accordance with industry best practice and ensuring site rehabilitation to retain primary production capacity for future generations following mining. The policies sought to give effect to the objectives. Consequential changes would also be required to various district wide rules.

3.2.3 The summary of the relevant submission points is included in Appendix A. The Panel notes in particular submission S128.070 states if the Special Zone is not accepted Greenbriar seeks to have the drafted provisions included in the General Rural Zone as alternative relief and/or the development of a New Vale Precinct within the General Rural Zone.

3.2.4 Other submissions by Greenbriar, although in some cases consequential to the inclusion of bespoke provisions in the PDP applying to the New Vale mine, are considered elsewhere in the relevant chapter decisions.

4. Evidence and Submissions

4.1 Section 42A Report

4.1.1 This report was prepared by Joanne Skuse. It is her view that the range of activities undertaken at the mine are best provided for as a Precinct within the General Rural Zone rather than as a standalone zone, stating mining is a primary production activity, and the inclusion of rules for rural industry can accommodate the coal processing

component of activities on the site. She considered a spatial layer can further be utilised as a tool to provide for place-based provisions and refine aspects of the GRUZ policy approach as it relates to New Vale. Further, given the scale of the activity, its projections to operate for at least the next 15 years, plans for expansion and focus on remediation for the end of mine life process, a Precinct will be suitable in her view.

4.1.2 Joanne Skuse considered there is merit in having specific objectives and policies for the New Vale Mine to provide clarity and a framework for assessing applications in the short to medium term and provide a degree of certainty regarding the availability of coal from New Vale to support the decision making of organisations and individuals reliant on it prior to their transition to alternative renewable sources of energy.

4.1.3 Joanne Skuse drew the attention of the Panel to clause 3.9(1) of the National Policy Statement for Highly Productive Land (NPSHPL) that requires territorial authorities to avoid the inappropriate use or development of highly productive land that is not land-based production. Clause 3.9(2) defines what activities are considered to be 'appropriate' and this includes:

> (j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land: …
>
> (iii) mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand:

4.1.4 Joanne Skuse advised that in her view a pathway through the NPSHPL is available, however this would be required to be interrogated further through the resource consent process.

4.1.5 The report concluded with an assessment of the new definition for "New Vale Mining Activity", concluding the activities proposed fall within definitions already included in the plan.

4.1.6 Joanne Skuse recommended inclusion of a New Vale Precinct (PREC14) in the PDP and set out the provisions she considered appropriate, primarily in the General Rural chapter but also elsewhere in the Plan, for example, relating to noise, together with other consequential changes.

4.2 Greenbriar Evidence

John Howes

4.2.1 John Howes is a Health, Safety and Environment Manager at New Vale Mine for Greenbriar Limited with 16 years of experience in environmental management. He noted the site owned by Greenbriar is 354 ha total and of that approximately 175 ha is part of the active mining operation, although this area changes constantly.

4.2.2 John Howes explained the active mining area includes the open mine pit, engineered landforms (which contain the overburden), settling ponds, administration buildings, workshops and plant and service areas. In addition to the extraction and processing of coal, other activities associated the Mine include:

(a) Production of Superdirt, a compost comprising of lignite fines and meat works waste.

(b) Rehabilitation of mined areas.

(c) Construction and maintenance of water treatment infrastructure, such as settling ponds, drainage channels and wetlands.

(d) Ancillary services including de-watering, drainage and water treatment via settling ponds.

(e) Ash disposal.

4.2.3 He added that land within the site that is not in the immediate mining operational area is fenced and grazed and areas previously mined are rehabilitated and returned to farmland progressively over time. John Howes also referred to the future, acknowledging a move away from a reliance on coal with extraction volumes trending down and an anticipated exhaustion of the coal resources on the site by 2038.

Andrew Schoultz

4.2.4 Andrew Schoultz is employed as a Senior Economist at Sense Partners, a position he has held since June 2021. As the mine is on land classified as Land Use Capability Class 3 under the NPSHPL the purpose of his evidence was to demonstrate that any expansion of mining activity meets the tests set out in clause 3.9(2)(j)(iii) the NPSHPL. He noted there is no guidance in the NPS to assist in how significant national public benefit is to be determined.

4.2.5 The evidence of Andrew Schoultz covered the following:

(a) New Vale makes a valuable economic and employment contribution

- The mine at New Vale supplied nearly 276,700 tonnes of coal, resulting in a $7.4m gross value added (GVA). This is equivalent to 0.8% of Gore district's GDP.
- The mine supports 64 jobs in the local economy. This includes 39 people employed on site, and a further 25 jobs supported through a $6m local spend on inputs – 1.12% of jobs in Gore district.
- The mine represents a more economical productive use of land than the current sheep and beef operation carried out on land sought to be mined. Mine revenue of $18m per annum outstrips the $103,900 in revenue generated by sheep and beef operations.
- The mine supports $499m in annual economic activity in the region and approximately 4,980 jobs in the agricultural processing sector.

(b) Domestic alternatives for coal supply are costly and likely constrained by regulation

- The coal price to the consumer is highly sensitive to transportation costs. This limits the feasibility of alternative supplies, both domestic and imports.
- Local alternative supplies to New Vale lignite would cost at least 19% more. However, regulatory constraints mean that these local sources may not be able to meet demand.
- The next available source is likely the West Coast, though West Coast coal is typically exported and transportation costs would increase New Vale customers' energy cost by an average 148.4%.

(c) Imports are the next most likely alternative as a coal supply

- The significant national public benefit that New Vale provides likely cannot be provided using resources within New Zealand.

- Costly domestic alternatives mean suppliers would likely switch to imports. The cheapest source of coal is likely Indonesia, though this would still impose a cost rise of 118%, on average.
- Switching to imports would see the mine's direct economic and employment benefits largely shifted overseas.

(d) The extension sought to the operational area provides a significant national public benefit

- With regard to the regulatory tests set out in the NPSHPL, mining is a more productive use of the land and brings jobs and economic activity. Given this, the extension constitutes a significant public benefit.
- The mine plays a role in providing key energy inputs into the food processing sectors across three regions. On this basis, the benefit qualifies as a national benefit.
- Given the cost of and constraints facing local operating coal alternatives, it is likely these benefits would not otherwise be achieved using resources within New Zealand

Megan Justice

4.2.6 Megan Justice is a qualified planner who has been engaged in the field of resource and environmental management for 23 years. By way of overview, she noted the s42A report author has proposed inclusion of a 'New Vale Precinct' in response to Greenbriar's submission and she supported this, although she considers several amendments were necessary to ensure the Precinct operates efficiently and effectively. Changes, in her view, will also maintain consistency with the General Rural Zone provisions and implement the objectives and policies in the Strategic Directions Chapter of the PDP. These amendments were set out in a full set of marked up General Rural Zone provisions contained in Appendix D of her evidence, together with an assessment under s32AA.

4.2.7 Megan Justice proffered the mining activity at New Vale is locationally constrained and has a functional need and operational need to locate in a particular place (where the coal seams are located). She added that mining and aggregate extraction is widely accepted and recognised across National Policy Statements, and the Southland Regional Policy Statement 2017 (Energy Chapter), as an activity which is locationally constrained and has a functional need and operational need to locate in particular places, including on highly productive land.

4.2.7 Megan Justice expressed the view that the evidence of Andrew Schoultz demonstrated that the ongoing operation and expansion of the mine provides a significant national public benefit that could not otherwise be achieved using resources within New Zealand, and therefore meets the test set out in clause 3.9(2)(j)(iii) of the NPSHPL. It was also her opinion that there is a clear pathway through the NPSHPL for this activity, and it is appropriate to provide for the mining activity within the confined boundaries of the New Vale Precinct, without the need for further assessment of the NPSHPL under future applications for resource consent.

4.2.8 Megan Justice noted the map attached to the s42A Report and the submission lodged has omitted inclusion of the eastern portion of the site, noting the purpose of the plan was to identify the mine extension area contemplated in the proposed rules rather than

the entire site. She attached to her evidence a plan showing the entire site, all of which is owned by Greenbriar.

4.3 Supplementary Evidence from the Council

Joanne Skuse

4.3.1 As part of a supplementary statement of evidence covering all matters considered in Hearing Stream 3, Joanne Skuse provided feedback on the evidence submitted on behalf of Greenbriar where she agreed with the following:

- Amending the map to include the eastern area of the site, as this contains areas where ecological enhancement is proposed.
- The rewording sought to the Rural Zone Overview and Purpose
- The proposed amendments to the objectives and policies noting the changes streamline the drafting but maintain the original intent of the provisions.
- Changes sought to GRUZ-R4 that allows a limited number of visitors to the site.

4.3.2 Joanne Skuse advised however that she does not agree to adding the word 'significant' to GRUZ-P6

4.3.3 In relation to the NPSHPL Joanne Skuse considered the evidence from Andrew Schoultz was thorough and well-reasoned. However, as economics was outside her expertise, the Council commissioned a peer review to determine whether the methodology, approach and suitability of data is accurate and therefore supportable.

Natalie Hampson

4.3.4 Natalie Hampson has worked in the field of economics for over 20 years and provided a peer review of the evidence of Andrew Schoultz at the request of the Council.

4.3.5 With regard to the NPSHPL provisions, Natalie Hampson stated:

> Public Benefit must account for the wider economic benefits achieved by the use of the resource and not simply the direct benefits of the extraction of the resource. This requires consideration of the down- stream supply chain of coal extraction rather than the more typical upstream supply chain economic impacts of particular activities. And, the 'public' aspect of the benefit means providing goods (or services) for community or social benefit (and not just shareholder benefit). Communities include workers and businesses. Therefore, supporting the operation of other domestic businesses, which in turn sustain employment and incomes, can be considered a public benefit.
>
> National Significance could be interpreted as either geographically significant (i.e. covering a significant area of the country), significant in quantum relative to a national total, relating to a significant economic sector, or affecting a nationally significant issue.

4.3.6 Natalie Hampson noted Andrew Schoultz 's assessment acknowledges a phase out of coal in food processing by 2040 but otherwise assumes a constant level of demand for coal by New Vale's top 6 customers through to 2038 in his analysis. She considered this unlikely but acknowledged she does not have direct communication to these customers.

4.3.7 Natalie Hampson accepted that mining is a more efficient use of the land than sheep or beef farming but disagrees that the 0.7% GDP contribution and 1.12% employment contribution to the Gore District economy from the New Vale Mine represents a material contribution, nor can it be considered one perspective of delivering a "significant national public benefit". However, she did acknowledge these as positive local economic effects,

including the above average wages paid by the New Vale mine that are all relevant to the overall economic benefits of the submission on the PDP (setting aside the NPSHPL test) and can be relied on for the purpose of a section 32 evaluation of the proposed rezoning.

4.3.8 Natalie Hampson expressed her conclusions as follows:

> Meeting the test of clause 3.9(2)(j)(iii) therefore comes down to whether the potential future facilitated effects on the meat/dairy processing sector is a significant national public benefit that can't be achieved with other resources available within New Zealand. In this regard, I am somewhat hesitant to agree outright, but can conditionally agree that the test may be passed (as set out below). I have taken into account a lack of guidance on exactly how the assessment should be conducted.
>
> Based on the scenario that has been assessed, I consider that the test may be satisfied. This is on the basis of facilitating economic activity within three regions (albeit most significantly within Southland Region) is geographically significant. I also consider that the meat and dairy processing sectors are significant for New Zealand's economy and so *potentially* supporting a portion of that sector is notionally significant. By *potentially* supporting a large number of jobs in the processing sector, the proposal qualifies as a public benefit. The proposed expansion therefore *potentially* provides a significant notional public benefit if a number of key assumptions play out.
>
> I do have concerns that the scenario that has been assessed may not be a realistic one. Southland region is a significant forestry area where woody biomass alternatives can be locally produced and there would be a market for that product in the form of food processors (including those currently supplied by New Vale Coal). As such, I consider that it is likely that supply chains for that new industry could be developed by 2034, which would eliminate (or largely eliminate) the need to expand the New Value mine (based on current justifications).
>
> Ultimately, the demand for lignite coal after 2043 is uncertain. Setting aside the resource consent application by Greenbriar, the proposed plan provisions provide a clearer regulatory pathway for expanding the mine in the future, **but they do not dictate that the coal in that expansion area will be extracted in the future.** That will only occur if there is demand that makes that future extraction feasible.
>
> On that basis, and because the proposed plan provisions may help minimise risks for New Vale's existing customers as they plan for a transition away from coal for process heat, then I think the opportunity benefit arising from accepting the proposed provision in the PDP is worthwhile from on economic perspective.

4.4 Legal Submissions

Bridget Irving and Hannah Perkin, Counsel for Greenbriar

4.4.1 It was submitted by Counsel representing Greenbriar that the exception in the NPSHPL provides a three-tiered test to determine whether the exception applies:

(a) Is there a functional or operational need for the Mine to be on highly productive land?

4.4.2 The submissions referred to the definitions in the National Planning Standards as follows:

> Functional need: means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

> Operational need: means the need for a proposal or activity to traverse, locate, or operate in a particular environment because of technical, logistical or operational characteristics or constraints.

4.4.3 It was submitted mining is locationally constrained as the mine location is determined by presence of a mineral resource and the Courts have acknowledged that mining has a functional need to locate in certain areas.[1] In addition, due to the long history of mining at this site there exist operational needs associated with the use of the existing physical resources, processing equipment and sensible progression of mining activities on the site. Therefore, there is a functional and operational need for the mining operations to be located on highly productive land in this instance.

(b) Does the mineral extraction provide significant national public benefit?

4.4.4 It was submitted a public benefit requires a social and economic factor to the benefit provided. In that regard the submissions relied on the evidence of Andrew Shultz in that:

- public benefits arise from employment, contribution of activities to the local economy and support for businesses
- the significance extends beyond "regional" as the mine supplies coal to three regions
- while business customers are transitioning to new plant and infrastructure this takes time, and a coal supply is required during the transition period.
- The lowest cost alternative supply of coal is from overseas imposing a 118% increase in price of supply if adopted.

(c) Can the significant national public benefit not otherwise be achieved using resources within New Zealand?

4.4.5 The submission noted the only viable New Zealand based alternative is on the West Coast and this would result in at least a 148% increase in costs for New Vale customers.

4.4.6 Overall it was submitted New Vale satisfies the exception in cl 3.9 of the NPSHPL and the highly productive land is exempt from the NPSHPL.

4.4.7 On the issue of whether a Special Zone or a Precinct would be appropriate, the Panel was advised Greenbriar is satisfied with the approach set out in the s42A report, subject to some further amendments as outlined in the evidence of Megan Justice which also satisfied the requirements of s32AA and is consistent with the higher order documents.

<u>Michael Garbett, Counsel for the GDC</u>

4.4.8 Michael Garbett agreed with the legal principles identified in the submissions on behalf of Greenbriar and indicated weight can be given to commonality of agreement on key issues between the planner for Greenbriar and the Section 42A Officer.

[1] Te Rūnanga o Ngāti Awa v Bay of Plenty Regional Council [2022] NZCA 598 at [152] and [153].

5. Additional Matters Raised at the Hearing

5.1 Bridget Irving

5.1.1 In replying to questions from Commissioner Bartlett, Bridget Irving stated that in assessing the national benefit it would be useful to consider the implications of the Edendale Dairy Factory being unable to operate because sufficient coal resource was not available and what would that mean for the economics of Southland and the wider area that factory draws its product from and suppliers of products and services to the factory and these cross boundaries. The services New Vale provides facilitates flows and benefits in various parts of the economy at a large scale.

5.1.2 Bridget Irving also submitted that the intent of the NPSHPL is the long term protection of highly productive land and arising from that, regard should be given to the quality of the soils after rehabilitation of the mining activities. It is her submission that after mining and rehabilitation most of the productivity of the soils is retained.

5.1.3 Bridget Irving referred to her submissions made in Hearing Stream 1, noting the Emissions Reduction Plan as one of the documents the Panel is required to have regard to as one of the other Plans and Strategies prepared under other Acts. However, she submitted it is not appropriate to rely on information that may have been presented through the Emissions Reduction Plan process. If the Panel considers the information through this hearing process is insufficient then the correct pathway is to issue a Minute seeking further evidence.

5.2 John Howes

5.2.1 John Howes highlighted that while future demand for coal is unknown, competing mines in New Zealand are closer to their end of life and he has an expectation that the customer base of Greenbriar will expand. In addition, given the high cost and time to consent and construct new plant to utilise alternative fuels he thought the transition would be slow and as a result did not consider there to be any uncertainty in demand for New Vale Coal.

5.2.2 While no soil productivity testing has been done in recent years, John Howes explained soil chemistry is examined before and after rehabilitation, with fertilizer being added until the land is reasonably productive. He added, only young stock is grazed on the land in order to protect the soil profile.

5.3 Andrew Schoultz

5.3.1 Andrew Schoultz spoke to the Climate Change Commission's emissions pathways that are based on a phaseout of coal in food processing by 2040 and noted a purpose of the Emissions Trading Scheme is to enable industry to target emission reductions where they are the most cost effective and allow offsetting where it is cost effective. He said, as a consequence, reductions in energy use are not going to be uniform across all regions or across all sectors. On that basis, together with the matters referred to by John Howes, he considered it appropriate to assume constant demand across the life of the New Vales mine and given Southland coal is cheaper than sources available elsewhere he agreed a switch is likely in some cases from these sources to New Vale supply.

5.4 Megan Justice

5.4.1 With regard to GRUZ-P6 Megan Justice explained that she sought to have the word "significant" added because as worded it implied avoidance of all adverse effects,

which for mining operations is not practical. She would however consider a revision referring to "avoid, remedy or mitigate adverse environmental effects" as acceptable.

5.4.2 With regard to GRUZ-R2(2) Megan Justice sought a change in clause (2) that in effect would delete the restriction in mining areas of highly productive land for the New Vale Precinct from the permitted activity status. In reply to questions she acknowledged that under the proposed Precinct rules, a restricted discretionary resource consent will still be required to expand mining activities on the site and discretionary matter (7) required Greenbriar to demonstrate as part of any future resource consent that highly productive soils will be retained following rehabilitation, so she did not see the need for the provision in GRUZ-R2(2) to apply to the New Vale Mine.

5.5 Michael Garbett

5.5.1 It was the view of Michael Garbett that the Panel should ask questions to be satisfied appropriate regard has been given to higher order documents but the Panel should not review those documents and itself carry out an analysis of how the provisions in those documents are applied. That is the role of those giving evidence.

5.5.2 With regard to the test of "significant national benefit" Michael Garbett submitted it is not appropriate or achievable to expect the submitter to undertake a comparative exercise across the country to determine how this proposal might rank compared with others, either in this industry or others. He saw this as a task requiring information beyond that available to Greenbriar and submitted there could be a number of different extraction activities meeting the threshold and it is not about selecting one that might be the best. In that regard he submitted the Panel has sufficient undisputed evidence to satisfy the issues associated with the NPSHPL.

5.6 Joanne Skuse

5.6.1 In the context of the NPSHPL Joanne Skuse noted that while there is a test in clause 3.9 and the evidence indicates that is met, there are other parts that enables the Council to have further management of activities by taking measures to minimise and mitigate the loss of productive land and regard needs to be given to them. In her view that is achieved through the criteria and matters of discretion in the rules and standards and associated objective and policy framework. These can be applied to varying degrees as required when considering resource consent applications, for example though rehabilitation and environmental management plans.

5.6.2 It was the view of Joanne Skuse that the Plan provisions as recommended do not give "the tick" to any development proposal but creates the pathway to ensure the full range of relevant matters from varying statutory sources are assessed.

6. Panel Considerations and Decision

6.1 Introduction

6.1.1 While there was considerable consensus between the Council advisers to the Panel and those presenting evidence and legal submissions on behalf of Greenbriar on the issues relevant to the consideration of the submissions lodged regarding the New Vale Mine, several issues arose in the hearing that the Panel wishes to record as part of this Decision.

6.1.2 The primary relief sought in the submissions lodged by Greenbriar was the inclusion of a New Vale Mine Special Purpose Zone. However, the Greenbriar submissions also promoted as an alternative relief adoption of a New Vale Precinct within the General

Rural Zone. Joanne Skuse following assessment at paragraphs 409 – 419 of her s42A Report recommended the Precinct approach rather than a new zone. The Panel accepts her recommendation for the reasons she gives and notes the agreement of Greenbriar with regard to this. In particular, the Panel considers that a Precinct best enables a return to use of land for primary production as part of the underlying Rural Zone, once areas of the mine site have been rehabilitated. The adoption of a Precinct is not in dispute and has not been considered further by the Panel.

6.2 Higher Order and Other Relevant Documents

6.2.1 RMA s74 sets out the matters to be considered by a territorial authority in the preparation of a district plan, and those matters apply to the Panel in consideration of submissions. The authors of reports, evidence and submissions to the Panel focused on several documents considered relevant by them, namely the regional policy statement and strategies prepared under other Acts and these are referred to below.

6.2.2 Material presented to the Panel did not explicitly focus on the relevant provisions of the RMA. The Panel relies on reports and legal submissions prepared for previous hearings. The Panel wishes to record that it has had regard to this previous advice, submissions and evidence, with Decision 1 also providing an overview of the Panels approach to Part 2 matters.

Southland Regional Policy Statement (RPS)

6.2.3 RMA s75(3)(c) requires the Panel to give effect to the RPS. Megan Justice referred to the following provisions:

> **Issue ENG.2**
> Development and use of Southland's energy resources is of regional and national importance but may have adverse environmental effects.
>
> **Policy ENG.5 – Mineral and non-renewable energy resources**
> Make provision for the development of mineral and non-renewable energy resources where the adverse effects can be avoided, remedied or mitigated.
>
> Explanation/Principal Reasons: Because energy has such an important role in our society, consideration needs to be given to all energy sources to ensure the best outcome for people living in Southland. The potential benefits outside of the local area or region need to be taken into account when considering the development of regional and nationally significant mineral resources. It is also important that nationally significant resources are protected against future reverse sensitivity issues by managing development and land use to avoid conflict.

6.2.4 The Panel notes that the issue recognises the significance of energy resources while acknowledging the potential for adverse environmental effects. The policy explicitly refers to non-renewable resources, which includes coal. The Panel considers the inclusion of a Precinct within the District Plan, together with appropriate restrictions, standards and consenting pathways is consistent with and gives effect to the Regional Policy Statement.

Emissions Reduction Plan

6.2.5 RMA s74(2)(d) requires the Panel to have regard to any emissions reduction plan made in accordance with s5ZI of the Climate Change Response Act 2002. The First Emissions Reduction Plan remains in force until 31 December 2025 when it is replaced by a further Plan updated by the current government in December 2024.

6.2.6 The Plan sets out policies and strategies to decarbonise every sector of the economy. Within the Energy sector, the focus is on reducing the dependency on fossil fuels. The evidence provided to the Panel provided an overview of the transition currently underway from the use of coal, particularly by large scale industry, to other sources of energy. The Panel acknowledge that the New Vale Coal Mine has a limited life in terms of the resource available for extraction (estimated to run out in 2038), which corresponds with a phase out of coal use by 2040, as envisaged by the First Emissions Reduction Plan. The Panel accepts that the New Vale Mine has a role in continuing to supply coal to businesses during the transition period. The Panel also notes that during that transition period and beyond, work is being undertaken to rehabilitate areas of land disturbance, enabling productive land use once the mine closes and restoring or enhancing areas of indigenous vegetation, including wetlands.

6.2.7 Consequentially, the Panel concludes that the approach of Greenvale in continuing to develop the New Vale site, extract and process coal and rehabilitate the land is consistent with the government's Emissions Reduction Plan. Inclusion of provisions in the District Plan for these activities is therefore also consistent with that Plan, particularly recognising that the mine itself has a limited life.

National Policy Statement for Highly Productive Land (NPSHPL)

6.2.8 RMA s75(3)(a) requires the Panel to give effect to any National Policy Statement. The provisions of the NPSHPL was the key topic dealt with in evidence, submissions and questioning at the hearing. The difficulty the Panel has faced in considering the NPSHPL is there is no material guidance or case law available to assist in understanding how the provisions of this NPS should be assessed. The Panel is therefore reliant on the legal submissions of Bridget Irving and Hannah Perkin, Counsel for Greenbriar on how to approach the issues, and on the evidence presented to apply that, supported by Michael Garebett.

6.2.9 (a) Clause 3.9(1) states:

> Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land-based primary production.

6.2.10 The facts as presented to the Panel are:

- The site of the New Vale Mine is highly productive land, having been identified as Land Use Capability Class 3 and meeting the definition of highly productive land as defined in the NPSHPL.
- Coal mining is not land-based primary production.

6.2.11 It is the view of the Panel that mining at New Vale may be considered an appropriate use of highly productive land primarily because following mining activities the land is reinstated to productive use. In reply to questions from the Panel, John Howes described the quality of the soil resource after rehabilitation as "nearly as good as before". He stated that requires care in rehabilitation, monitoring and adding fertiliser if required and appropriate management of stock to ensure the soil profile is maintained. Bridget Irving described it as "the best of both worlds", extracting the coal and returning the land to farming. However, the test of "appropriateness" is contained in clause 3.9(2) of the NPS.

6.2.12 (b) The relevant provisions of clause 3.9(2) state:

A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:

(j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:
(iii) mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand:

6.2.13 Megan Justice at paragraph 23 of her statement of evidence expressed the view that the mining activity at New Vale is locationally constrained and has a functional need and operational need to locate in a particular place (where the coal seams are located). This was echoed in the submissions of Bridget Irving and Hannah Perkin, referring to *Te Rūnanga o Ngāti Awa v Bay of Plenty Regional Council [2022] NZCA 598* where the Court acknowledged that mining has a functional need to locate in certain areas. The Panel accepts the planning evidence and the legal submission, concluding there is a functional need or operational need for the use or development to be on the highly productive land.

6.2.14 The issue of whether coal extraction from New Vale Mine provides significant national public benefit that could not otherwise be achieved using resources within New Zealand has been considered as two separate limbs in the evidence and submissions presented to the Panel. The legal advice from Bridget Irving and Hannah Perkin was uncontested and the Panel relies on that.

6.2.15 In addition to the written submissions, a key point arose from questions put to Bridget Irving, where she submitted it is not the role of the Panel to compare the national benefit arising from the operation of the New Vale Mine with the national benefit arising from the operation of other mines. This was reinforced by legal submissions from Michael Garbett, who noted Greenbriar had access to information, some of it confidential, in determining the significance of the New Vale operation. Similar information would be required to assess the significance of operations at other mines, and that would not be available.

6.2.17 In determining whether coal mining at New Vale provides significant national public benefit the Panel is reliant on the evidence of Andrew Schoultz and Natalie Hampson. This evidence is summarised in section 4 above and available on the Council's website.

6.2.18 Andrew Schoultz was firm in his view that coal mining at New Vale provides significant national public benefit. Natalie Hampson was hesitant to agree outright but conditionally agreed that the test may be passed. Her concerns related to the practicality of the assumptions used by Andrew Schoultz, in particular that, production from the mine would stay at a constant level of demand through to 2038 , and the potential availability of alternative sources of energy.

6.2.19 Andrew Schoultz in reply to questions from the Panel referred to other mines competing with New Vale having a shorter remaining life than New Vale, and it was reasonable to assume that as these supplies terminated, there would be increased demand for New Vale coal which would have the effect of retaining an overall constant demand during the period of transition to other energy sources.

6.2.20 The Panel ((with the exception of Commissioner Bartlett) accepts the evidence of Andrew Schoultz and his conclusion that coal mining at New Vale provides significant national public benefit. The Panel considers that is reinforced by the submissions of Bridget Irving who invited the Panel to consider the effects of a major industrial user, such as the Fonterra Dairy Factory not being able to operate fully or efficiently because the supply of coal from New Vale is cut. The Panel accepts this would have local, regional, inter-regional and international implications.

6.2.21 In considering whether the national public benefit that could be achieved using resources within New Zealand, the Panel accepts the evidence of Andrew Schoultz referred to in paragraph 4.2.5 above, that domestic alternatives are costly and likely constrained by regulation, and a reliance on imports would see the mine's direct economic and employment benefits largely shifted overseas. The Panel concludes, as stated by Andrew Schoultz, that the significant national public benefit that New Vale provides likely cannot be provided using resources within New Zealand.

6.2.22 Overall, and considering NPS-HPL clause 3.9(2)(j)(iii) as a whole, the Panel is satisfied extraction of coal from New Vale Mine provides significant national public benefit that could not otherwise be achieved using resources within New Zealand

6.2.23 Commissioner Bartlett prefers the evidence of Natalie Hampson and her more cautious assessment of "significant national public benefit". Commissioner Bartlett does not rely on a "significant" level of contribution of New Vale Mine to the national economy as a reason for supporting the precinct approach in the Plan, considering that there remains some reasonable doubt based on the expert evidence of Natalie Hampson. In essence, Commissioner Bartlett considers that the grant of consent to Greenbriar Limited for expansion of the mine on 17 September 2024 established the footprint of the mine for the life of the Plan and that the Precinct in the Plan should therefore not extend beyond this consented footprint. In that respect, further consideration of clause 3.9(2)(j)(iii) of the NPSHPL is not required. Consent has been granted over an extent of additional LUC 3 land. Provided that the precinct in the Plan does not differ from the maximum footprint of existing consented activity, there is no need to revisit the NPSHPL on this point.

6.2.24 (c) The relevant provisions of clauses 3.9(3) and (4) state:

> (3) Territorial authorities must take measures to ensure that any use or development on highly productive land:
>
> (a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and
>
> (b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.
>
> (4) Territorial authorities must include objectives, policies, and rules in their district plans to give effect to this clause.

6.2.25 Joanne Skuse in her supplementary evidence referred to the criteria and matters

of discretion in the rules and standards and associated objective and policy framework, noting these can be applied to varying degrees as required when considering resource consent applications, for example though rehabilitation and environmental management plans. The Panel accepts that advice and is satisfied the requirements of subsections (3) and (4) have been met. In particular, the Panel is satisfied that upon rehabilitation the previously mined land will be able to be used for land-based primary production

6.3 Approved Resource Consent

6.3.1 By way of a resource consent dated 4 June 2024, Greenbriar Limited, (trading as New Vale Coal), sought resource consent to undertake the following at the New Vale Mine site:

> To extend the existing mining operation area at the New Vale Mine by an additional 145 hectares, to enable the extraction of coal from a 30ha area outside the boundaries of resource consent LU 2006/13. The proposal includes associated ground disturbance activities and the removal of indigenous vegetation and wetlands.
>
> The proposed extension will enable the New Vale Mine to operate for approximately four additional years (approximately 2038) depending on the demand for coal. At this point (end of life), the mine will be restored to farmland and a lake with areas of revegetation planting and wetlands.

6.3.2 The application was approved as a non-notified consent subject to specific conditions applying to the following matters:

- Site environmental management plan
- Timing and direction of activities, with stages commencing in 2026 and 2033
- Screen planting
- Noise
- Glare
- Dust
- Erosion and sediment control
- Stockpiles and topsoil
- Contingency for unexpected, contaminated soil or material
- Weed control
- Lizards
- Birds
- Roading
- Accidental discovery protocol
- Complaints register
- Monitoring
- Rehabilitation

6.3.3 The full decision, including the application, is available at:

LU24023 s95 and s104 Decision 640 Miller Road.PDF

6.3.4 The approved resource consent covers the same area subject to the submissions by Greenbriar and the Panel has had regard to that decision and the conditions of consent.

6.4 Precinct Boundary

6.4.1 Megan Justice at paragraphs 39 – 41 noted that the map submitted by the Greenbriar in their submission omitted inclusion of the eastern portion of the New Vale Mine site as it was focused on identifying the area within which extension of the mine was proposed.

6.4.2 The Panel has reviewed the map submitted as part of the submission and notes there is a red dashed line that extends beyond the map, referred to "Study Area". This dashed line is referred to in Appendix B of the original submission as "proposed zone boundary".

6.4.3 In considering whether to adopt the map attached to the evidence of Megan Justice that shows additional land to the east to be included in a precinct, the Panel is mindful of the High Court decision *Progressive enterprises Ltd v Hastings District Council [2000] NZRMA 375, paras 33-36* where it stated "it cannot be for the reasonable reader to have to uncover the extent of a submission's error and the true intentions of the submitter".

6.4.4 In this instance the Panel considered whether any person could be disadvantaged by not understanding the "true intentions of the submitter" and concludes no person could reasonably claim to be affected for the following reasons:

(a) The now requested boundary clearly extended beyond the map supplied.

(b) The zone boundary to the east on the plan submitted with the evidence of Megan Justice is predominantly an internal boundary within land owned by Greenbriar.

(c) Adjoining use of land is pastoral farming.

(d) Mining has been completed on the additional land and rehabilitation is being undertaken. The future use is therefore farming purposes.

(e) The approved resource consent application contained written approvals from adjoining and other landowners deemed to be affected by the application.

6.4.5 The Panel is satisfied it is appropriate to adopt, as the Precinct boundary, the area shown on the Plan submitted by Megan Justice attached to her evidence.

6.5 Plan Provisions

6.5.1 Several iterations of the proposed plan provisions have been undertaken jointly by Joanne Skuse and Megan Justice. On the basis of discussions and responses to questions at the hearing, the Panel is satisfied there are no matters of disagreement. The Panel adopts the provisions as agreed by the expert planners.

6.6 Section 32AA

6.6.1 Both Joanne Skuse in her s42A Report and Megan Justice in her statement of evidence, included an assessment of the proposed plan provisions under s32AA. While minor changes were made to the provisions the Panel is of the view that these are of a minor nature and do not impact on the assessment undertaken. The Panel is satisfied that the provisions establishing a Precinct for the New Vale Mine are the most appropriate way and the most practical option to achieve the objectives for the General Rural Zone as notified and modified by this decision.

6.7 Decision

6.7.1 Having regard to all matters contained in this Decision, the submissions of Greenbriar are accepted, accepted in part, and rejected as set out in Appendix A, by making the changes to the PDP provisions as set out in Appendix B.

Submitter	Special Purpose Zone Provisions Sought	Decision	Plan Amended
S128.060 Greenbriar Ltd.	Overview and purpose: The purpose of the New Vale Special Purpose Zone is to enable the sustainable management, operation and development of the New Vale Mine. The Zone objectives, policies and rules provide the framework for enabling expanded mining activities whilst managing their effects and ensuring that offsite rural amenity values are maintained and enhanced. The potential adverse effects of buildings are controlled by bulk and location standards. New Vale mine provides coal to a number of largescale primary sector processing facilities that will continue to be require a reliable source of fuel while they undertake the necessary work to reduce reliance on non-renewable energy sources. New Vale also provides Coal to domestic customers (via local retailers) who rely on it for home heating. There are advantages associated with locally sourced coal for these purposes as opposed to importing product from outside the Region or the Country. New Vale Mine currently operates in accordance with a suite of resource consents. During the life of this District Plan it is likely that the existing consented mine area will be exhausted and that mining will need to commence within an expanded area of the site. The Special Zone provides clarity and a framework for assessing applications in the short to medium term and provide a degree of certainty regarding the availability of coal from New Vale to support the decision making of organisations and individuals reliant on it prior to their transition to alternative renewable sources of energy	Accept in part	Yes
S128.061 Greenbriar Ltd.	New Vale Mining Activity: Means the use of land and buildings for - the extraction, processing (including crushing, screening, blending), transport, storage, stockpiling and sale of coal and superdirt - recycling of byproducts from processing (including clay, silk, rock, sand, soil), - earthworks associated with the scraping and deposition of overburden material, including the return of coal ash to ground, - rehabilitation of mining areas including landscaping, - cleanfilling, - administration offices, workshops and associated car parking areas.	Reject	
S128.062 Greenbriar Ltd.	NVSZ-O1 - Ongoing efficient operation of New Vale mine supports the economic sustainability and productivity of the Gore District and wider Southland Region. . NVSZ - O2 - The effects arising from expanded mining within the New Vale Special Zone are minimised to the extent practicable, taking into account the locational constraints and the functional and operational needs of the activities. NVSZ - O3 - Ensure that activities within the Zone are undertaken in accordance with industry best practice and opportunities for enhancing values within the Zone are taken. NVSZ-O4 - ensure that the site is rehabilitated so that primary production capacity is retained for future generations following mining.	Accept in part	Yes

S128.063 Greenbriar Ltd.	NVSZ - P1 - Recognise New Vale Mine as a strategically important activity that is necessary to support the dominant land use activities within the Gore District and wider Southland Region. NVSZ - P2 - Provide for mining activities within the New Vale Zone. NVSZ - P3 - New Vale Mining activities within the New Vale Zone are undertaken in a way that: 1. Utilises an effects management hierarchy approach where applicable; 2. Maintains the rural character and rural amenity surrounding the Zone; 3. Retains the productive potential of the land following the mining activity being undertaken; 4. Identifies opportunities to enhance ecological and freshwater values 5. Responds to the underlying Ngai Tahu relationships within the natural environment.	Accept in part	Yes
S128.064 Greenbriar Ltd.	Provisions in Other Chapters: The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua.	Reject	
S128.065 Greenbriar Ltd.	NVSZ- R1 - New Vale Mining Activity Status - permitted Where: 1. The New Vale Mining Activity has a total area of extraction open at any one time that does not exceed 2,500m2; and 2. The activity is set back: (a) 500 metres from a sensitive activity or a zone boundary except the General Industrial Zone. (b) 100m from any side or rear boundary (c) 50m from any road boundary; and 3. The area is progressively stabilised, filled or recontoured; and 4. Any new building or structure complies with General Rural Zone standards GRUZ-S2-S8 and Earthworks Standards EW-S3, S5 and S7. 5. Extraction of Coal occurs within the Mining Area identified on the Planning Maps. Activity status where compliance is not achieved with Standards 1-4 - controlled. 1. The timing and duration of the activity 2. Sediment and erosion management 3. Effects on rural character and amenity values of neighbouring properties 4. Safety and suitability of access and effects on the transportation network 5. Staging and progressing rehabilitation works 6. Retention of any Highly Productive soils for use following rehabilitation 7. Impacts on Ngai Tahu cultural values, including those listed in MR2.3. 8. Matters of discretion of any infringed standard. 9. Effects on indigenous biodiversity 10. Environmental Management Plan to managed effects if the activities within the site?? Activity Status where compliance is not achieved with Standard 5 - discretionary	Accept in part	Yes

S128.066 Greenbriar Ltd.	NVSZ-R3 Primary production (excluding prospecting for and mining minerals) Activity Status: Permitted Where: 1. Any new building or structure complies with General Rural Zone standards GRUZ-S2-S8 Activity Status where compliance is not achieved: Restricted Discretionary Matters of discretion: 1. The maters of discretion of any infringed standard	Reject	
S128.067 Greenbriar Ltd.	NVSZ-R4 Conservation Activity Activity status: Permitted Where: 1. The activity is the establishment of a new, or expansion of an existing conservation activity. Activity Status where compliance is not achieved: N/A	Reject	
S128.068 Greenbriar Ltd.	All other activities Activity status: Discretionary 1. Any activities, including associated buildings, not otherwise provided for in the list of rules. Activity status where compliance is not achieved: N/A	Reject	
S128.069 Greenbriar Ltd.	Need to include special zone in Noise Standard Provisions	Accept in part	Yes
S128.070 Greenbriar Ltd.	Additions of New Vale Special Purpose Zone as identified in Appendix 2. Submitter would also accept alternative relief that achieves the same outcome. If the Special Zone is not accepted Greenbriar seek to have the provisions outlined in the Special Zone Table included as provisions in the General Rural Zone as alternative relief, and/or the development of a New Vale Precinct within the Rural Zone	Accept in part	Yes

General Rural Zone

1. Addition to Overview and Purpose

New Vale Precinct (PREC14)

A New Vale Precinct (PREC14) applies to land southwest of Gore and northwest of Mataura. The purpose of the New Vale Precinct (PREC14) is to enable the sustainable management, operation and development of the New Vale Mine, which is an existing activity at this site. New Vale Mine provides coal to a number of largescale primary sector processing facilities that will continue to require a reliable source of fuel while they undertake the necessary work to reduce reliance on non-renewable energy sources.

The Precinct objectives, policies and rules provide the framework for the expansion of the *mining* activity whilst managing the effects and ensuring that offsite rural amenity values are maintained and enhanced.

This chapter contains objectives, policies, and rules which apply specifically to the New Vale Precinct in addition to the provisions of the underlying General Rural Zone. Where there is any conflict between the provisions the Precinct provisions shall prevail.

2. Addition to Objectives

GRUZ-PREC14-O1 Ongoing efficient operation of New Vale mine supports the economic sustainability and productivity of the Gore District and wider Southland Region~~.~~ while ensuring:

1. The effects arising from *mining* activities within the New Vale Precinct are remedied, mitigated, offset or compensated, taking into account the functional need and operational need of the activities.
2. The New Vale mine site is rehabilitated so that primary production capacity is retained for future generations and ecological values are restored and enhanced.

3. Addition to Policies

GRUZ-P6 ~~Manage the environmental and cultural *effects*~~ Recognise the benefits of *quarrying* and *mining* activities for the local and regional economy and supporting associated industries, and ~~avoid *quarrying* and *mining* activities that result in adverse cultural or environmental *effects* that cannot be avoided, mitigated or offset.~~ where:

1. the extent of any adverse ~~cultural or environmental~~ effects ~~that cannot be avoided, mitigated or offset~~ is significant:

(a) in the first instance seek to avoid those effects; and

(b) where it is not possible to avoid those effects, require those effects to be remedied, mitigated, offset or compensated for.

2. the extent of any adverse effects is less than significant avoid, remedy or mitigate those effects. [2]

GRUZ-PREC14-P1 Provide for *mining* and *rural industry* activities within the New Vale precinct where undertaken in a way that:

1. Maintains the rural character and rural amenity surrounding the Precinct;
2. Provides for remediation and retention of the productive potential of the land following the *mining* activity being undertaken;
3. Identifies and takes opportunities to enhance ecological and *freshwater* values
4. Responds to the underlying Ngai Tahu relationships within the natural *environment.*

4. Amending Rule GRUZ-R2 Prospecting for and *Mining* Minerals

All areas excluding Historic Heritage sites, Significant Natural Areas, Outstanding Natural Landscapes and Outstanding Natural Features

Activity status: Permitted

Where:

1. The prospecting or *mining* activity has a total area of extraction open at any one time that does not exceed 2,500m^2;
2. The activity is not located on *Highly Productive Land*;
3. The activity is set back:
   (a) 500 metres from a *sensitive activity;*
   (b) 500 metres from a zone *boundary* except with the General Industrial Zone.
   (c) 100m from any side or rear *boundary*
   (d) 50m from any *road boundary*;
   (e) in compliance with Standard GRUZ-S7

and

4. The area is progressively stabilised, filled or recontoured; and

[2] Decision 16, paragraph 4.11.3

5. Any new or relocated *building* or *structure* ~~and activity~~ complies with General Rural Zone standards GRUZ-S2, GRUZ-S3, GRUZ-S4, GRUZ-S5, GRUZ-S6, GRUZ-S7 and GRUZ-S8, and Earthworks standards EW-S3, EW-S5 and EW-S7.

Activity status where compliance is not achieved:

Restricted Discretionary

Where:

1. the activity is within the New Vale Precinct (PREC 14)

Matters of discretion

1. mine operations, including staging over time and stockpiling of materials
2. environmental management plans to manage actual and potential adverse effects of the activity
3. conditions to manage:
   - (i) visual screening and amenity plantings;
   - (ii) noise, light spill and dust;
   - (iii) erosion and sediment control;
   - (iv) contaminated soil or material;
   - (v) indigenous biodiversity;
   - (vi) roading effects;
   - (vii) Ngāi Tahu cultural values listed in MW-1.2;
   - (viii) site rehabilitation;
   - (ix) monitoring and complaints

Discretionary

Where:

1. the activity is outside the New Vale Precinct (PREC 14)

5. Addition to Rule GRUZ-R4 Rural Industry

PREC14 – New Vale Precinct

Activity status: Permitted

Where:

11. Any new or relocated *building*, *structure* and activity complies with standards GRUZ-S6, GRUZ-S7 and GRUZ-S8.

12. There are no more than 20 customers coming to *site* on any day.

13. The activity is set back 100m from the precinct *boundary*

Activity status where compliance is not achieved with:

GRUZ-R4(11) - GRUZ-R4(13): Restricted Discretionary

Matters of discretion:

1. Location and scale of the activity.
2. The *effects* on rural character and *amenity values* of the surrounding environment.
3. Safety and suitability of *access* and *effects* on the *transport network* from additional traffic generation.

The matters of discretion of any infringed standard.

6. Addition to How the Plan Works

Precincts

New Vale Precinct	PREC 14	The purpose of the precinct is to enable the sustainable management, operation and development of the New Vale Mine.

7. Addition to Noise Chapter

NOISE-S2 *Noise Levels between zones*

Noise levels generated from any site in the NCZ, TCZ, LCZ, MUZ, GIZ, LIZ, Rural Industry Precinct (PREC13) and Mandeville Aviation and Rail Precinct (PREC8) and New Vale Precinct (PREC14)

Noise levels from the GRUZ, SPZ-Field Days & SPZ-Camp Columba and Rural Industry Precinct (PREC13) and New Vale Precinct (PREC14) received in any other GRUZ, LRZ, SETZ, GRZ, LLRZ, MRZ

Include new map showing precinct boundary – red and blue external lines