

Before the Hearing Panel
Appointed by the Timaru District
Council

Under the Resource Management Act 1991 (**RMA**)

In the matter of the Proposed Timaru District Plan

**Memorandum of Counsel on behalf of Timaru District Council –
Application of NPS-HPL on re-zoning requests – Hearing G (Growth)**

22 January 2025

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May it please the Hearing Panel:

Introduction

- 1 This memorandum is filed by counsel for the Timaru District Council (**Council**) in relation to Hearing G – Growth. The purpose of this memorandum is to file further information prepared by the section 42A officer in relation to the Growth topic.

Background

- 2 The preliminary section 42A report for Hearing G, which relates to rezoning requests to accommodate growth in the district (**preliminary s42A report**), was filed on 29 October 2024 in accordance with the Panel's directions in Minute 13 dated 5 August 2024.¹ The preliminary report set out the information required to be provided by submitters to enable the section 42A officer to assess rezoning requests for the purposes of the section 42A report (which is to be released on 21 May 2025).
- 3 Following the release of the preliminary s42A report, the section 42A officer has undertaken site visits with a number of submitters to discuss their submissions. During those site visits, it became evident that it was not clear to some submitters how the National Policy Statement on Highly Productive Land (**NPS-HPL**) was to be applied to their request to rezone land from rural to urban or rural lifestyle, or to amend a Future Development Area (**FDA**) by either extending the boundary or amending the timeframe for development.
- 4 In that regard, the NPS-HPL (which commenced on 17 October 2022) imposed immediate restrictions on Land Use Classification (**LUC**) LUC 1, 2 and 3 land zoned rural or rural production in an operative district plan, with some exceptions.² This is a transitional arrangement, until regional councils have identified (by mapping in an operative regional policy statement) highly productive land.³
- 5 The preliminary s42A report addresses the key provisions of the NPS-HPL at a high level. It is explicit that information should be provided from submitters as to how rezoning of highly productive land complies with the relevant pathways in the NPS-HPL – as set out in clause 3.6

¹ Minute 13, at [5].

² See NPS-HPL, clause 1.3 for definition of "highly productive land", and clause 3.5(7) for what is treated as "highly productive land" before maps are included in an operative regional policy statement.

³ NPS-HPL, clause 3.5(7).

(for urban rezoning requests) and clauses 3.7 and 3.10 (for rural lifestyle rezoning requests).⁴

- 6 It became evident during the site visits that the NPS-HPL posed some complexity for submitters as to:
 - (a) whether the NPS-HPL applies to their specific submission; and, if so,
 - (b) which NPS-HPL pathway is relevant.
- 7 Although submitters are responsible for undertaking their own assessment of the application of the NPS-HPL to their submission, the section 42A officer agreed to provide his 'without prejudice' preliminary analysis of the application of the NPS-HPL to each property to assist submitters to understand his proposed approach to that assessment.

Further analysis re application of NPS-HPL

- 8 Against that background, the section 42A officer has prepared a supplementary memorandum addressing whether the NPS-HPL applies to each rezoning request. That memorandum is attached at **Appendix A**.
- 9 The supplementary memorandum makes it clear that the analysis comprises the section 42A officer's preliminary and without prejudice assessment only, and that submitters should still take their own advice on the application of the NPS-HPL. It has been prepared on the basis that it would be helpful to submitters if the section 42A officer's assessment was available earlier in the process, rather than being addressed in the section 42A report that is to be released 20 working days in advance of the hearing.
- 10 Some aspects of the NPS-HPL are complex, particularly in relation to the exemptions to the transitional definition of highly productive land. To assist submitters, the supplementary memorandum is transparent as to the approach that the section 42A officer has taken towards the analysis of the NPS-HPL.
- 11 A key aspect of the transitional definition is that it seeks to exclude land that has already been identified by local authorities as being suitable for future development. For that reason, certain land identified for future urban development in a strategic planning document is exempt from the

⁴ See preliminary s42A report, at paragraphs 7.2.12 – 7.2.20.

transitional definition of highly productive land. "Strategic planning document" is defined in the NPS-HPL as follows:⁵

any non-statutory growth plan or strategy
adopted by local authority resolution

12 The supplementary memorandum identifies two documents that fulfil this definition, both of which were undertaken by Planz Consultants. They are:

(a) The Timaru District 2045 Growth Management Strategy 2018 (GMS 2018); and

(b) Growth Management Strategy Review 2022 (GMS Review 2022) which is comprised of two documents, ie., the Residential Review and the Business Review.

13 Links to those documents are provided in the supplementary memorandum.

14 I have requested copies of the Council resolution adopting these documents for the purposes of confirming for the Panel and submitters that the GMS 2018 and GMS Review 2022 fall within the NPS-HPL definition of "strategic planning documents". Council officers have advised that:

(a) on 22 May 2018, the Council resolved:

that the final revised draft version of the document titled 'Timaru District 2045 – Growth Management Strategy' is adopted as Council strategy.

(b) on 6 September 2022, the Council considered the approach to new residential and industrial zoning in the Proposed District Plan and further resolved to (resolution 2022/20):

(a) Continue to proceed on the basis of the residentially zoned land in the Growth Management Strategy (2018); or

(b) Proceed in line with the updated recommendations of the Planz study for additional controlled greenfield zoned land.

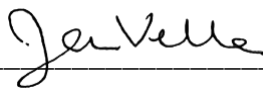
15 Council officers have advised me that the reference to the Planz study for additional controlled greenfield land is a reference to the GMS

⁵ NPS-HPL, clause 1.3.

Review 2020, which includes both the Residential Review and the Business Review.

- 16 On the basis of the above, the Council's position is that the GMS 2018 and GMS Review 2022 fall within the NPS-HPL definition of "strategic planning documents".
- 17 This memorandum will be circulated to all submitters on the Growth topic. The Council is grateful for the Panel's attention to these matters.

Dated this 22nd of January 2025



Jen Vella
Counsel for Timaru District Council

Appendix A

**Supplementary memorandum (section 42A) re application of NPS-HPL to
rezoning request**