

Before the Independent Hearing Panel
Appointed by the Timaru District Council

Under	Schedule 1 of the Resource Management Act 1991 (RMA)
In the matter of	Submissions on the Proposed Timaru District Plan
Between	Various
	Submitters
And	Timaru District Council
	Respondent

Nick Boyes – Hearing D - s42A summary statement

Open Space and Recreation Zone Chapters

7 November 2024

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Introduction

- 1 My name is Nick Boyes. I am a self-employed Consultant Planner trading as Core Planning and Property Ltd. I prepared the s42A report relating to submissions lodged on the Open Space and Recreation Zone Chapters. I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to my s42A report. I have the qualifications and experience as set out in my s42A report.
- 2 The purpose of this summary is to provide the Panel and submitters with the following:
 - (a) Brief summary of key issues raised in submissions;
 - (b) Corrections I wish to make to my s42A report;
 - (c) A list of issues raised in evidence prior to the hearing, including identifying (where possible):
 - (i) issues that are resolved on the basis of the pre-circulated evidence; or
 - (ii) issues that remain outstanding pending the hearing of evidence; and
 - (d) Updates to the recommendations contained in my s42A report.

Summary of key issues

- 3 In my s42A report, I identified the following matters as the key issues raised in submissions:
 - (a) The provision of educational facilities within the Open Space Zone (OSZ);
 - (b) Provision for the use of helicopters for conservation activity within the Natural Open Space Zone (NOSZ);
 - (c) The extent of coastal environment included within the NOSZ;
 - (d) The provision for freedom camping within the NOSZ (and PDP generally);
 - (e) Provision for the protection of indigenous fauna outside areas identified as Significant Natural Areas (SNA);

- (f) The provision for existing use rights regarding the occupation and use of the South Rangitata Huts; and
 - (g) Provisions applying to the current use of Levels Raceway.
- 4 Of the above, I note that the only matter addressed in the evidence lodged related to freedom camping. Ms Williams, for the Director-General of Conservation, recommends that an advice note is included in the PDP to identify that freedom camping is managed through the Freedom Camping Act 2011 rather than the district plan.
 - 5 That potential solution was signalled in the Section 42A Report, but noted as being beyond the scope of the OSRZ Topic. Therefore, I recommended that consideration of this matter is deferred to Hearing F (Temporary Activities)¹. That remains my position.
 - 6 As noted above, one of the key matters raised in submissions related to the use of helicopters for conservation activity within the Natural Open Space Zone (NOSZ). Since the Section 42A Report was prepared I have had further correspondence on this matter with Tony Michelle (Executive Officer, New Zealand Agricultural Aviation Association [submitter 132]). This correspondence outlined my interpretation of section 4(3) of the RMA and how that relates to the PDP, and in particular the use of helicopters on public conservation land for 'weed' control purposes. The matter arises as Appendix 1 of the relevant Conservation Management Strategy (which is also included as Appendix 1 to the PDP as a direct link) uses only the term 'pest' control.
 - 7 My email to the submitter concluded:

In summary, I do not think that the lack of reference to 'weeds' in Appendix 1 of the CMS is problematic in terms of the status of the aerial control of wilding pine, gorse, broom and other exotic weeds. Such activity is clearly for a conservation purpose and is otherwise referred to throughout the CMS, which I note does otherwise make frequent reference to the term 'plant pest', and that might be the explanation as to why the term 'weed' is not used in Appendix 1.

I hope the above explains where I am at in terms of the recommendation in the section 42A report. It is certainly not a case of being of the view that

¹ Section 42A Report, paragraph 7.1.22

conservation activity on PCL should require a TDC consent, but more that I am confident that section 4(3) of the RMA applies.

- 8 On the basis of that further explanation, the submitter has expressed that their concerns have been alleviated.
- 9 In addition to the key issues that were identified in the s42A report, I note that the following matters raised in submissions are further addressed in evidence:
 - (a) Rooney, A J [177.1] supports the recommendation to rezone land the submitter owns at 32 Milford Road, Temuka from SARZ to GRUZ².
 - (b) KiwiRail Holdings [187] seeks a setback requirement of 5m from the railway corridor for new buildings or structures on OSZ sites adjoining the railway corridor. This matter was not addressed in the Section 42A Report. However, having reviewed the original submission, I note it refers to multiple zones adjacent to the rail corridor, including NOSZ, OSZ, and SARZ. I understand that Ms White and Ms Grinlinton-Hancock are discussing potential provisions that address KiwiRail's submission and will report on the outcome in due course. On that basis I make no further comments here.

Corrections to my s42A report

- 10 No corrections to my s42A report are required.

List of resolved and outstanding issues

- 11 There are no other issues raised in evidence relating to the recommendations set out in the Section 42A report. On that basis, the typical summary included as Appendix A is not included as part of this report.

Updates to recommendations

- 12 There are no issues raised in evidence relating to the recommendations set out in the Section 42A report. However, I note that there are submitters appearing who have not pre-circulated evidence (e.g., South Rangitata Reserve).
- 13 On that basis I have not provided a preliminary view on all outstanding matters at this time, as I wish to hear the evidence and the Panel questions

² Section 42A Report, paragraphs 9.6.4 to 9.6.6.

before I provide updated recommendations. I understand that I will have the opportunity to provide a formal response to the matters heard at the hearing.

Update on Levels Raceway

- 14 In the Section 42A Report I included an assessment of the submission by the South Canterbury Car Club (SCCC) relating to the activities undertaken at the Levels Raceway. This indicated that the possibility of a 'Special Purpose Zone' or similar could be a viable planning option to address the submitters concerns.
- 15 Since writing the Section 42A Report I have examined the nature of the various resource consents held by the SCCC to operate motorsport and related activities at Levels Raceway. Based on the contentious nature of the previous consents, and the nature of the various conditions imposed on those consents, I am of the view that the scope and nature of the process to insert any new 'special purpose' zoning and associated provisions into the PDP is beyond what is appropriate in response to the SCCC submission and would require a separate Schedule 1 RMA process.
- 16 In that context I am of the view that SARZ-R10 as notified, which results in motorsport events, as well as motorsport facilities and ancillary facilities being a fully discretionary activity, is an appropriate outcome. In that context my recommendation regarding the SCCC submission [135.2] remains as set out in paragraph 9.1.13 of the Section 42A Report, i.e., that the submission be rejected and management of the land use at Levels Raceway remain reliant on the existing resource consent/s held by the submitter.

Nick Boyes
6 November 2024

