

Before the Independent Hearing Panel
Appointed by the Timaru District Council

Under	Schedule 1 of the Resource Management Act 1991 (RMA)
In the matter of	Submissions on the Proposed Timaru District Plan
Between	Various
	Submitters
And	Timaru District Council
	Respondent

Andrew Cameron Maclellan - s42A summary statement – Hearing B

Rural Zones

17 July 2024

Council's solicitors:

Michael Garbett | Jen Vella

Anderson Lloyd

Level 12, Otago House, 477 Moray Place, Dunedin 9016

Private Bag 1959, Dunedin 9054

DX Box YX10107 Dunedin

p + 64 3 477 3973

michael.garbett@al.nz | jen.vella@al.nz

**anderson
lloyd.**

Introduction

- 1 My name is Andrew Maclellan. I am an Associate at the firm Incite. I prepared the s42A report on the Rural Zones. I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to my section 42A report. I have the qualifications and experience as set out in my s42A report.
- 2 The purpose of this summary is to provide the Panel and submitters with the following:
 - (a) Brief summary of key issues raised in submissions;
 - (b) Corrections I wish to make to my s42A report;
 - (c) A list of issues raised in evidence prior to the hearing, including identifying (where possible):
 - (i) issues that are resolved on the basis of the pre-circulated evidence; or
 - (ii) issues that remain outstanding pending the hearing of evidence; and
 - (d) Updates to the recommendations contained in my s42A report.

Summary of key issues

- 3 FENZ seek a variety of amendments to provisions to better enable the servicing of firefighting water supply to land use activities across the rural zones and also provide for emergency service facilities.
- 4 MoE consider "education" should be provided for within objectives of the RLZ and SETZ. MoE also consider the current rules for educational facilities in rural areas are too restrictive and seek more flexibility within the rule framework.
- 5 A variety of submitters seek greater simplicity and clarity as to the activities that are included within the "primary production" and "intensive primary production" definitions.
- 6 AOPA seek more enabling provisions associated with the take-offs or landing of small-fixed wing aircrafts.
- 7 NZ Frost Fans consider the PDP lacks safeguards for highly productive land and does not prioritise its use for agricultural activities.

- 8 NZPork and HortNZ seek amendments to the rules managing educational facilities, supported residential care, and residential visitor accommodation within the GRUZ, to ensure they do not create reverse sensitivity effects.
- 9 A group of landowners oppose the inclusion of Blandswood, a long-established settlement with permanent houses and holiday homes, in the Open Space Zone and seek rezoning from Open Space Zone – Holiday Hut Precinct to Settlement Zone.
- 10 Fonterra considered GIZ fails to consider the unique characteristics of the Clandeboye site and that the provisions are unsuitable for the site. They seek amendments to introduce a new “Special Purpose Zone – Clandeboye Dairy Manufacturing Zone” tailored to the operations on the Clandeboye site.

Corrections to my s42A report

Radio NZ

- 11 Within paragraph 10.35.5 of my s42A report I considered the submission of Radio NZ (152.57). I agreed in part with the submission and recommended a new matter of discretion be included within GRUZ-S1 as follows:

7. effects on radiocommunication activities conducted at the radiocommunication facilities at Fairview.

- 12 Since the report was published, I have been in contact with legal counsel for Radio NZ who have advised that I had mis-read the submission and the suggested recommendation does not address the submitter key concern, which is the risk of EMR effects on surrounding buildings. I have been in contact with Mr Pedler and have suggested a number of amendments to the matters of discretion within GRUZ-S1 to refine the application of the matter of discretion and also provide greater direction to plan users where the additional matter of discretion is relevant. These additional amendments are as follows:

Matters of discretion are restricted to:

...

7. effects ~~on~~ from radiocommunication activities conducted at the radiocommunication facilities at Fairview, where the building or structure exceeds 49m in height within 1km of Radio New Zealand's Fairview facility at 123 Brockley Road.

Note: Where matter of discretion (7) is relevant, consultation with Radio New Zealand will be required to understand effects from radiocommunication activities.

Blandswood

- 13 In my response to Minute 10, dated 1 July 2024, I noted that several corrections were required to paragraphs 13.3.16 and 13.3.17 within my s42A report. I have repeated these corrections below for completeness:

“13.3.16 Given the assessment above, I disagree with submitters that the Blandswood area should be re-zoned SETZ. However, I note that the relief sought within the submissions is not limited to just seeking a rezoning of the Blandswood area. The submissions also sought consequential amendment for the PDP that achieve a similar outcome. However, I note that the scope of the submission’s ranges from:

- *The notified PDP which zoned these sites as OSZ (Holiday Hut Precinct)*
- *The relief sought in submissions that seek re-zoning to SETZ or Rural 4B or the decline of the plan change.*

Given this, I consider there is scope within the submissions to make amendments to the OSZ to provide a greater ability to develop properties in the Blandswood area. However, I consider that the merits of amending the Open Space Zone rules are best considered in the Open Space Zone hearing.

Conclusions and Recommendations

- 13.3.17 *No further amendments to the SETZ ~~GURZ~~ chapter are recommended. I recommend that the submissions listed in ~~8.9.1~~ 13.3.1 above be further considered in transferred to the OSZ topic hearing for further consideration.”*

List of resolved and outstanding issues

- 14 A list of issues that are either resolved on the basis of pre-circulated evidence, or that remain outstanding pending the hearing of evidence, is attached at **Appendix A** in order to assist the Panel.

Updates to recommendations

Other than as reflected in **Appendix A and in the assessment below**, I have not provided a preliminary view on all outstanding matters at this time, as I wish to hear the evidence and the Panel questions before I provide updated recommendations. I understand that I will have the opportunity to provide a formal response to the matters heard at the hearing.

Blandswood

- 15 The following paragraphs provide a brief background to the development of the Open Space Zone (PREC4 - Holiday Hut Precinct).
- 16 Throughout the drafting of the PDP Council officers have grappled with determining the most appropriate zoning for the Blandswood area given its unique character. I understand several zones were considered within the development of the PDP including Residential zoning, Rural zoning, Settlement Zoning, and Open Space zoning.
- 17 It was considered the Blandswood area has a very different character to residential and rural zones within the PDP and therefore these zones were not proposed. When considering the planning framework for both the Open Space (Holiday Hut Precinct) and Settlement Zone, Council staff considered the Open Space (Holiday Hut Precinct) the most appropriate for the Blandswood area as the Open Space (Holiday Hut Precinct) are generally located in areas with natural hazard and / or high natural character values, lack of infrastructure, remote from centres but close to natural recreation designations, inconsistent development pattern, and low traffic movements. The Open Space (Holiday Hut Precinct) is designed to enable recreational activities with limited control over residential activities and stronger control on commercial activities.
- 18 When the National Planning Standards 2019 (NPS) were released, Council staff again considered the most appropriate zoning for the Blandswood area. Within the NPS the following descriptions are provided for the Settlement and Open Space zones:

Settlement zone: Areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments.

Open space zone: Areas used predominantly for a range of passive and active recreational activities, along with limited associated facilities and structures.
- 19 While neither of the zone descriptions were considered particularly accurate for the Blandswood area, it was decided that the Open Space Zone with a specific "Holiday Hut" precinct would ensure that the character of the area is maintained, and further development could be considered through the resource consent process.

- 20 As such, the Council retained the Open Space Zone (PREC4 - Holiday Hut Precinct) which was bespoke to the hut's areas¹ and provided for a limited range of activities (Recreation activity, Park management activity, Non-intensive primary production, Burials and cremations associated with existing cemeteries, Public artwork, Playground equipment), with other activities such as additional residential activities requiring resource consent.
- 21 It is also important to note that the PREC4 - Holiday Hut Precinct area also includes a number of overlays:
- (a) a 'High Hazard Overlay' in the southwestern corner of the zone, and in this area the construction of a new residential dwelling is a non-complying activity if the dwelling has a ground floor area of 30m² or more (NH-R4):
 - (b) the majority of the zone is identified as a Visual Amenity Landscape (VAL2 - Peel Forest and Four Peaks Range), and in this overlay the construction of a new dwelling is a discretionary activity (NFL-R1(2) – RDIS-1).
 - (c) the northern section of the zone is identified as an outstanding natural landscape (ONL – 2 Peel Forest and Four Peaks Range), and in this overlay the construction of a new dwelling is a restricted discretionary activity (NFL-R1(1) – RDIS-1).
 - (d) The area also includes considerable areas of indigenous biodiversity – there are submissions that seek protection of areas of indigenous biodiversity outside SNAs, which will be addressed in the ECO hearing.
- 22 Regardless of the underlying zoning, the overlays listed above will also apply to the Blandswood area and will restrict the construction of new residential dwellings within the Precinct.
- 23 A productive meeting was held with several Blandswood submitters, where the approach to the zoning of the Blandswood area was discussed. It was apparent at this meeting that the reason for seeking re-zoning from PREC4 - Holiday Hut Precinct to SETZ was not to enable further development within the area. Instead, it was driven by the submitters considering that the descriptions of the PREC4 - Holiday Hut Precinct zone did not accurately describe the character of the Blandswood area, which are not "holiday huts"

¹ Butlers Huts, Milford Huts, Waipopo huts, Rangitata huts, Stratheona huts and the Blandswood huts

but instead are a community of established residential dwellings. They would like to see this reflected in the PDP.

- 24 I retain the view within my s42A report that the character and infrastructure associated with the Blandswood area is not consistent with the level of development that is enabled within the SETZ. Given the unique character of the Blandswood I consider it is appropriate that bespoke provisions are included within the PDP which recognise the distinctive characteristics of the Blandswood area, whether the underlying zoning is OSZ or SETZ.
- 25 During the meeting I agreed with the submitters that I would consider a drafting approach for the Blandswood area which adopted the underlying SETZ, but included some additional bespoke planning controls similar to those within the PREC4 - Holiday Hut Precinct. On reflection, another drafting solution could be to develop a “Blandswood” specific precinct, separate to “PREC4 - Holiday Hut Precinct” which retains the underlying OSZ but more accurately describes the established residential community of Blandswood (although my understanding is that the submitters do not prefer this option).
- 26 The drafting of either option will take some time to develop and will also need to include Director-General of Conservation who have opposed the proposed re-zoning and has filed evidence in support of that position. I understand that the Panel has accepted the proposed way forward set out at paragraph 38 of Ms Vella’s legal submissions, and I intend to work with the submitters with a view to developing an agreed approach (if possible) that can be presented to the Panel at Hearing D (Open Space).

Aircraft Owners and Pilots Association of New Zealand (AOPA)

- 27 I agree in principle with the evidence of Mr Evans supported by the legal submissions from Mr Maw, that the setbacks included within GRUZ-R14 are excessive for managing the noise associated with small fixed-wing aircraft. I consider an alternative framework for managing these activities within the PDP would be appropriate.
- 28 The effect being managed by GRUZ-R14 is a noise effect. In my view there are two ways to manage the noise effects from aircrafts:
- (a) introduce a noise limit for the activity, (such as the general noise rule (Rule 5.22) within the Rural Zone chapter of the ODP which currently manages small fixed-wing aircrafts in the Rural zone) or

- (b) introduce limits on the noise producing activity such as limits on duration or setbacks from noise sensitivity activities (such as GRUZ-R14 within the PDP).
- 29 Given the nature of the noise produced by small fixed-wing aircrafts, I largely agree with the amendments to the PDP suggested by Mr Maw². However, I disagree with the suggestion within paragraph 68(c) of Mr Maw's legal submissions that the flying of small-fixed wing aircraft on permanent or non-permanent airstrips should remain exempt from NOISE-R1.
- 30 If an exclusion for small-fixed wing aircrafts is made to GRUZ-R14, I consider the general noise rule (NOISE-R1) or another suitable noise limit should apply to small-fixed wing aircrafts in the GRUZ, to ensure the noise effects from these activities are appropriately managed.

Fonterra

- 31 I have reviewed the evidence filed by the Fonterra experts. My initial recommendations were based on the information I had at the time, and the further evidence provided by Fonterra is helpful in formulating a more robust view of the relief sought. While I would like to hear the evidence and the Hearing Panel questions before I provide updated recommendations, I have provided my preliminary views based on the evidence, and identified further information that would assist me to make a recommendation on the proposed re-zoning. I am happy to continue to work with Fonterra to reach agreement on provisions where that is possible.
- 32 My initial view is that I agree that amendments could be made to the following standards within the GIZ to take into account of the unique nature of the activities of the Clandeboye site:
- (a) GIZ-S1 - Height in relation to boundary;
 - (b) GIZ-S2 - Maximum height of buildings and structures; and
 - (c) GIZ-S6 - Landscaping and bund(s).
- 33 I also agree that the PDP should include an appropriate zone framework that provides for the current use of the site while also ensuring potential effects are managed, although I am not yet convinced that the proposed Special Purpose Zone: Clandeboye Dairy Manufacturing Zone ("CDMZ") is most efficient and effective method of achieving the outcome sought.

² Included within Appendix A of Mr Maws legal submissions.

34 Further information in relation to the following matters would assist me in making my recommendation:

- (a) GIZ-R4 – Ms Tait suggests that offensive trade activities should be provided for as a permitted activity in the zone.³ Offensive trades require resource consent in every zone in the PDP (including the GRUZ) given the potential effects of the activity. The justification for permitting offensive trades on the Clandeboye site is not clear and further information as to how the effects of offensive trades will be managed would be helpful.
- (b) GIZ-R5 – Ms Tait is concerned that roading and parking, wastewater, sewage, stormwater, water supply and energy generation would require consent as a non-complying activity under GIZ-R5 and TRAN-R11.⁴ However, I would expect those types of activities associated with the Clandeboye factory would be captured by GIZ-R1 and GIZ-R2. It would be helpful to hear Ms Tait's views on the applicability of those rules.
- (c) Objectives and policies of the GIZ – It is not clear which GIZ objectives and policies are incompatible with the activities on the Clandeboye site (other than GIZ-P3 which was noted in the original submission).
- (d) I agree in principle that the sites at 37 Rolleston Road and 2-10 Kotuku Place could be re-zoned to enable the on-going development of the Clandeboye site, provided a pathway through the NPS-HPL can be demonstrated. In my view, the submitter's assessment of clause 3.6 of the NPS-HPL does not clearly set out the pathway through clause 3.6 and it would be helpful if that were specifically addressed at the hearing.

Andrew MacLennan

17 July 2024

³ Paragraph 6.7.13

⁴ Paragraph 6.7.14

APPENDIX A

Status of issues raised in evidence – Rural Zones – Hearing B

Notes:

- 1 *Status: The status of the issue reflects my understanding of the status of resolution as between those submitters who pre-circulated evidence for Hearing B. It does not attempt to reflect whether the issue is agreed between submitters who did not pre-circulate evidence for Hearing B.*
- 2 *Status: An asterisk (*) against the status denotes where I have made an assumption based on the amendments I have recommended. However, I am not certain as to that status because the amendments I have recommended are different to that sought by the submitter.*
- 3 *Relevant submitters: Relevant submitters are those who pre-circulated evidence for Hearing B. Other submitters who did not pre-circulate evidence may be interested in the issue (as submitters in their own right, or as further submitters) but they have not been listed here.*

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<u>Airstrips and helicopter landing areas</u> GRUZ-R14 will impose unnecessary regulation on the activities of small, fixed wing aircraft and associated activities, despite no evidence of them having caused noise or amenity issues within the Timaru District. Seek that fixed wing aircraft are exclude from GRUZ-R14	GRUZ-R14	Outstanding	Ian Sinclair (39.1) John Evans (45.1) Sidney McAuley (57.1) Helicopters Sth Cant (53.2)
Support recommended amendments (Miliner evidence, para [3.1 – 3.3])	GRUZ-R14A	Resolved	NZHA (265.1) – Richard Milner
Replace “rural production’ with ‘primary production’ within GRUZ-R14A (Michelle evidence, para [3.4])	GRUZ-R14A	Outstanding	NZAAA (132.1) – Tony Michelle

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<u>Inclusion of 'operational need'</u> Add the following to SETZ P4: <i>x. there is a functional or operational need for the activity to locate within the Zone; or</i> (McLeod evidence, at para [30]). <hr/> Officer note: I agree with Ms McLeod that there is an issue with relationship between SETZ-P4, RLZ-P9 and the EI chapter. I have not formed a view on which drafting solution is the most appropriate.	SETZ-P4	Outstanding	Transpower (159.98) - Ainsley McLeod
<u>Brookfield subdivision</u> Increase site cover standard (RLZ-S3) for the Brookfield subdivision from 10% to 12.5% (McMullan evidence, at para [1.1]).	RLZ-S3	Outstanding	MFL (60.47) - Melissa McMullan and Chris McKnight
<u>GRUZ-O2</u> Delete GRUZ-O2 (3) (Wharfe evidence, at para [5.20])	GRUZ-O2 (3)	Outstanding	Payne (160) - Lynette Wharfe
<u>Clandeboyne – Rezoning</u> Rezone Clandeboyne site to Special Purpose Zone: Clandeboyne Dairy Manufacturing Zone ("CDMZ"). The new zone includes two new objectives, three new policies, three new activity rules and three new standards. The bulk and location of buildings on the	Re-zoning relief	Outstanding	Fonterra (165.1) - Susannah Tait

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<p>Clandeboyne site will be managed by an Outline Development Plan</p> <p>(Tait evidence, at para [4.2])</p>			
<p><u>GRUZ-P5 - Reverse sensitivity</u></p> <p>Include reference to the "Clandeboyne Dairy Manufacturing Zone" within GRUZ-P5</p> <p>(Tait evidence, at para [7.10])</p>	GRUZ-P5	Outstanding	Fonterra (165.127) - Susannah Tait
<p><u>GRUZ-S4 – Setbacks for sensitive activities</u></p> <p>Add the following to GRUZ-S4:</p> <p><u>No new sensitive activity may be established within 250m from the boundary of any area used for the discharge of industrial and trade waste generated by the Clandeboyne Dairy Manufacturing Zone.</u></p> <p>(Tait evidence, at para [7.16])</p>	GRUZ-S4	Outstanding	Fonterra (165.129) - Susannah Tait
<p><u>Blandswood zoning</u></p> <p>Decline submissions to rezone the Blandswood area to the Settlement Zone.</p> <p>Seek 3m setback from boundary adjoining Natural Open Space Zone if any change from OSZ.</p> <p>(Williams evidence, at para [29])</p>	Re-zoning request	Outstanding	Dir. General Conservation (FS166.33,) - Elizabeth Williams

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<u>Gravel Extraction Overlay</u> Evidence of Ms William (DOC) states that a new gravel extraction overlay is not required. (Williams evidence, at para [21]) This position is agreed to by Mr Hole (Rooney Group) (Hole evidence, at para [10])	New gravel extraction overlay	Resolved	Dir. General Conservation (FS166.30) - Elizabeth Williams Rooney Group (249.5) - Nathan Hole
<u>GRUZ-P5</u> Amend GRUZ-P5 to include existing mining and quarrying activities (Hole evidence, at para [18])	GRUZ-P5	Outstanding	Rooney Group (249.5) - Nathan Hole
<u>GRUZ-O3</u> Amend GRUZ-O3 to include “existing mining and quarrying activities”. (Hole evidence, at para [19])	GRUZ-O3	Outstanding	Rooney Group (scope for suggested change not clear) - Nathan Hole
<u>GRUZ-O3, GRUZ-O4, GRUZ-P1 and GRUZ-P5</u> Silver Fern Farms supports the Rural Zones section 42A author’s recommended amendments to the above provisions (Tuck evidence, at para [4])	GRUZ-O3, GRUZ-O4, GRUZ-P1 and GRUZ-P5	Resolved	Silver Fern Farms (172.112, 172.113, 172.114, 172.116) - Steve Tuck
<u>KiwiRail Setback</u>	SETZ-S3	Outstanding	KiwiRail (187.85) – Alex Gifford

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<p>Include a 5m setback standard in the SETZ adjacent to the rail corridor and two additional matters of discretion</p> <p>(Gifford evidence, at para [7.1])</p>			
<p><u>Waihi School</u></p> <p>Include a new 'PREC8 – Waihi School Precinct' and associated amendments over the Waihi School site.</p> <p>(Gallagher evidence, at para [3])</p>	PREC8-P1, GRUZ-R7, SCHED16A	Resolved	Waihi School (236.1) - Penelope Gallagher
<p><u>Reverse sensitivity</u></p> <p>Require that educational facilities, supported residential care, residential visitor accommodation require compliance with GRUZ-S4.</p> <p>(Hodgson evidence, at para [39])</p>	GRUZ-R7, GRUZ-R8, GRUZ-R9	Outstanding	HortNZ (245.125, 245.126, 247.127) and NZPork (247.26, 247.27, 247.28) - Vance Hodgson
<p><u>Recreation activities</u></p> <p>The setbacks within GRUZ-S4 should apply to all recreation activities</p> <p>(Hodgson evidence, at para [47])</p>	GRUZ-R11	Outstanding	HortNZ (245.114) and NZPork (247.29)
<p><u>Shelterbelts</u></p> <p>Include a reciprocal 30m setback for new shelterbelts and new residential units</p> <p>(Hodgson evidence, at para [53])</p>	GRUZ-S4	Outstanding	HortNZ (245.32) - Vance Hodgson

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
<u>Artificial Crop Protection Structures</u> A maximum height of 6m within the 5m setback is also included in the rule structure. (Hodgson evidence, at para [62])	GRUZ-R18	Outstanding	HortNZ (245.120) - Vance Hodgson
<u>Mobile pig shelters</u> Seek an exclusion to GRUZ-R1 for moveable pig shelters. (Hodgson evidence, at para [62])	GRUZ-R1	Outstanding	NZPork [247]
<u>Seasonal worker accommodation</u> Support the rule proposed and recommendation of the s42 report writer. (Hodgson evidence, at para [68])	GRUZ-P9 and GRUZ-R19	Resolved	HortNZ (245.24) - Vance Hodgson
<u>Permanent worker accommodation</u> Support the rule proposed and recommendation of the s42creport writer. (Hodgson evidence, at para [71])	GRUZ-P9 and GRUZ-R20	Resolved	NZPork [247.30] and HortNZ [245.122]