

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF the hearing of submissions in relation to
the Proposed Timaru District Plan

MINUTE 7

**HEARING A – PANEL REQUEST FOR CLARIFICATION FROM S42A AUTHORS AND
INFORMATION REQUESTS TO SUBMITTERS**

DATED 17 MAY 2024

1. INTRODUCTION

[1] The Timaru District Council ("the Council") appointed Cindy Robinson (Chairperson), Ros Day-Cleavin, Councillor Stacey Scott, Jane Whyte, Megen McKay, and Raewyn Solomon ("the panel") to hear submissions and further submissions, and evidence to make decisions on the Timaru Proposed District Plan ("the Proposed Plan") pursuant to Section 34A(1) of the Resource Management Act 1991 ("RMA"). Our delegation includes all related procedural powers to conduct those hearings.

[2] The hearings commenced on 8 May 2024 with Hearing A – Introduction, General Definitions, Strategic Directions and Urban Form and Development.

[3] The purpose of this Minute is to:

- (a) Request modifications to the format of future s42A author summary statements.
- (b) Outline our expectations of s42A authors at the conclusion of each hearing stage.
- (c) Request clarification, and ask further questions of s42A authors on their reports following the hearing of evidence and submissions in Hearing A.
- (d) Record requests made of submitters during Hearing A.

- (e) Request matters in relation Hearing D.
- (f) Identify intended site visits following Hearing A.

2. PANEL REQUEST FOR FUTURE S42A REPORT SUMMARY STATEMENTS AND EXPECTATIONS FROM S42A AUTHORS AT THE END OF EACH HEARING STAGE

[4] The Council provided two reports prepared under s42A of the RMA to provide the panel and submitters with an overview of the issues in Hearing A and to provide recommendations to the panel as to whether various submissions and further submissions should be accepted or rejected in whole or in part.

[5] We received reports from:

- (a) Ms Alanna Hollier in relation to the Introduction and General Definitions,¹ and
- (b) Mr Andrew Willis in relation to the Strategic Directions and Urban Form and Development Chapters.²

[6] Prior to the commencement of the hearing the s42A authors circulated a summary statement which outlined the key matters raised in submissions and updated the panel and submitters and further submitters (hereafter referred to 'submitters' or submissions collectively unless context requires otherwise) on their recommendations. The panel found the summary statements helpful, particularly the identification of matters that they considered to be 'resolved' or remained outstanding, having considered the pre circulated evidence of submitters for Hearing A. In relation to the outstanding matters, the s42A authors reserved their position pending the hearing of evidence and answers to questions from the panel.

[7] We request that the s42A authors continue to provide summary statements in subsequent hearings, subject to the following changes:

- (a) The panel does not require s42A officers to repeat matters in their primary s42A Report, rather the summary statement should focus on matters relating to the

¹ Ms Hollier's expertise and qualifications are set out in her s42A Report at Section 3.2.

² Mr Willis' expertise and qualifications are set out in Appendix C to his s42A Report.

correction and updating of recommendations and the identification of matters that remain in dispute and those that have been resolved.

- (b) In relation to the matters that the s42A authors describe as 'resolved' we ask that the authors make it clear whether the resolution involves agreement by all relevant submitters on the issue, or whether the author is simply in agreement with a submission or further submission, or the views of a particular expert being presented in the current hearing topic. In the case of the matters that the author agrees with a particular submitter or expert, can the author identify those submitters who they do not agree with and/or the relevant expert that they do not agree with and the reasons why.
- (c) This means that for future summary statements the s42A author identifies three categories of updates to their recommendations to assist the panel: 'resolved as between all relevant parties', 'agreements with some but not all submitters and/or relevant experts' and those that remain outstanding pending hearing of evidence.
- (d) Summary statements are to be filed 2 working days prior to the start of the hearing topic.

[8] At the hearing the panel asked questions of clarification of s42A authors before hearing from submitters. The panel in some instances signalled that they may have further questions after hearing from submitters. In this minute we wish to record our questions of further clarification and provide an opportunity for the s42A officer to revisit their list of 'resolved matters' in accordance with paragraph [7](b).

[9] At each stage of the hearing, we will adopt the process of recording any follow up questions in writing following each hearing, if any, and inviting a written response. We do, however, expect that if the s42A author has a matter they wish to clarify or correct then this can be done orally at the conclusion of each hearing.

[10] The questions of clarification the panel have for Hearing A, are not intended to be the Council's final right of reply, there will be a separate opportunity for this at the conclusion of all hearings. We are mindful that although the hearings have been broken down into stages, there are of course interdependencies between provisions and chapters, and definitions across all the Proposed Plan, and it is appropriate that all relevant submissions and evidence is considered in an integrated way. It is our hope, that providing an interim opportunity for

s42A authors to record in writing any shifts in their recommendations following each hearing stage will assist submitters scheduled to appear in later hearings to keep track of the s42A recommendations. Whilst those recommendations are not binding on the panel, we understand that often submitters take a lead or steer in their preparations from the s42A reports.

[11] The panel would be further assisted by a final right of reply from s42A authors to be presented in an integrated or co-ordinated manner at the conclusion of the process.

[12] On that point of integration and co-ordination, the panel raised a concern with legal counsel for the Council on keeping track of the recommendations of individual s42A authors on definitions and requesting that the authors for subsequent hearings include a summary of any recommended changes to definitions from previous s42A authors. As noted, we do not wish to have before us multiple versions of recommended changes to definitions from s42A authors. There needs to be a consistent approach. This doesn't preclude a submitter having a different view.

3. QUESTIONS OF CLARIFICATION FROM MS HOLLIER AND MR WILLIS

[13] We ask Ms Hollier:

- (a) Revisit paragraph 8-10 of her summary statement and reclassify these in accordance with paragraph [7](b) above.
- (b) Revisit paragraph 11 of her summary statement and identify which matters can now be classified in accordance with paragraph [7](b) above and those that remain 'unresolved' and cross reference the evidential basis for those recommendations.
- (c) In relation to paragraph 9(b) and 12 of her summary statement, having now heard from Te Rūnanga o Ngāi Tahu clarify her recommendation regarding the use of the terms 'Māori' and 'Māori people'³ in the Mana Whenua Chapter.
- (d) Reconsider how the terms 'Mātauraka māori' and 'Tikaka' in paragraph 340 of her s42A Report are used and explained.

³ Manawhenua section of the Proposed Plan, 6th paragraph. Ms Hollier indicated that she would work with Mr Henry, to resolve the use of the term 'Māori people'.

[14] We ask Mr Willis:

- (a) Revisit paragraph 15(a) to (h) of his summary statement and identify whether he considers that matters listed can now be classified in accordance with paragraph [7](b) above or remain outstanding or subject to his comments in paragraph 16 that:

...the remaining matters are finely balanced and/or potentially have integration implications (such as the approach to reverse sensitivity or households per hectare).

- (b) In responding to sub paragraph (a) above please cross reference the evidential basis for the updated recommendations.
- (c) Revisit and tidy up the typographical and formatting errors in his recommended version of SD-O1.
- (d) Consider the changes requested by Forest and Bird during the hearing regarding:
- (i) additional subclause (5) to SD-O3;
 - (ii) proposed amendments SD-O4; and
 - (iii) additional subclause (7) to SD-O9 (similar to SD-O1 and SD-O7 for consistency).

4. REQUESTS FOR FURTHER CLARIFICATION FROM SUBMITTERS ARISING FROM HEARING A

[15] During the hearing we requested clarification or provided an opportunity for submitters to provide additional information or responses to panel questions. We record these as follows.

Submitter	Representative/witness	Request from panel	Response received
Te Rūnanga o Ngāi Tahu (185)	Rachael Pull	Provide precise wording on recommended change to definition of 'sensitive activities'.	

		Clarify why the versatile soil overlay on the Ōrakipaoa Wetland should be removed as sought in Submission Point 185.2.	Response received on submission point 185.2 in memorandum dated 10 May 2024.
NZ Helicopter Association (265)	Richard Milner	Provide example of Selwyn rule for temporary activities following outcome of Environment Court Mediation (once this has been approved by the Court).	
Enviro NZ Services Limited (162)	Kaaren Rosser	Clarify wording of proposed changes to SD-O8. The drafting changes appear to be contradictory and do not appear to achieve the submitters intention to protect waste management activities from reverse sensitivity effects.	
Royal Forest and Bird (156)	Nicky Snoyink	Clarify paragraph 21 of submission made at Hearing A in relation to UFD-O1 and the difference between 'reduced' and 'minimised'. Clarify relief requested in relation to domestic gardens and shelter belts. Clarify the effect on cultural heritage from suggested separation of the natural and historic heritage values in SD O2.	Response by email dated 9 May 2024

Transpower New Zealand Limited (159)	Ainsley McLeod	Provide alternative drafting options to address National Grid exemptions from the requirements of the NPS-IB, rather than modifying SD O1-09, including an additional SD or provisions in the Infrastructure and Energy chapters.	
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5. REQUEST FOR INFORMATION IN S42A REPORTS AND EVIDENCE OF TE RŪNANGA O NGĀI TAHU IN RELATION TO HEARING D

[16] During Hearing A, we heard from Mr Bonifacio (36) who raised an issue about the extent of engagement with landowners affected by the Sites of Significance to Māori (“SASM”) identified in the Proposed Plan. Those matters are the subject of Hearing D. As a panel we would benefit from a greater understanding of the process that Council followed to identify the SASM overlays and an understanding of the identified cultural values that are to be protected. We are hoping that the relevant s42A author for Hearing D will be able to provide a description of the process, including the methodology for the mapping undertaken, and the engagement undertaken with landowners on SASMs prior to notification, and that perhaps either through the support of Kāti Huirapa or through evidence from Te Rūnanga o Ngāi Tahu the panel could receive information about the cultural values to be protected, particularly where there may have been opposition from any submitter.

[17] The panel is of course cognisant of the sensitivities around the disclosure of information to avoid serious offences to tikaka Māori and note that we may of our own motion (or at the request of any party to the hearing) make an order to receive the information with public excluded or to prohibit or restrict the publication or communication of sensitive information pursuant to s42 of the RMA.

[18] We are raising this now so that there is time to consider the most appropriate way to address these matters related to Hearing D. We invite the Council to engage with Te Rūnanga o Ngāi Tahu and provide either a joint response or individually as to how we might best address these matters to meet our statutory duties under the RMA.

6. SITE VISITS

[19] Following Hearing A the panel would like to undertake site visits to PrimePort Timaru, Timaru's landfill site at Shaw and Redruth Streets, and Fonterra's Clandeboye plant and their environs. The hearings administrator will liaise with Council and the representatives of those sites to arrange appropriate access. Where health and safety requirements mean we must be accompanied by appropriate company personnel we ask that the person is not someone who is to give evidence or involved in the submissions on the Proposed Plan. We simply require a guide and will not receive commentary or evidence related to the Proposed Plan during our visit.

[20] This will likely be one of many site visits that the panel wishes to undertake during the course of and following the hearings on the Proposed Plan. If the Council or submitters consider there are specific locations that we would benefit from visiting, then this can be requested in writing, addressed to the Hearing Administrator. The panel will consider all requests and determine whether a site visit is appropriate or necessary to assist our understanding of the issues.

7. TIME FRAMES

[21] We direct that Ms Hollier and Mr Willis provide their responses to the matters raised in paragraphs [13] and [14] by 5pm Friday 14 June 2024.

[22] Submitters who have yet to do so provide the requested information set out at paragraph [15] by 5pm 31 May 2024.

[23] That the Council and/or Te Rūnanga o Ngāi Tahu provide a response to how we might best address the request in paragraphs [16]-[18] above by 14 June 2024. It would assist the panel if we could receive the information regarding the process, methodology applied to identify SASM's and the nature of landowner engagement alongside the s42A Reports for Hearing B⁴. Subject to identifying the appropriate procedure to receive information regarding cultural values, this can form part of the evidence for Hearing D.

⁴ The panel anticipates this response will be provided by the s42A author for Hearing D.

Dated this 21st day of May 2024



C E ROBINSON - CHAIR ON BEHALF OF THE HEARINGS PANEL