

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: Groundswell NZ

[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'):

Timaru district Plan

[State the name of proposed or existing plan and (where applicable) change or variation].

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

~~I~~ 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]

as attached in Submission document

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.]

as attached in Submission document

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]

as attached in Submission document -- Pause the proposed district plan until RMA tailings are addressed, there is clarity around NPS Indigenous Biodiversity + RMA replacement re Natural Built Environmental Act. With immediate legal effect, that new zones such as SASM be withdrawn

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 13.12.2022

Electronic address for service of submitter: hello@groundswell.org.nz

Telephone: 0273218747

Postal address (or alternative method of service under s352 of the Act): PO Box 93, Gore

Contact person: [name and designation, if applicable] Jamie McFadden Groundswell NZ Environmental Spokesperson

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.



Submission on Proposed Timaru District Plan.
By Groundswell NZ

Introduction

Groundswell NZ was founded by Southland/Otago farmers in response to frustration with the National Policy Statement Freshwater Management. Since then, the Groundswell NZ campaign has grown to include a nationwide network of coordinators and a focus on unworkable regulations. The Resource Management Act (RMA) and associated Freshwater Management and draft Indigenous Biodiversity National Policy Statements, is one of the main concerns having unfair and detrimental impacts on people and property owners throughout the country.

1. One of the complaints Groundswell NZ has consistently received from across the country relates to private land being captured under various zones. The main ones include:
 - Significant Natural Areas (SNA).
 - Outstanding Natural Landscapes, Outstanding Natural Features and other landscape zonings coming under various names.
 - Sites and Areas of Significance to Māori (SASM), cultural sites, and cultural landscapes.
 - Wetlands.
 - Riparian margins.
2. Over the past 18 months we have identified major failings with the RMA approach to these zonings. This is causing considerable stress, uncertainty, and financial hardship for thousands of property owners throughout NZ as well as failing to meet the purpose of the RMA.
3. Principal concerns relating to these zonings include:
 - Turns natural, cultural, and historic values into a liability rather than an asset. We are aware of landowners throughout the country removing these values not because they don't value them but because they live in fear of having them on their property.
 - Penalizes environmental endeavour with those property owners most proactive in protecting natural and/or cultural values penalized the most.
 - Impacts property values with, in some cases, substantial loss of property values for those that have most, or all their property captured under a zone(s). Many property owners are facing multiple regulatory zones on their properties.
 - Forces councils into conflict with their communities and their most conservation minded constituents.
4. Groundswell NZ is committed to seeing the unworkable regulations fixed. Our preference is to work with central and local government in addressing these issues and we have appreciated support from councils like Hurunui and Grey District in opposing impending legislation such as the draft National Policy Statement Indigenous Biodiversity. Hurunui District Council is the first in the country to remove all mapped SNAs from its district plan because of the failings of the SNA policy.

5. Groundswell NZ submits it is critical to have the buy in and support of property owners when developing policies relating to the protection of natural and cultural values on private land. Without that buy in, the policies will fail to achieve the desired outcomes and purpose of the RMA.
6. The current silo approach to environmental policy making and over reliance on regulation is leading to many perverse outcomes to the detriment of the environment. Groundswell NZ is promoting an integrated environmental policy framework and a more supportive and empowering approach when dealing with natural and cultural values on private land.
7. Specific concerns that have been raised by Timaru residents and property owners include:
 - Full disclosure about the implications of zonings not being provided to property owners impacted by zones such as SNAs and SASMs.
 - Significant potential hardship for some property owners impacted by zonings that capture all or a large % of their land.
 - Concern over having multiple zones applying to properties.
 - The poorly conducted process behind the SASMs.
 - Uncertainty relating to future implications of zonings, particularly the application of more and stricter rules in the future, and the ability of the Government to change the requirements relating to zonings.
 - The increase in regulations (particularly impractical and unworkable rules), increased complexity, length of time and cost for consents.
8. One of the major failings of the RMA section 6 zoning approach is the impact it has on people that are unfortunate enough to have their land zoned. Once a property owner has their land identified through section 6, they become captured into the planning process that can take years to resolve and, in some cases, never completely resolved. This places a significant burden on people from a single stroke of pen that captures their land into a zone.
9. When the RMA was enacted, the Section 32 process placed a duty of care on councils to ensure that people were not unfairly or unnecessarily impacted by planning provisions. The original Section 32 guidelines stated that "If benefits and costs fall unevenly on individuals, then these should be assessed on an individual basis. For example, if a rule is proposed to protect significant natural areas, then the cost to each individual landowner needs to be identified. To accurately reflect the economic cost to individuals, the impact on each property owner must be assessed". Pg 28. Unfortunately, the duty of care responsibility is now missing from many planning processes and the people suffer as a result.
10. A major travesty of the proposed Timaru District planning process was zonings and rules taking immediate legal effect, without sufficient prior consultation with affected property owners. This was particularly unfair for new policies such as the Sites and Areas of Significance to Maori. While SASMs were part of the draft plan process, property owners have informed us the first they were aware they were individually affected was when they received the proposed plan letters stating the zonings had immediate legal effect. This is unfair, disrespectful to people's rights, and contrary to proper planning process and councils' Section 32 duty of care obligations. In taking this action TDC have negatively impacted the values they were trying to protect and undermined councils' relationship with their constituents. However, we do have

sympathy with councils who are being loaded with a constant stream of obligations by central government, including many unworkable policies and regulations.

11. We note previous feedback on the SASMs that seeks more rules and stricter consent status for some activities within SASMs. This would be counterproductive and will only serve to demean those cultural values even more and aggravate relationships between the council, iwi, and property owners.
12. The use of the RMA zoning approach to protecting natural and cultural values is delivering worse outcomes for those values and failing to achieve the sustainable management purpose of the RMA. These zonings also conflict with councils' other obligations to their communities in terms of well-being and representation.
13. For these reasons our first submission is for the Proposed Timaru District Plan to be paused until the failings of the RMA outlined in this submission are addressed, and there is clarity around the NPS Indigenous Biodiversity and the RMA replacement the Natural and Built Environment Act (NBA). As part of this pause, we submit the immediate legal effect applying to new zones such as SASMs be withdrawn, or the zones and associated policies and rules be withdrawn altogether.
14. If our submission for the Proposed Timaru District Plan to be paused is not accepted, then our submission would be the sections relating to the RMA Section 6 zoning issues outlined above be paused. Failing that submission our third preference and submission would be for all Section 6 zonings, policies and related rules be removed altogether for failing to meet the purpose of the RMA. We submit natural, historic, and cultural values be protected through an alternative mechanism that is outcomes focused and supports and empowers property owners, rather than penalizing them. We would like to discuss options at the hearing.
15. One of the alternative options is a non-statutory plan that sits outside the formal plan but is referenced as meeting the councils RMA requirements, including section 6. Groundswell NZ are promoting an environmental policy approach based on an integrated and holistic outcomes and actions focused framework that tailors actions to individual properties in a manner that addresses the environmental issues relevant to that property. A core component of this is advisors working in partnership with property owners to identify key environmental risks, threats and opportunities, and an action plan based on the most urgent priorities tailored to each individual property owners' resources.
16. We recognise our submission requests may be a challenge under current legislation and case law and we submit that the Timaru District Council, on behalf of their constituents, highlight the failings of the RMA (particularly section 6 requirements) and lobby local and central government to make legislative changes to address these failings.

We wish to be heard.

Groundswell NZ contact for this submission:

Jamie McFadden 027 3218747