

IN THE MATTER OF Resource Management Act 1991

AND

IN THE MATTER OF the hearing of submissions in relation to
the Proposed Timaru District Plan

Minute 42

**HEARING G – PANEL REQUEST FOR INFORMATION AND CLARIFICATION FROM
S42A AUTHORS AND SUBMITTERS**

DATED 18 July 2025

INTRODUCTION

[1] Hearing G – Growth, Financial Contributions and Designations took place on 8-9 July 2025. During, and following the conclusion of the hearing, the Hearing Panel¹ indicated to participants that they required further information and clarification on certain matters.

[2] The purpose of this Minute is to:

- (a) Confirm our request for and timing of requests for clarification, expert conferencing, and a reply from Council s42A Report Authors; and
- (b) Confirm our request for and timing of requests to submitters during Hearing G.

SECTION 42A REPORT AUTHOR REPLIES, AND QUESTIONS OF CLARIFICATION

[3] The Council provided four reports prepared under s42A of the RMA (s42A Report) to provide the Panel and submitters with an overview of the issues in Hearing G and to provide

¹ The Timaru District Council ("the Council") appointed Cindy Robinson (Chairperson), Ros Day-Cleavin, Councillor Stacey Scott, Jane Whyte, Megen McKay, and Raewyn Solomon ("the Panel") to hear submissions and further submissions, and evidence to make decisions on the Timaru Proposed District Plan ("the Proposed Plan") pursuant to Section 34A(1) of the Resource Management Act 1991 ("RMA"). Our delegation includes all related procedural powers to conduct those hearings.

recommendations to the Panel as to whether various submissions and further submissions should be accepted or rejected in whole or in part.

[4] We received the following reports:

- (a) Section 42A Report: Hearing G - Rezoning to Accommodate Growth, Preliminary Report - Information to assist in Assessment Matt Bonis, 29 October 2024;
- (b) Section 42A Report: Hearing G - Growth, Matt Bonis, 4 June 2025;
- (c) Section 42A Report: Financial Contributions, Andrew Willis, 6 June 2025; and
- (d) Section 42A Report: Designations, Rachael Williams, 6 June 2025.

[5] Prior to the hearing the s42A Report authors each provided a summary statement, which included updates following the receipt of submitter evidence.² The summary statements identified matters that they considered to be resolved with submitters and those issues which remained outstanding, with the authors having reserved their position until after hearing evidence of submitters and Panel questions. As per the interim reply process³ each s42A Report author will record any changes to their recommendations as part of their reply. As discussed with Ms Vella at the conclusion of Hearing G, rather than provide an 'interim final reply', the s42A authors will provide a final reply on the topics in Hearing G, given we are now nearing the completion of the hearing schedule and final replies for Hearings A-F (excluding matters held over to Hearing H and I) stages will be due on 4 August 2025.

[6] We direct that s42A Report authors provide their replies no later than **3pm on Monday 11 August 2025**. At the conclusion of Hearing G we discussed with Ms Vella aligning the reply for hearing G with the final replies for Hearing A-F, however on reflection and given the directions for further conferencing set out below, we have extended the reply for Hearing G by one week.

[7] During the hearing Mr Bonis clarified that the technical report authors had also prepared summary statements to respond to submitter evidence, however, these were not pre circulated. We direct that the technical report authors provide their summary statements,

² Matt Bonis – Hearing G - s42A summary statement, Growth, 4 July 2025; Andrew Willis – Hearing G - s42A summary statement, Financial Contributions, 4 July 2025; and Rachael Williams – Hearing G – s42A summary statement, Designations, 4 July 2025.

³ Minute 14, Paragraphs 6-7.

along with any further responses from matters arising at the hearing by **3pm on Friday 25 July 2025**.

[8] We request that Ms Hall, please provide a response to matters raised by submitters in response to the Aoraki Environmental Consultancy Limited Cultural Review in Appendix 3 to Mr Bonis' s42A Report, by **3pm Friday 25 July 2025**. The response should identify in a tabular form those matters where her views on submitters requested relief remain unchanged or have changed and why, as a result of evidence provided at the hearing.

Questions of clarification for s42A Report authors and experts to be addressed in reply

[9] For Mr Bonis:

- (a) Mr Hole on behalf of Rooney Group (174, 249, 250, 251, 252, 191) and Mr McLachlan on behalf of North Meadows (190) presented evidence that suggests the projected capacity of industrial zoned or identified FDAs may not be located or sequenced appropriately to meet the operational and locational needs of particular industries in the District. Is there an additional, or more specific policy setting that could provide for the zoning of additional industrial land where it is demonstrated to be necessary in order to meet the operational and locational needs of particular types or scale industrial activities but that is otherwise out of sequence with anticipated and future capacity?
- (b) The Panel notes that PDP FDA-O3 ties out of sequence development to providing significant development capacity **and** contribution to a well-functioning environment. The meaning of a well-functioning environment is then proposed, in response to submissions, to have the same meaning as the NPS-UD 2020 (May 2022). The NPS-UD definition of a 'well-functioning urban environment' has the meaning set out in NPS-UD Policy 1. NPS-UD Policy 1(b) refers to 'have or enable a variety of sites that are suitable for different business sectors in terms of location and site size.' This is repeated in PDP FDA-P5, along with a raft of additional matters. In your opinion do the circumstances described by Mr Hole and Mr McLachlan fit within the proposed PDP FDA objective and policy settings for consideration of out of sequence urban development?
 - (i) If so, is there merit in being more specific?

- (ii) If not, would it be appropriate to incorporate a more enabling framework to consider unanticipated and out of sequence rezoning to meet the operational and locational needs of particular industries? If you do not support the inclusion of such a policy setting, please provide your reasoning.
- (c) Regardless of the answer to (b)(i) and (ii), please provide a drafting option for a more tailored policy setting for out of sequence industrial development, based on operational and locational needs for our consideration along with a statutory and merits assessment, either as part of FDA-P5 or a separate matter.
- (d) In the case of the proposal for a retirement village and care home in Pleasant Point as outlined by Mr Blackler (submitter 231), please discuss scope issues with Ms Vella and advise whether the submission provides scope to consider alternatives such as a precinct and/or rule change (i.e restricted discretionary activity) in the GRUZ to better enable such a development on the specific site, subject to addressing landscaping, infrastructure requirements, and natural hazard risk? Does the National Policy Statement for Highly Productive Land (NPS-HPL) provide any impediment to the Panel's consideration of such a provision?
- (e) In terms of the application of your recommended amended version of PDP FDA-O3 and FDA-P5, and your recommended definition of a 'well-functioning urban environment' which links the definition to Policy 1 of the NPS-UD, does FDA-O3 and FDA-P5 apply to settlements outside of the Timaru urban environment, such as Pleasant Point, Temuka and Geraldine? If FDA-O3 and FDA-P5 is only intended to apply to the Timaru urban environment, what is the PDP policy pathway for unanticipated or out of sequence urban development within Pleasant Point, Temuka and Geraldine? If there is now a gap? i.e. no pathway in the settlements. Please provide an objective and policy to provide for this pathway for our consideration.
- (f) Given your assessment on the suitability and relevance of Policy FDA-P6 when considered against the higher order policy instruments, what options are available to the Panel (based on the submissions received and the constraints of cl16) to improve clarity / function of how this Policy is intended to apply? Please provide an assessment in support of any option(s).

- (g) Consider whether amending FDA-P4 from 'good urban design' to 'high quality urban design' is necessary to give effect to Policy 5.3.1 of the Canterbury Regional Policy Statement (CRPS) or can the different standard of urban design co-exist. If a change is necessary to give effect to the CRPS can the change be undertaken as a consequential amendment in accordance with cl10?
- (h) Provide clarification regarding the recommended amendments to FDA-P4 and FDA-P5,2(o), in relation to the difference between 'reverse sensitivity' and the 'urban / rural boundary interface. How are these concepts different, or are they the same thing? Are further changes recommended?

[10] For Mr Heath:

- (a) Please review the PowerPoint presentation by Mr Shirtcliff, and advise which matters he agrees with or disagrees with and the reasons why.
- (b) Please respond to the suggestion by Mr Shirtcliff that 'There is a problem with the statistical base and associated PDP assumptions. Geraldine's Growth has been consistently understated throughout the PDP process and is, consequently, significantly underestimated.' Please give specific consideration to Mr Shirtcliff's analysis that Geraldine's growth significantly exceeds Timaru District's 'aggregation' and its implications for planned and future land supply in Geraldine.

[11] For Mr Willis:

- (a) Clarify:
 - (i) With input from Mr Dixon, the basis for applying a 4% financial contribution for open space, what evidence there is to support this, including s32 material that supports the similar provision in other district plans; and
 - (ii) Please discuss with Ms Vella how the Newbury⁴ principles apply to the framing of the permitted activity rule, now enabled by RMA s77E. Does the Panel have to be satisfied that the requirement for a 4% contribution fairly and reasonably relates to the development enabled by the rule and whether

⁴ *Newbury District Council v Secretary of State for the Environment* [1981] [AC](#) 578.

it is reasonable at the time of setting the contribution of 4% as a permitted activity rule? Is there still a step where the Council will need to satisfy itself as to the fairness and reasonableness at the time an applicant seeks to rely on the permitted activity rule, or through a resource consent pathway if an applicant disputes the contribution.

(iii) What evidence do we have that 4% is fair and reasonable as a starting point for a permitted activity?

(iv) How would Council practically apply the rule as a permitted activity?

[12] For Ms Williams:

(a) Please clarify the process a Requiring Authority must go through where they propose to undertake an activity that does not meet the Conditions of the Designation.

(b) What is the evidence basis for why existing schools subject to new designations require conditions, but existing schools within existing designations do not? Are they any different in terms of their potential effects?

Questions of clarification for submitters

[13] During the hearing we requested clarification or provided an opportunity for submitters to provide additional information or responses to panel questions. We direct that the information is made available by **3pm 30 July 2025**. We record these as follows:

Submitter	Representative/ witness	Request from Panel
Waitui Deer Farm (19)	Ms McMullan	Provide an evaluation in accordance with RMA s32AA of the Act for the changes sought in the submission.
John Shirtcliff (81)		Although we did not ask during the hearing, could Mr Shirtcliff please provide a copy of his resource consent for waste water disposal for the six 1ha allotments provided for in the existing subdivision at Orari Station Road.

Westgarth/Gibson (227), Garry Aitken (237) RSM Trust (237) Blackler (231), Scott (128), North Meadows (190), Westgarth & Gibson (227)	Ms Dolan	<p>Provide an evaluation in accordance with RMA s32AA for each of the amending proposals for each the submitters you represent as for the alternatives you have considered: Namely the submitters primary relief and your recommended Future Urban Zoning (FUZ).</p> <p>For the avoidance of doubt, the Panel is not requesting any new technical evidence, only your s32AA evaluation utilising the specialist technical evidence that was provided by each of the submitters (including the information provided in response to Mr Bonis' Preliminary s42A Report questions for submitters.)</p>
Blackler (231), North Meadows (190), Westgarth & Gibson (227), RSM Trust (237)	Ms Dolan	<p>Mr Bonis' s42A Summary Report⁵ at 22-24 states that your recommended approach to replace the FDA with a FUZ has potentially unintended consequences for those parties you represent in terms of the application of the NPS-HPL pathways. Please reflect on this and confirm whether you are still seeking FUZ for each of these submitters.</p>
D & S Payne (160)	Dr Payne and Ms Wharfe	<p>Dr Payne is to disclose the names and provide copies of the Peer Review referred to on page 2 of the Housing Availability and Land Supply Report co-authored by you and appended to Ms Wharfe's evidence.</p> <p>Ms Wharfe to provide a copy of the background/explanatory material sent to participants in the survey that supported the Housing Availability and Land Supply Report.</p>

⁵ Matt Bonis, s42A Summary Statement, 4 July 2025.

Expert witness conferencing

[14] The Panel requests that expert conferencing between the relevant s42A Report author or expert and submitters' expert witnesses, as detailed below, take place to assist the Panel with our deliberations. We direct that Joint Witness Statements be provided no later than **3pm on Monday 4 August 2025**.

Submitter	Submitter Expert	S42A Officer / Expert	Directions
Joint witness statement – SCA Standard – Chris and Sharon McKnight (submitter 30)	Mr Ross (planning) Mr Greenshields (landscape)	Mr Bonis Ms Pfluger	Provide a Joint Witness Statement on the additional SCA standard to secure the landscape mitigation recommended by Mr Greenshields.
Payne (submitter 160)	Ms Wharfe (planning)	Mr Bonis Mr Boyes (Subdivision)	Provide a Joint Witness Statement setting out A package of zone provisions to support rezoning from GRUZ to RLZ, accompanied by a Specific Control Area (SCA) that is fit for purpose for either a 2-hectare minimum allotment size or 1.5 hectare minimum allotment size that would give effect to the recommended SCA.
Blackler (submitter 231)	Ms Dolan (planning)	Mr Bonis and Mr MacLennan (Rural s42A Report).	Provide a Joint Witness Statement setting out a possible GRUZ precinct and/or site-specific rule that enables a retirement village with care home on a site adjoining the urban area of Pleasant Point as a

			<p>restricted discretionary activity, with discretion limited to landscape, cultural values, natural hazards and infrastructure requirements (and any other matters you may consider appropriate). Please record any disagreements and reasoning as necessary.</p>
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Questions for Legal Counsel

[15] For Ms Vella:

- (a) Ms Dolan (for multiple submitters) recommended that the FDA framework be replaced with a FUZ zone framework. Please address any scope, natural justice, and/or procedural matters that arise, noting that we received no objective, policy and rule framework in support of the request.
- (b) Please provide legal submissions in response to the application of *Newbury*⁶ to the setting of a permitted activity rule under s77E for financial contributions.

Post Hearing Correspondence

[16] On 16 July 2025 the Panel received correspondence from Davis Ogilvie (signed by Ms Dolan), on behalf of submitter 128 seeking to clarify some matters at the hearing. The submitters were concerned that their site-specific submission outcomes may not have been fully traversed due to the extensive questioning of Ms Dolan at the commencement of the hearing on the general matters in her evidence. The letter helpfully attaches Mr McLachlan's speaking notes which we have added to our hearing records.

[17] The Panel can assure Mr and Mrs Scott that their submission was read by the Panel, along with the evidence that was filed on their behalf. The Panel asked questions of a general

⁶ *Newbury District Council v Secretary of State for the Environment* [1981] [AC](#) 578.

nature because Ms Dolan represented a number of parties and her evidence raised the same issues across all submitters, including Mr and Ms Scott's submission, for whom she appeared. As indicated by the Chair, for efficiency reasons, the Panel questioned Ms Dolan on her general statements to avoid asking the same questions for each of her briefs of evidence. We are satisfied that all relevant matters have been explored. This Minute also seeks further clarification on a range of matters for a number of submitters represented by Davis Ogilvie.

[18] Ms Dolan gave evidence as an expert planning witness, and in her written evidence confirmed her planning qualifications and her adherence to the expert witness code of conduct.⁷ The Panel also had issued directions to expert witnesses in Minute 6 including the requirements for a summary statement and evidence being taken as read.⁸

[19] The Council also challenged Ms Dolan's expertise on economic matters, which were a substantial component of Ms Dolan's evidence, so it was important that we clarified her qualifications and experience on those matters.

[20] Ms Dolan's evidence did not provide a s32AA planning evaluation to support the outcomes that the submitter was seeking or her recommended alternative FUZ, and did not provide any detailed analysis of the higher order planning documents and was focused on rebutting other evidence, including economic evidence. While we have accepted Ms Dolan's explanation of why her brief was limited in the way it was and did not, due to her recent engagement, include a planning evaluation, which is what we would have expected from an expert planning witness, we have provided Ms Dolan with an opportunity to provide us with the planning evaluation to support both her recommended FUZ and the relief that each of the submitters that she represented is seeking in the Table at paragraph 13.


[21] In terms of the content of the letter, it largely repeats matters already addressed in both the submission and Mr McLachlan's, and Ms Dolan's evidence. We do not require these matters to be restated, but we appreciate the clarification of the relief the submitter is still seeking. We note Mr and Mrs Scott were not further submitters to Mr Shirtcliff's submission, and procedurally the RMA does not provide opportunities for submitters to respond to another submitters evidence (positively or negatively) unless they have made a further submission. Mr Shirtcliff provided evidence in support of his own submission, which includes both site

⁷ Environment Court of New Zealand Te Kōti Taiao o Aotearoa, Practice Note 2023, Code of conduct for expert witnesses

⁸ Minute 6, Revised Pre-Hearing Directions of Hearings Panel, Dated 21 March 2024

specific and general concerns, so his evidence will be considered by us in any event. We have also sought clarification from Mr Heath regarding Mr Shirtcliff's presentation.

Dated this 18th day of July 2025

A handwritten signature in blue ink, appearing to read 'C E Robinson', is written over a horizontal line.

C E ROBINSON - CHAIR ON BEHALF OF THE HEARINGS PANEL