

**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

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**MINUTE 19**

**HEARING D – PANEL REQUEST FOR INFORMATION AND CLARIFICATION FROM  
S42A AUTHORS AND SUBMITTERS**

**DATED 21 November 2024**

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**1. INTRODUCTION**

[1] Hearing stream D Open Space Zones, Hazards and Risks (excluding Natural Hazards), Natural Environment, took place on 12-13 November 2024. During the hearing and following the conclusion of the hearing the Hearing Panel<sup>1</sup>, indicated to participants that they required further information and clarification on certain matters.

[2] The purpose of this Minute is to:

- (a) Confirm our request for and timing of an interim reply from Council s42A Report Authors; and
- (b) Record requests made of submitters during Hearing B and record responses received to date.

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<sup>1</sup> 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. Hearing D was conducted by Commissioners Robinson, Solomon, McKay, Day-Cleavin and Councillor Scott.

## 2. SECTION 42A REPORT AUTHOR INTERIM REPLIES AND QUESTIONS OF CLARIFICATION

[3] The Council provided three reports prepared under s42A of the RMA (s42A Report) to provide the Panel and submitters with an overview of the issues in Hearing D 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.

[4] We received the following reports:

- (a) Section 42A Report: Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes, Liz White, 9 October 2024.
- (b) Section 42A Report: Contaminated Land and Hazardous Substances, Andrew Willis, 11 October 2024.
- (c) Section 42A Report: Natural Open Space Zone, Open Space Zone, and Sport and Active Recreation Zone, Nick Boyes, 11 October 2024.

[5] Prior to the hearing the s42 Report Authors provided a summary statement, which included updates following the receipt of submitter evidence.<sup>2</sup> The summary statement identified matters that they considered to be resolved with submitters and those issues which remained outstanding, with the authors having reserved their position until after hearing evidence of submitters and Panel questions. As per the interim reply process<sup>3</sup>, each s42A Report Author will record any changes to their recommendations as part of their interim reply.

[6] We direct that s42A Report Authors provide their interim reply no later than **3pm on Wednesday 18 December 2024**.

[7] The Panel also requests that further discussion occurs between the relevant s42A Report Author and submitters' expert witnesses or representatives to see if further common ground can be reached and recorded in the interim replies. These matters are set out below.

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<sup>2</sup> S42A Summary Statement: Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes, Liz White, 7 November 2024. S42A Summary Statement: Contaminated Land and Hazardous Substances Chapters, Andrew Willis, 7 November 2024. S42A Summary Statement: Open Space and Recreation Zone Chapters, Nick Boyes, 7 November 2024.

<sup>3</sup> Minute 14, Paragraphs 6-7.

<b>Submitter</b>	<b>Submitter expert/ Legal Counsel</b>	<b>S42A officer</b>	<b>Directions</b>
Rooney Group Limited and Rangitata Diversion Management Limited	Mr Hole and Ms Hamm/Mr Lipinski	Ms White	Provide an analysis of gaps and duplication between the Proposed Plan rules and regional plan rules for riverbeds.
Port Blakely Limited and Director General of Conservation and Environment Canterbury	Mr Robinson and Ms Pearson  Ms Williams, Mr Clayton and Ms Newell  Ms Francis	Ms White	To confirm from a drafting perspective whether there is agreement with the drafting amendments regarding bat monitoring, in paragraph 29 in the Port Blakely Limited legal summary, and the evidence of Director General of Conservation, Environment Canterbury, and the summary statement of Ms White.
Rangitata Diversion Management Limited	Ms Hamm/Mr Lipinski	Ms White and Ms Vella	Provide an analysis of the relationship between the Rangitata Water Conservation Order (WCO), and the SNA, ONL, and VAL boundaries and provisions, including the extent of existing protection provided by the WCO and a comparison of the values protected between the Proposed Plan and the WCO.
BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, Z Energy Limited	Ms Westoby, Mr Trevilla and Ms Seaton	Mr Willis	Review the relationship between CL-O1, CL-P2 and CL-P3 to clarify the intent of the objective and policies in addressing risk.

and PrimePort Limited			
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**Questions of clarification for s42A Report Authors to be addressed in interim reply**

[8] For Ms White:

- (a) Outline the approach adjoining Territorial Authorities (TAs) take regarding SNA mapping in riverbeds.
- (b) Regarding the 'within' 2m vegetation clearance provisions of ECO-R1, identify the evidential basis of the measurement for the purposes of ECO-R1.2 (PER-2), and its use in ECO R5 (PER-1) in relation to earthworks, as notified and any supporting s32 evaluation undertaken prior to notification. Please also provide the evidential basis for the new 'within' 2m standard for ECO-R1.4 (PER-1), and supporting s32AA evaluation. If further changes are recommended to the provisions in light of submitter presentations and evidence, please provide a supporting s32AA evaluation for any changes.
- (c) Outline the approach taken to vegetation clearance and earthworks in adjoining TAs. Do they apply a 'within 2m' rule?
- (d) In relation to the recommended changes relating to Rule NFL-S2 to amend VAL mapping to apply above 500m, instead of 900m as notified, provide an analysis of how many landowners are impacted by the change, and an additional S32AA analysis to assess the change or any further proposed changes arising post hearing.
- (e) Provide map/s identifying those areas where both the ONL and SASM overlays apply.
- (f) Clarify the rules relating to Mr Reece Hart's property, including how they apply to change in land use and mobstocking.
- (g) Advise whether the tikanga protocol referred to in ECO-R1.1 PER-3 has been prepared and what this commits Arowhenua to do.

- (h) Advise whether Mr Harding is comfortable that the s42A recommended definition of overgrazing/trampling and inclusion in the rules will protect indigenous biodiversity in SNAs.
- (i) Appendix 1 to the s42A Report contains the recommended provisions in the Plan Chapters. Please clarify in the ECO Chapter the missing footnote attribution in ECO-P2. Also please confirm that ECO-R1.1 PER 6 is the same recommended provision referred to as ECO-R1.1 X in the s42A Report at paragraph 7.12.7.
- (j) Te Rūnanga o Ngāi Tahu requested an additional rule NFL-R5 to provide for the use of land and/or buildings for Kāti Huirapa activities as a permitted activity within an ONF/ONL/VAL. If buildings for Kāti Huirapa activities were to be provided for, either as a new rule or by amending Rule NFL-R1, advise and provide reasoning regarding which standards should apply and any amendments to standards.
- (k) It was clarified in the hearing that the Rangitata River Diversion scheme rock weir is not within the ONL, but is within the VAL. Please provide a map illustrating these overlays in relation to the weir and clarify whether the recommended amendments made to NFL-R2(1) are required and/or should be made to NFL-R2(2) instead?

[9] For Mr Willis:

- (a) Review the wording of HS-R1 to provide greater clarity in regard to the relief sought by PrimePort.

[10] For Mr Boyes:

- (a) Consider whether consequential amendments are required to OSZ-S4 regarding setback and OSZ-S5 regarding height in relation to boundary as a result of the recommendation for an additional standard to OSZ-S3 relating to height and natural hazard risk.
- (b) Consider whether consequential amendments are required to add “including habitat for indigenous fauna” in other matters of discretion as a result of recommending this be added to the matters of discretion to NOSZ-S2 MD4.

- (c) Produce a comparison table between the operative and proposed rules applying to the South Rangitata Reserve.
- (d) Re-consider the analysis and recommendation in response to the rezoning request from Rangitata South Reserve Inc now that Mr Hall has confirmed the location of site proposed to be rezoned. Please advise of any changes to the recommendation.

[11] Further we ask Counsel for the Council, Ms Vella, to file a memorandum by the same date, addressing:

- (a) The Rangitata River WCO relevance and relationship to the SNA over the Rangitata River, and what consideration that Panel should give the WCO in decision making.
- (b) Whether or not there is scope to amend the Proposed Plan to apply the NPSIB and provide comment on natural justice and the extent to which parties could have fairly and reasonably contemplated these changes.
- (c) Provide comment on the same matters in (b) above as they relate to the s42A Author recommended changes to the VAL extent, the Bat Protection Overlay and the proposed Policy and Rule for clearance outside SNAs.
- (d) An outline of any relevant case law on the status of advisory notes in District Plans in the context of Ms White’s recommendations to include an advisory note relating to the regulations on the NES-CF.

[12] During the hearing we requested clarification or provided an opportunity for submitters to provide additional information or responses to panel questions. Where a submitter has yet to provide the requested information, we direct that the information is made available **by 4 December 2024**. We record these as follows.

Submitter	Representative/witness	Request from Panel	Response received
Director General of Conservation	Ms Williams	Provide an analysis outlining the differences between the CRPS/PDP Appendix 5	

		Significance Criteria and the NPSIB Significance Criteria. Are these differences material?	
Forest & Bird	Mr Williams	<p>In 156.22, why is 'nonvascular plants' replaced by 'mosses and/or lichens or fungi'? Are these the only nonvascular plants in NZ?</p> <p>Provide alternative drafting to NATC-R3 PER-3 which permits earthworks for a 3m wide track, which Forest &amp; Bird considers too permissive.</p>	

Dated this 21<sup>st</sup> day of November 2024



C E ROBINSON - CHAIR ON BEHALF OF THE HEARINGS PANEL