

31 January 2023

Timaru District Council
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TIMARU 7910

BY EMAIL
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Submission on proposed Timaru District Plan

This is a submission by Rangitata Diversion Race Management Limited (**RDRML**) on the proposed Timaru District Plan (the **proposal**). The timing of this submission is addressed at the end of this letter.

RDRML could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that RDRML's submission relates to are:

All overlays over the bed of the Rangitata River in the vicinity of the Klondyke intake affecting RDRML's activities in the bed of the Rangitata River, including proposed Sites & Areas of Significance to Māori (SASM), the Light Sensitive Area, the Outstanding Natural Landscape layer, and Visual Amenity Landscape layer.

RDRML's submission is that with respect to the SASM overlay and other overlays in the bed of the Rangitata River near the Klondyke intake, RDRML has the following concerns:

1. RDRML is directly affected by proposed SASM and other overlays insofar as they cover the bed of the 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 pursuant to Canterbury Regional Council consent CRC011239.
2. RDRML has not been consulted or notified by the Timaru District Council with respect to any of the overlays which extend over its works in the Rangitata River.
3. It was difficult for RDRML to understand the boundary between the Ashburton District and the Timaru District, and how that interacts with the Rangitata River, over which the Canterbury Regional Council has jurisdiction.
4. RDRML has concerns about whether it is lawful for the Timaru District Council to create district plan provisions in respect of the bed of the Rangitata River as this appears to be outside the functions of a territorial authority under s 31 of the Resource Management Act 1991 (RMA).¹
5. If it is lawful, then RDRML queries whether it is appropriate given:
 - (a) The difficulties in understanding how the Timaru District Plan applies;

¹ The overlays do not appear to relate to the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes, which would be within the Timaru District Council's jurisdiction.

- (b) The confusion for plan users such as RDRML in understanding whether there are district plan provisions purporting to apply to its activities within the Rangitata River; and
 - (c) The role of the Canterbury Regional Council whose functions and jurisdiction cover activities within the Rangitata River.
6. The provisions, and in particular any rules, attaching to the overlays over the Rangitata River are not clear. For example:
- (a) SASM23 (Rakitata (Rangitata River) including south branch) is a Wai Taoka Area which has rules attaching to it with activity status such as earthworks. It is not clear whether the Timaru District Council considers that these rules apply within the overlay areas as they apply to the Rangitata River. Similar issues arise with respect to the other overlays.
 - (b) To the extent that the activities are controlled by the Canterbury Regional Council, it is RDRML’s position that having rules attaching to overlays within rivers is at best confusing if not unlawful.
7. RDRML notes that if the overlays are intended to be information layers (as far as the Rangitata River is concerned), then they do not appear to be working in this way.

RDRML seeks the following decision from the local authority:

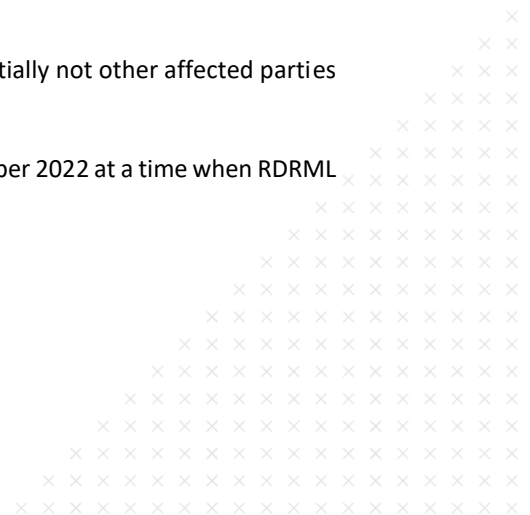
1. Remove all district plan layers from the Rangitata River; and/or
2. Make it clear within the Timaru District Plan provisions and mapping that any overlays are for information only and/or have no rules attaching to them.

RDRML wishes to be heard in support of its submission.

Late submission

RDRML acknowledges that submissions on the proposed District Plan closed on 15 December 2022 and that this is a late submission. RDRML requests that the Timaru District Council waive compliance with the requirement to lodge a submission by 15 December 2022 (and/or extend the timeframe for doing so to 31 January 2023) on the basis that:

- RDRML is directly affected by proposed SASM and other overlays insofar as they cover the bed of the 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;
- RDRML is not a ratepayer in the Timaru District and had no notice that the Timaru District Council was proposing plan provisions which would affect it;
- 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.

Yours faithfully

HOLLAND BECKETT LAW



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