

# Submission on Notified Proposal for Plan, Change or Variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Timaru District Council

Name of submitter:

ALASTAIR JOSEPH ROONEY  
[State full name]

This is a submission on the following proposed plan or on a change proposed to the following plan or on the following proposed variation to a proposed plan or on the following proposed variation to a change to an existing plan) (the 'proposal'):

PROPOSED DISTRICT PLAN - TIMARU DISTRICT COUNCIL  
[State the name of proposed or existing plan and (where applicable) change or variation].

I could/could not\* gain an advantage in trade competition through this submission.  
[\*Select one.]

~~I am/am not† directly affected by an effect of the subject matter of the submission that—  
(a) adversely affects the environment; and  
(b) does not relate to trade competition or the effects of trade competition.~~

~~[\*Delete or strike through entire paragraph if you could not gain an advantage in trade competition through this submission.]  
[†Select one.]~~

The specific provisions of the proposal that my submission relates to are: [Give details]

SEE ATTACHED

My submission is: [Include whether you support or oppose the specific provisions or wish to have them amended; and reasons for your views]

[If your submission relates to a proposed plan prepared or changed using the collaborative planning process, you must indicate the following:

- Where you consider that the proposed plan or change fails to give effect to a consensus position and therefore how it should be modified; or
- In the case that your submission addresses a point on which the collaborative group did not reach a consensus position, how that provision in the plan should be modified.]

SEE ATTACHED

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**I seek the following decision from the local authority:** *[Give precise details as this is the only part of your submission that will be summarised in the summary of decisions requested]*

*SEE ATTACHED*

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**I wish (or do not wish)† to be heard in support of my submission.**

*[\*In the case of a submission made on a proposed planning instrument that is subject to a streamlined planning process, you need only indicate whether you wish to be heard if the direction specifies that a hearing will be held.]*

*[†Select one.]*

**\*If others make a similar submission, I will consider presenting a joint case with them at a hearing.**

*[\*Delete if you would not consider presenting a joint case.]*

**Signature of submitter (or person authorised to sign on behalf of submitter)**

*[A signature is not required if you make your submission by electronic means]*

Date *15/12/2022*

Electronic address for service of submitter: *Sarah.mathews@duncan-cotterill.com*

Telephone: *021-1954156 / (03) 372-6505*

Postal address (or alternative method of service under s352 of the Act): *C/O DUNCAN COTTERILL, PO BOX 5, CHRISTCHURCH, 8140*

Contact person: *[name and designation, if applicable] SARAH MATHEWS / KATHERINE FORWARD*

**Note to person making submission**

1. If you are making a submission to the Environmental Protection Authority, you should use form 16B. If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.
2. Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):
  - It is frivolous or vexatious:
  - It discloses no reasonable or relevant case:
  - It would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
  - It contains offensive language:
  - It is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialist knowledge or skill to give expert advice on the matter.

\*Form 5 continued

**Submitter Details:**

This submission is made on behalf of Alastair Joseph Rooney (**Mr Rooney**).

1. Mr Rooney is the registered proprietor of the following land:

- a. 0 Domain Avenue, Temuka, Timaru contained in record of title CB5C/1227 and legally described as Section 899-900 Town of Arowhenua, identified on **Figure 1** below.
- b. 48 Milford-Clandeboye Road, Temuka, Timaru, contained in record of title CB811/54 and legally described as Lot 3 on Deposited Plan 20484 identified on **Figure 2** below.
- c. 32 Milford-Clandeboye Road, Temuka, Timaru, contained in record of title CB811/53 and legally described as Lot 1 and Lot 4 on Deposited Plan 20848 identified on **Figure 3** below.

together the **Properties**.



Figure 1: 0 Domain Avenue, Temuka



Figure 2: 48 Milford-Clandeboye Road, Temuka



Figure 3: 32 Milford-Clandeboye Road, Temuka

**The specific provisions of the proposal that my submissions relates to are:**

1. The table below covers all of Mr Rooney's submission points.

<b>My submission is:</b>	<b>My position on this provision is:</b>	<b>The reasons for my submission are:</b>	<b>I seek the following decision from the local authority:</b>
Sports and Active Recreation Zone	Oppose including any objectives, policies or rules in respect of the overlay relating to 0 Domain Avenue and 32 Milford-Clandeboye Road	<p>0 Domain Avenue and a portion of 32 Milford-Clandeboye Road are both located on the Milford-Clandeboye Road side of Taumaakahu Stream. Given the presence of the stream, it is most convenient to control grass by grazing animals on this area. Under the operative Timaru District Plan the grazing of animals is permitted. This proposed plan excludes the grazing of animals, leaving Mr Rooney in the position of being unable to economically use the land, but needing to control grass/weeds etc by mechanical or spray measures.</p> <p>Mr Rooney's properties at 0 Domain Avenue and 32 Milford-Clandeboye Road are the only pieces of private land within this area that are within the Sports and Active Recreation Zone, and this zone does not contemplate management of private land within this zone.</p>	<p><b>Please note: where several options are listed, the preferred relief is first, followed by alternatives in priority.</b></p> <ol style="list-style-type: none"> <li>1. Rezone 0 Domain Avenue and a portion of 32 Milford-Clandeboye Road as General Rural Zone</li> <li>2. Enable the grazing of animals within the Sport and Active Recreation Zone</li> <li>3. Enable grazing of animals within the Sport and Active Recreation Zone within 0 Domain Avenue and 32 Milford-Clandeboye Road</li> <li>4. Any alternative relief that would address Mr Rooney's concerns</li> </ol>
General Rural Zone, GRUZ-01 and GRUZ-R1	Oppose together with any objectives, policies, rules, standards and schedules in	Under GRUZ-01, the purpose of the General Rural Zone provides for primary production, including	<ol style="list-style-type: none"> <li>1. Amend GRUZ-R1 to permit primary production, intensive primary production and intensively farmed stock</li> </ol>

	respect of the overlay relating to the Properties	<p>intensive primary production.</p> <p>Intensively farmed stock is not expressly authorised within any zone and clearly fits within the character and qualities of activities of this zone.</p> <p>It is inappropriate for intensively farmed stock to be carried out within other zones– accordingly, it is appropriate that intensively farmed stock should be protected under GRUZ-03 and should be a permitted activity under GRUZ-R1.</p>	<p>2. Amend GRUZ-01 to provide for primary production, intensive primary production and intensively farmed stock</p> <p>5. Any alternative relief that would address Mr Rooney’s concerns.</p>
Light Sensitive Area Overlay	Oppose, including any objectives, policies, rules, standards and schedules in respect of the overlay relating to 32 and 48 Milford-Clandeboye Road.	<p>Mr Rooney opposes Light Sensitive Areas being delineated by overlays, rather than on ecological assessment. Wāhi tapu, Wāhi taoka and Wai taoka Overlays can be expansive, particularly Wāhi taoka SASM-4B, and may encompass areas where the control of light is unnecessary to character and qualities of the surrounding area.</p> <p>The overlay does not account for health and safety associated with ancillary activities to permanent activities and is at odds with LIGHT-P1 and LIGHT-P3. Artificial Outdoor Lighting is critical for the health and safety of stock/plant/staff undertaking farming operations which may need to occur past 10pm and the Properties should be excluded from the overlay.</p> <p>It is clear that artificial outdoor</p>	<p>1. Exclusion of the 32 and 48 Milford-Clandeboye Road from this overlay</p> <p>2. The extent of the overlay on the 32 and 48 Milford-Clandeboye Road be reduced</p> <p>3. Any alternative relief that would address Mr Rooney’s concerns</p>

		<p>lighting is critical for health and safety reasons for Mr Rooney's operation, and that LIGHT-P3 should be applied to the Properties, and the Properties excluded from the Light Sensitive Area.</p> <p>See below submissions for more detail on these reasons.</p>	
LIGHT-P1 – Appropriate artificial outdoor lighting	Oppose	<p>Artificial outdoor lighting for health and safety reasons, or ancillary activities to permanent activities should be exempt from the criteria of appropriate artificial outdoor lighting of this policy.</p>	<ol style="list-style-type: none"> <li>1. LIGHT-P1 be amended so that artificial outdoor lighting not be limited where this is for achieving health and safety including ancillary activities to permanent activities</li> <li>2. Any alternative relief that would address Mr Rooney's concerns</li> </ol>
Part 1 – Definitions, Light Sensitive Area Overlay and Outdoor Lighting	Oppose	<p>Mr Rooney opposes Light Sensitive Areas being delineated by overlays, rather than on ecological assessment. Wāhi tapu, Wāhi taoka and Wai taoka Overlays can be expansive, particularly Wāhi taoka SASM-4B, and may encompass areas where the control of light is unnecessary to character and qualities of the surrounding area.</p> <p>Outdoor lighting is a broad definition, and it is unclear whether this applies to fixed or unfixed lighting.</p>	<ol style="list-style-type: none"> <li>1. Light sensitive areas to be determined based on ecological evidence, and limited accordingly.</li> <li>2. Standards developed to determine what constitutes a light sensitive area.</li> <li>3. Clarification of the definition of Outdoor Lighting to identify whether such lighting is fixed and/or unfixed</li> <li>4. Any alternative relief that would address Mr Rooney's concerns.</li> </ol>
LIGHT-R2 – Outdoor artificial lighting for health and safety	Oppose	<p>PER-2 does not permit outdoor artificial lighting within light sensitive areas if they are ancillary to a permanent activity that occurs on</p>	<ol style="list-style-type: none"> <li>1. Outdoor artificial lighting for health and safety be permitted for an ancillary activity to a permanent activity that occurs on site.</li> </ol>

		<p>site.</p> <p>Standard outdoor artificial lighting associated with farming would be deemed non-compliant on the basis they are ancillary to a permanent activity that occurs onsite. Standard outdoor artificial lighting for a farming operation may include (but is not limited to):</p> <ul style="list-style-type: none"> <li>• Tractors, with fixed lights</li> <li>• Irrigation pivots</li> <li>• Flood lights, which may be used to clear stock either in the course of business, or in times of emergency.</li> </ul> <p>This rule does not account for permanent activities or existing uses that require artificial lighting in the ordinary course of business to protect the health and safety of stock/plant/personnel.</p> <p>PER-2 is in conflict with LIGHT-O2 which states the benefits of artificial lighting are recognised while any adverse effects generated do not compromise the health and safety of people and communities, including road safety. PER-2 is also in conflict with LIGHT-P1(1) which provides for the safe and efficient use of the outdoors for a range of activities, including for night-time working,</p>	<ol style="list-style-type: none"> <li>2. PER-3 not be applicable for lighting required for health and safety (including for ancillary activities to permanent activities occurring on site)</li> <li>3. Any alternative relief that would address Mr Rooney's concerns, and enable farming operations to continue with necessary lighting.</li> </ol>
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Tables 22 and 23 and Figure 18	Oppose Table 22 and 23 and Figure 18 together with any other rules and standards relating to lighting standards, illuminance levels, increment and acceptable/unacceptable lighting	<p>Table 22 limits illuminance levels to times between 7am-10pm, and prescribes low lux levels. These times and lux levels cannot be achieved when undertaking ancillary activities to permanent activities such as farming, where emergency clearance of stock may be required past 10pm.</p> <p>The examples of acceptable fixtures are limited and must all be fully shielded, this is not practicable for farming operations, where flood lights or other exposed lighting might be required to safely operate the permanent activity.</p>	<ol style="list-style-type: none"> <li>1. Removal of illuminance time restrictions in Table 22</li> <li>2. Removal of illuminance time restrictions in Table 22 insofar as they relate to matters of health and safety (including ancillary activities to permanent activities that occur on site)</li> <li>3. Limits on acceptable illuminance levels, increment, and acceptable/unacceptable lighting be removed for matters of health and safety for an ancillary activity of a permanent activity that occurs on site.</li> <li>4. Any alternative relief that would address Mr Rooney's concerns, and enable farming operations to continue with necessary lighting.</li> </ol>
Part 1 – Definition of Urban Areas	Oppose	The boundaries of a “town with a population of 1,000 or more” is unclear. The Properties are within Temuka, but are not situated within Temuka proper and it is unclear which rules will apply to the Properties.	Clarification of the boundaries of urban areas
Sites and Areas of Significance	Oppose the extent of the	Mr Rooney disputes the extent of the	<ol style="list-style-type: none"> <li>1. Exclusion of the Property from all SASMs</li> </ol>



to Māori ( <b>SASM</b> )	overlays together with any objectives, policies, rules, standards and schedules in respect of the overlay relating to the Properties	<p>overlays over the Properties. This is on the basis that the boundaries of SASMs are expansive and it is unclear how these boundaries have been struck. It appears that some SASMs have been determined by property boundaries, rather than the contour of significant areas.</p> <p>These overlays contain some very restrictive rules, and it is not appropriate to apply these equally across expansive areas, which have their own natural characteristics and existing uses.</p>	<ol style="list-style-type: none"> <li>2. The extent of the SASMs on the Properties be reduced</li> <li>3. The exclusion of the Properties from SASM-4B (as applicable)</li> <li>4. The extent of the SASM-4B on the Properties be reduced</li> <li>5. Any alternative relief that would address Mr Rooney's concerns.</li> </ol>
Sites and Areas of Significance to Māori ( <b>SASM</b> ) Policies	Oppose	The policies contained in this chapter focus on the protection of sites and characteristics that have value to Kāti Huirapa, and Mr Rooney does not oppose this. Mr Rooney does submit that the policies should contemplate health and safety, and existing use of land subject to SASMs and the protection of those activities.	<ol style="list-style-type: none"> <li>1. SASM-P4 amended to focus on the grant of safe access and to recognise the impact of access on existing rural activities</li> <li>2. Policies recognise that an adverse effect of the activities, do not negatively impact existing uses of the affected land</li> <li>6. Any alternative relief that would address Mr Rooney's concerns.</li> </ol>
SASM-P8	Oppose	This policy sets out the means to protect sites within the wāhi taoka, wāhi tapu, and wai tapu overlays. This policy does not recognise existing uses of land within the area except for functional needs associated to an activity. Functional needs associated with an activity may not enable an existing activity to	<ol style="list-style-type: none"> <li>1. Amendment of SASM-P8 to recognise exiting rural use of sites within these overlays</li> <li>2. SASM-P8(3)(a) amended to read “..are for the <b>functional</b> needs of the activity...”</li> <li>3. Any alternative relief that would address Mr Rooney's concerns.</li> </ol>

		<p>be efficiently carried out.</p> <p>Activities within these overlays can be effectively managed with matters of control or discretion.</p>	
SASM-R6(2) – Intensively Farmed Stock	Oppose	<p>Intensively farmed stock can be adequately managed through matters of control and discretion and a more appropriate process for approval should be provided (i.e. not deemed a non-complying activity within wāhi taoka, wāhi tapu, and wai tapu overlays with objectives and policies that seek avoidance and protection over continued use). It is appropriate for the Proposed Plan to recognise the existing activities within the district, and the impact of the restrictions imposed by these overlays and rules on the economic position of farmers would have to be justified.</p> <p>A significant number of SASMs will fall within the wāhi taoka, wāhi tapu, and wai tapu overlays, which by their nature can be very expansive areas. SASM-4B effects of all 48 Milford-Clandeboye Road, and a large portion of 32 Milford-Clandeboye Road, and 48 Milford- Clandeboye Road is currently being farmed in both intensive and less intensive stock. The ability to move grazing type (i.e. pasture, winter crop) around the entire property is an</p>	<ol style="list-style-type: none"> <li>1. SASM-R6(2) to be deleted in its entirety</li> <li>2. SASM-R6(2) to be a controlled activity</li> <li>3. Any alternative relief that would address Mr Rooney's concerns.</li> </ol>

		<p>important part of farm management and should not be so easily discounted.</p> <p>As discussed above it is unclear how the SASM boundaries have been determined with some SASMs appearing to have been determined by property boundaries, rather than the contour of significant areas. It is inappropriate to apply restrictions and rules equally across expansive areas, which have their own natural characteristics and existing uses.</p> <p>SASM-P8 seeks to protect these sites through engagement and avoiding adverse effects. This policy acknowledges that adverse effects may be allowed where it can be <i>demonstrated</i> that they are required due to the functional needs of the activity (etc). Imposing an activity of non-compliance if the permitted activity rules cannot be met, does not allow a person to demonstrate appropriate management of an activity can achieve SASM-P8, this opportunity can be provided if the activity was controlled. Accordingly, it is more appropriate for this to be a controlled or discretionary activity.</p>	
Significant Natural Area or SNA	Oppose together with any objectives, policies, rules, standards and schedules in respect of the overlay relating	There is no ECO-SCHED2 to the Proposed Plan, and it is unclear whether this is to be read together with SCHED7 – Schedule of	1. ECO-SCHED2 be made available or reference corrected to SCHED7 if included in error

	to the Property	Significant Natural Areas	
Flood Assessment Area Overlay	Oppose together with any objectives, policies, rules, standards and schedules in respect of the overlay relating to the Properties	The Flood Assessment Area Overlay covers the Property which is used for primary production purposes. Farming activities, and natural hazard mitigation activities (such as maintenance of stopbanks) can involve more than 2,000m <sup>2</sup> in earthworks.	<ol style="list-style-type: none"> <li>3. Exclusion of the Properties from the overlay</li> <li>4. The extent of the overlay on the Properties be reduced</li> <li>5. The volume of earthworks in any calendar year in a Rural zone under NH-S2(1) be increased to 2,500m<sup>2</sup> or more.</li> <li>6. Introduction of a rule that earthwork limits within this overlay only apply in respect to activities that increase flood exposure</li> <li>7. Any alternative relief that would address Mr Rooney's concerns.</li> </ol>

Date 15.12.2022



Sarah Mathews  
Solicitor for Alastair Joseph Rooney

**Address for Service**

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