

REPORT

TO: Proposed Timaru District Plan Hearing Panel

FROM: Megan Geng – Team Leader Policy

DATE: 12 June 2023

SUBJECT: RECOMMENDATION ON ACCEPTANCE OF LATE SUBMISSIONS ON THE PROPOSED DISTRICT PLAN

RECOMMENDATION

That:

- a) the Panel note the issues raised by the Late submission #157 of Ryan de Joux and reach a decision as to whether the justification provided is adequate for inclusion in the summary of submissions;*
- b) other late submissions be viewed as being adequate for inclusion in the summary of submissions and that;*
- c) no other late submissions (excluding further submissions) received after the date of this report be accepted.*

1. PURPOSE

To consider submissions that Timaru District Council has received on the notified Proposed District Plan after the close of the submission period (15 December 2025).

2. HISTORY/BACKGROUND

The procedure set out in Timaru District Council's delegation manual regarding late submissions is to have the Hearing Commissioner(s) consider the late submissions and determine if they should be accepted and included in the summary of submissions.

As part of this consideration, the Hearing Commissioner(s) shall take into account the following:

- a) The Council's duties under Section 37A of the Resource Management Act 1991;
- b) The principles of natural justice; and
- c) Any views expressed on the matter by the applicant, the late submitter, any other affected party, and the Council's Reporting Officer(s).

3. DISCUSSION

A total of 45 late submissions were received by up to 18 May 2023:

1. 26 are procedurally late as the submission first received before the close of submission was incomplete with no or incomplete Form 5;
2. 12 were lodged before 10 January 2023 (finish of RMA Statutory Holiday);
3. 1 incomplete as the submitter's name is not provided but initial only;
4. Amongst the remaining late submissions lodged after 10 January
 - a. Submission #200 and Submission #233 have similar submissions made by others;
 - b. Submitter #235 recently became the new land owner of land which the submission relates to;
 - c. Submitter #206 original submission lodged before the close of submission was made on the Operative Plan. Submitter resubmitted within 5 working days when notified by the Council of this error. Submission made generally aligns with the original submission.
 - d. Submitter #234 was not a landowner or ratepayer and hence didn't receive direct notice from Council.
 - e. Submitter #157 did not specify any reason for lateness.

Appendix A provides a summary of the submissions and reasons for lateness / incompleteness.

Appendix B provides details of submissions lodged after 10 January 2023.

It is noted that:

- Submission #74 was lodged with the submitter's initial only. The submitter did not disclose their full name upon the officer's request and instead stated that future information will be provided upon the request of the Hearing's panel.
- Submission #157, lodged on 17 February 2023, requests the rezoning of a piece of Council owned recreation land to private residential development. Such a request could impose a burden on Council to further investigate with the potential of needing wider consultation with stakeholders and ratepayers within the district. Further, the submission lacks any justification as to why it should be accepted so long after the period of time to submit closed; and
- Other late submissions are either one to two days late or have genuine reasons for their lateness, or the submissions directly relate to the submitter's ongoing operations of activities on their property. I am of the opinion any prejudice against any other person is outweighed by the prejudice to the submitters in not being able to have their submission considered; and
- the Proposed District Plan process will not be delayed by the late submissions' acceptance due to the summary of the submission process being carried out until this point; and
- the above late submissions of natural justice should be accepted, with the possible exception of submission #157.

4. OPTIONS

- a) To accept the recommendation to accept the late submissions with the exception of Submission #157; or
- b) To accept the recommendation to accept the late submissions while giving reasons for the inclusion of Submission #157; or
- c) To partially accept the recommendation by refusing other late submissions such as those specifically raised in the discussion above; or
- d) To reject the recommendation and not accept any late submissions;

AND

- e) Discontinue accepting late submissions from the date of this report; or
- f) Continue accepting late submissions from the date of this report.



Megan Geng
TEAM LEADER POLICY

Appendix A – Summary of Incomplete/Late Submissions

Sub No.	Submitter	Category	Date first received	Date Complete	Additional note
198	O'Keefe, Stout & Vogel	Other	6.12.2022	16.1.2022	Attachment missing.
70	Joanne Brownie	Procedurally late	9.12.2022	9.1.2022	Incomplete Form 5 re Trade competition
90	Hermann Frank	Procedurally late	13.12.2022	16.12.2022	Missing Form 5
96	A. S. Bras	Procedurally late	13.12.2022	18.1.2022	Incomplete Form 5
154	Christian Bras	Procedurally late	13.12.2022	12.1.2022	Incomplete Form 5
231	Timothy Graeme Blackler	Procedurally late	13.12.2022	16.12.2022	Missing Form 5
232	Peter Bras	Procedurally late	13.12.2022	12.1.2023	Incomplete Form 5
62	Graeme & Margaret King	Procedurally late	14.12.2022	3.4.2023	Incomplete Form 5
158	Kenneth J & Rose E Tarrant	Procedurally late	14.12.2022	31.1.2023	Incomplete Form 5
194	Russell James King	Procedurally late	14.12.2022	3.2.2023	Incomplete Form 5
92	Bruce Wain Rogers	Procedurally late	15.12.2022	20.12.2022	Missing Form 5
100	David J Moore and Judith Moore	Procedurally late	15.12.2022	20.12.2022	Incomplete Form 5
117	Tosh Proanov	Procedurally late	15.12.2022	31.12.2022	Missing Form 5
134	Alan Johnson - NZMCA	Procedurally late	15.12.2022	22.12.2022	Missing Form 5
146	Lyndsay William and Frances Margaret Dennison	Procedurally late	15.12.2022	19.1.2022	Incomplete Form 5
161	Fi-Glass Products T/A Mr Boats	Procedurally late	15.12.2022	17.1.2022	Missing Form 5
176	Connexa	Procedurally late	15.12.2022	19.12.2022	Missing Form 5
182	James Sutherland for Federated Farmers	Procedurally late	15.12.2022	19.12.2022	Missing Form 5
187	Kiwi Rail	Procedurally late	15.12.2022	21.12.2022	Missing Form 5

Sub No.	Submitter	Category	Date first received	Date Complete	Additional note
199	Griff Simpson Family Trust	Procedurally late	15.12.2022	17.1.2022	Missing form 5
208	Spark	Procedurally late	15.12.2022	19.12.2022	Missing Form 5
209	Chorus	Procedurally late	15.12.2022	19.12.2022	Missing Form 5
210	Vodafone	Procedurally late	15.12.2022	19.12.2022	Missing Form 5
221	Rangitata Island Dairy Ltd	Procedurally late	15.12.2022	19.12.2022	Missing Form 5
236	Waihi School Trust Board	Procedurally late	15.12.2022	29.3.2022	Incomplete Form 5. Submitter informed on 28th March 2023 that Form 5 was incomplete when the matter was noted.
237	Fred Coughlan for Aitken, Johnston & RSM Trust Limited	Procedurally late	15.12.2022	11.4.2022	Missing form 5
156	Nicky Snoyink - Forest & Bird	before 10 January	15.12.2022	21.12.2022	Incomplete submission due to staff absences, covid related illnesses, etc - waiver and extension for four working days applied for.
72	Lee Burdon	before 10 January	16.12.2022	6.1.2023	Checked with staff who confirmed 16 December was the close date for submission. Then incomplete form 5.
79	Jeremy Talbot	before 10 January	16.12.2022	9.1.2023	Original submission bounced back. Resent on 16 December. Then Incomplete Form 5.
95	Darren Wayne Rae	before 10 January	16.12.2022	First received date	Thought closing date was 23/12/2022.
124	Philip Gray	before 10 January	16.12.2022	19.12.2022	Email sent after 5pm on closing day and missing form 5
131	Beca Limited - Jessica Mangos for Fire and Emergency NZ	before 10 January	16.12.2022	25.1.2023	Request for extension due to Covid staff shortages. 16/12 Submission received, 19/12 Form 5 request sent and received back, 25/1 request to resend submission as mislaid. Received back same day.
145	Tristram Johnson	before 10 January	16.12.2022	First received date	No reason specified
159	Transpower New Zealand Limited	before 10 January	16.12.2022	First received date	One day late. Impacted by a fatal accident and unable to submit on time.

Sub No.	Submitter	Category	Date first received	Date Complete	Additional note
191	GJH Rooney	before 10 January	16.12.2022	First received date	Waiver for submitting a late submission is sought as considers no person is considered to be unduly prejudiced by Council granting a waiver to accept this submission.
222	Martock Holdings Ltd	before 10 January	16.12.2022	First received date	Email sent after 5pm.
169	Daryl McMillan for Road Metals	before 10 January	19.12.2022	First received date	Late due to ill health. then missing form 5
106	Minister of Education	before 10 January	9.1.2022	31.1.2023	Staff absences due to Covid for both submitter and agents, then missing form 5
233	Red Sky Holdings	Similar submissions made by others	17.1.2023	First received date	Submitter claims sent over on 13 December by email. Never received by Council. Original email wasn't provided.
200	Westgarth, Chapman, Blackler, etc.	Similar submissions made by others	27.1.2023	First received date	Request waiver as the submitter wasn't consulted with the SASMs and only recently became fully aware of its implications.
74	H B	Incomplete	not late	None	No Surname nor first name provided. Submitter refused upon request to provide full name.
206	South Rangitata Reserve Inc	Other	13.12.2022	28.3.2023	Original submission on Operative Plan. Contacted submitter on 22 March, resubmitted on Proposed Plan on 28 March.
234	Rangitata Diversion Race Management Limited	Other	31.1.2023	First received date	Not a landowner and did not received notification of the proposed changes on SASMs and was busy on dealing with operational issues.
157	Ryan de Joux	Other	17.2.2023	First received date	No specific reason stated.
235	Willowridge Developments Limited	Other	10.3.2023	First received date	New owner of affected property.

Appendix B – Late Submissions doesn't fit in other categories

Submitter	Sub No.	Date Lodged	Provision	Relief/ Decision Sought Summary	Late Reason
Red Sky Holdings	233	17 January 2023	SIGN-O1 Signs	Retain SIGN-O1(1) as notified.	Email sent before close of submission but didn't receive by Council.
			SIGN-P2 Managing road safety	Amend Sign-P2 Managing road safety as follows: <i>Require that signs are designed and located so they do not compromise the safe use of any road by motorists, pedestrians and other road users, by:</i> 1... 2... 3. <i>ensuring sign proliferation, illumination levels, light spill, flashing and moving images and digital signs that do not cause distraction;</i> [...]	
			SIGN-P3 Off-site commercial advertising signs	Not specified.	
			SIGN-R4 Any signs not otherwise	Amend SIGN-R4.PER-1 for more inclusive rules and apply a more balanced consideration for off-site signage in the CMUZ and GIZ.	

		address in the Rules section of this chapter	No specific rule standards requested.
		SIGN-S2 Illuminated, moving, flashing and digital signs	<p>Amend SIGN-S2 Illuminated, moving, flashing and digital signs as follows:</p> <p>1.[...]</p> <p>2. Any illuminated, moving, flashing or digital display sign must only display still images, and where multiple still images are displayed, each still image must be displayed for a minimum of 30 <u>[insert a shorter dwell time]</u> seconds each before changing to a different still image, and there must be transitions between still images apart from cross-dissolve of a maximum 0.5 seconds.</p> <p>[...]</p> <p>7. Illumination levels of any sign must not exceed 2000 <u>5,000</u> candelas per square metre between sunrise and sunset.</p> <p>8 No digital sign is to be located adjoining a State Highway.</p> <p>No specific changes requested to clause 8.</p>
		SIGN-S3 Maximum height of signage	Not specified.

			SIGN-S4(2) Maximum area of a sign	Not specified.	
			Table 28 – Separation distances Regulatory speed limit (km/hr) Separation distance (m) 0-70 60 71-80 70 81 – 100 80	Not specified.	
			General	None specified.	
Westgarth , Chapman, Blackler, Pack <i>et al</i>	200	27 January 2023	General	<ul style="list-style-type: none"> a) Relief sought detailed in later submission points; and/or b) Amendments to the provisions of the PDP to address the substance of the concerns raised in this submission; and c) All consequential amendments required. 	<p>“The Submitters respectfully request that the submission be accepted by Council for the following reasons.</p> <p>As outlined earlier in this submission, neither Council, Rūnanga or AECL have sought at any time to engage with the Submitters in relation to SASM on their properties or on adjacent land. As such, none of the Submitters were aware of Council’s intentions to identify SASMs in the Proposed Plan and/or introduce additional consenting thresholds for land use</p>
			SASM-O2 Access and use	Amend SASM-O2 to recognise that access to and within SASMs on private land may not always be	

			possible and/or appropriate for health and safety reasons.	<p>and subdivision within SASMs that place greater restrictions on land use and subdivision than is proposed under the Proposed Plan's district-wide and area- specific rules for earthworks, buildings and structures, mining and quarrying, indigenous vegetation clearance, subdivision, forestry, and intensively farmed stock.</p> <p>As owners of land that is either subject to a SASM overlay and/or adjacent to a SASM overlay, the Submitters are directly affected by the provisions set out in [6(a)] of this submission, and accordingly, the Submitters have an interest in those parts of the Proposed Plan that is greater than the general public.</p> <p>The Submitters only recently became fully aware of the extent of the SASM overlay and/or the potential implications of that overlay for land use and subdivision activities on their properties through discussions with their neighbours, at which point they sought urgent legal advice.</p> <p>This submission has been prepared with urgency and is being filed as soon as practicably possible following the receipt of that legal advice and further legal analysis and consideration of the SASM overlays and supporting planning framework.</p>
		SASM-P3 Use of site and areas for cultural practices	Amend SASM-P3 to recognise that access to and within SASMs on private land may not always be possible and/or appropriate for health and safety reasons.	
		SASM-P4 Cultural access	Amend SASM-P4 to recognise that access to and within SASMs on private land may not always be possible and/or appropriate for health and safety reasons.	
		SASM-P2 Consultation and engagement with Kāti Huirapa	Amend SASM-P2 to direct engagement/consultation with Kāti Huirapa in relation to the activities identified in SCHED6 as posing a threat to the cultural values of the SASM within which the proposed activity will occur that are also identified in SCHED6.	
		SASM-P8.1 Protection of wahi taoka, wahi tapu, wai toaka and wai tapu sites and areas	Amend SASM-P8.1 to direct engagement/consultation with Kāti Huirapa in relation to the activities identified in SCHED6 as posing a threat to the cultural values of the SASM within which the proposed activity will occur that are also identified in SCHED6.	

		<p>General</p>	<p>Seeks to delete SASM-R1 – SASM-R8 and replace with:</p> <ul style="list-style-type: none"> • A list of matters of discretion to be applied where restricted discretionary resource consent is triggered under other District-Wide or Area-Specific rules in the Proposed Plan for earthworks, buildings and structures, indigenous vegetation clearance, temporary events, mining and quarrying, shelterbelts, woodlots and forestry, subdivision and intensively farmed stock, and the proposed activity will occur within SASM, with such matters being focused on the effects of the activity on the values of the SASM identified in SCHED6. <p>A list of matters for assessing applications for resource consents that are triggered under other District-Wide or Area-Specific rules in the Proposed Plan for earthworks, buildings and structures, indigenous vegetation clearance, temporary events, mining and quarrying, shelterbelts, woodlots and forestry, subdivision and intensively farmed stock, where the proposed activity will occur within a SASM, with such matters being focused on the effects of the activity on the values of the SASM identified in SCHED6.</p>	<p>Through this submission, the Submitters do not oppose the type of planning approach Council has proposed for SASMs in the Proposed Plan, or challenge the validity of the SASM listed in SCHED6 but simply seek:</p> <ul style="list-style-type: none"> a) Greater clarity about the values of each SASM and the specific activities that are considered to pose a threat to those particular values; b) To ensure: <ul style="list-style-type: none"> i. The SASM overlay reflects the spatial area within which restrictions on activities that pose a risk to those cultural values are reasonably required to protect those values; and ii. The supporting planning framework: <ol style="list-style-type: none"> 1. is clear, concise and coherent; 2. comprises the least restrictive planning regime that is effective in protecting the identified cultural values of SASM against activities identified as posing a threat to those values; and 3. avoids unnecessary inefficiencies, including significant consenting costs.
		<p>General</p>	<p>Amend SCHED6 to include the following for each of the listed SASMs:</p> <ul style="list-style-type: none"> • A clear description of the site or area of each SASM; and 	

				<ul style="list-style-type: none"> • A clear statement of the activities that pose a threat to the cultural values identified in SCHED6. <p>Amend the heading of SCHED6 to reflect the additional information on SASM that the Submitters have requested be included in SCHED6 per (1) above.</p>	<p>The Submitters consider this submission will provide Council with scope to make positive changes to the Proposed Plan that will ensure greater certainty for owners of land that are subject to SASM, as well as Rūnanga, AECL, Council’s consents staff and compliance officers, and a planning framework for SASMs that meets the statutory tests for district plan provisions, particularly the section 32 RMA tests of efficiency and effectiveness.”</p>
		General	<p>Further information be made available to owners of land that is subject to a SASM listed in SCHED6 regarding:</p> <ul style="list-style-type: none"> • The factors that informed the setting of the SASM overlay; and • The activities that Kāti Huirapa have identified as posing a threat to the cultural values of the SASM as identified in SCHED6. <p>In light of that further information, amend the boundaries of the SASM overlays to reflect the spatial extent reasonably required to protect the identified cultural values for each SASM in SCHE6 from the activities that pose a threat to those values.</p>		
South Rangitata Reserve Inc	206	Fist lodged on 13 December 2023 on Operative	General	Amend the PDP, to clearly identify where existing use rights apply under section 10 and 10A of the RMA.	Submission lodged on 13 December 2023. On 22 March 2023, the Policy team noticed the submission was made on the Operative Plan and has contacted the submitter. Submitter resubmitted on the Proposed Plan on 28 March.
			General	Not specified.	

	Plan. Resubmitted on 28 March 2023 on Proposed Plan.	OSZ-R2	Amend OSZ-R2.2 for the Holiday Hut Precinct to ensure the non-complying status does not apply to any of the existing recreational activities at South Rangitata Reserve.	Submission points made generally aligns with original submission made on 13 December 2023.
		OSZ-R10	<ol style="list-style-type: none"> 1. Clarify which parts within the South Rangitata Reserve have a restricted discretionary status for existing uses, mitigation of risk and short-term fixes; 2. Amend so a non-complying status does not apply. 	
		OSZ-S3	<p>Amend OSZ-S3 to allow for more flexibility for greater heights where existing huts are more than 4m in height or when raised floor levels are necessary for flood mitigation.</p> <p>3.</p>	
		OSZ-S4	Amend OSZ-S4 to accommodate existing buildings and existing use rights and ability to utilise the hut site given size and location.	
		OSZ-S6	Amend OSZ-S6 to allow for existing use rights and to utilise the hut site given size and location.	
		CE-R6	Supports CE-R6 subject to clarification that a range of essential works within the Reserve are facilitated under this rule.	

			CE-R12	Supports CE-R12 , but only on the basis it will not result in additional compliance costs.	
			NH-R1	Not specified	
			NH-R3	Not specified	
			NH-R9	Not specified	
			NH-S2	Not specified	
			Rezone	Rezone the land immediate west of the Reserve from GRUZ to OSZ.	
Rangitata Diversion Race Management	234	31 January 2023	All layers on the Rangitata River	<ol style="list-style-type: none"> 1. Remove all district Plan layers on the Rangitata River from the District Planning maps and; or 2. Make it clear within the Timaru District Plan provisions and mapping that any overlays are for information only and/or have no rules attaching to them. 	<ul style="list-style-type: none"> • <i>“RDRML is directly affected by proposed SASM and other overlays insofar as they cover the bed of the</i> • <i>Rangitata River near the Klondyke intake. In particular, RDRML undertakes authorised works in the bed of the Rangitata River to maintain the diversion of water into the Rangitata Diversion Race;</i> • <i>RDRML is not a ratepayer in the Timaru District and had no notice that the Timaru</i>

					<p>District Council was proposing plan provisions which would affect it;</p> <ul style="list-style-type: none"> • It appears that the Council informed landowners of SASMs but potentially not other affected parties given that RDRML was not notified; • The submission period occurred from 22 September 2022 – 15 December 2022 at a time when RDRML was busy dealing with operational issues. • In the interests of fairness, RDRML should have an opportunity to submit on the proposed SASMs which affect it; • Given that submissions have not yet been summarised for the purpose of calling for further submissions, there will be no unreasonable delay or prejudice to other parties or a fair planning process in accepting RDRML's late submission."
Willowridge Developments Limited	235	10 March 2023	Rezone	<ol style="list-style-type: none"> 1. Rezone 192, 194, 196, 204, 206 and 208 Evans Street and 4 Grants Road (legally described as Lot 1 DP19425, Lot 1 DP 15285, Lot 1 DP29051) from Neighborhood Centre Zone to Local Centre Zone; 2. OR alternative relief of similar effect. 	<p>The submitter "seeks a waiver of time limits for filing a submission on the Timaru District Council (Council) Proposed District Plan (PDP), pursuant to s 37 of the Resource Management Act 1991 (Act).</p> <p>Grounds for waiving the time limit</p> <p>Section 37 of the Act provides that the Council may waive time limits subject to the requirements of s 37A(1). Section 37A(1) requires the Council to take into account:</p>

the interests of any person who, in the Council's opinion, may be directly affected by the extension or waiver;

the interest of the community in achieving adequate assessment of the effects of the proposal, policy statement, or plan; and

the Council's duty under s 21 to avoid unreasonable delay.

The Council is yet to notify the summary of submissions under clause 7 of the First Schedule of the Act. Accordingly, no prejudice can be said to arise in terms of persons reading the summary not being aware of the Willowridge submission.

To the extent there is any prejudice to any person as a result of the waiver being granted, it is outweighed by the prejudice to Willowridge in not being able to have its submission considered. Willowridge is a purchaser of the land that is the subject of its submission (with settlement of the purchase in April 2023). It will be directly affected by the zoning outcome in respect of the land.

					<i>Given the current stage of the submission process and as identified above the fact the summary of submissions is yet to be notified, Willowridge does not consider the granting of a waiver will be contrary to Council's duty to avoid unreasonable delay."</i>
Ryan De Joux	157	17 February 2023	Rezone	<ol style="list-style-type: none"> 1. Rezone the land on the true right of Papakha Stream within records of title CB22F/884 and CB22F/885 owned by the Timaru District Council from Sports and Active Recreation to General Residential Zone. 2. Should this not be supported, then as a fallback position is that this area of land become a Future Development Area for residential development as a priority area for a Development Area Plan within 2 years. 	<p>No specific reason stated.</p> <p>Waiver for acceptance of the late submission is sought because:</p> <p><i>'submissions are not yet publicly available, and the process has not proceeded past the closing of submissions, it is considered that no person is unduly prejudiced by Council granting a waiver to accept this late submission.'</i></p>
			SCHED15 – Schedule of Future Development Areas	Amend all Future Development Areas shown as “Future Area – Beyond 10 years” to “Future Area – Beyond 5 to 10 years” so the rural land can be rezoned for urban zones under the NPS-Highly Productive Land.	