

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

**DIRECTIONS REGARDING HEARING H AND S42A AUTHOR FINAL REPLIES,
UPDATED FLOOD ASSESSMENT AREA OVERLAY NOTIFICATION - HEARING I, AND
TIMEFRAMES FOR TECHNICAL FEEDBACK ON DRAFT FINAL DECISIONS**

MINUTE 38

DATED 24 June 2025

Introduction

[1] This Minute from the Hearing Panel¹ issues directions regarding:

- (a) Hearing H sweep up including s42A author final replies on all hearing topics except for SASM and Flood Assessment Area Overlay;
- (b) Scheduling for Hearing I in relation to the updated Proposed Flood Assessment Area Overlay; and
- (c) Timeframes and procedures for Council and submitter technical feedback on the Draft Final Proposed Timaru District Plan decisions.

¹ The Timaru District Council ("the Council") appointed Cindy Robinson (Chairperson), Ros Day-Cleavin, Councillor Stacey Scott, Jane Whyte, Megan 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.

Response to 19 June 2025 Memorandum of Counsel on behalf of Council

[2] The Panel are in receipt of a memorandum² seeking clarification and an associated extension of time regarding several directions in Minute 34 in relation to Hearing F. The Panel:

- (a) Confirms that the joint statement requested of Mr Willis and Mr Walsh relates to the merging the Natural Hazards provisions relating to PrimePort and Coastal Environment Chapters;
- (b) Directs Mr Willis move all coastal environment-related Natural Hazards provisions into the Natural Hazards Chapter; and
- (c) Approves the extension of time for the above work, and for the joint statement of Mr Kemp and Mr Throssell to **30 June 2025**.

Directions for Hearing H: Sweep Up

[3] Hearing H will address:

- (a) Across-plan submissions.³
- (b) Council final replies for all hearing topics excluding Hearing H and I matters.
- (c) Reconvened public excluded hearing of the SASM Chapter.⁴

[4] For the final replies for all hearing topics (excluding Hearing H and I matters⁵) the Hearing Panel directs that:

- (a) A s42A author final reply be provided at the same time as the s42A author report on across-plan submissions.
- (b) the s42A author final reply shall:

² Memorandum of Counsel on behalf of Timaru District Council – Hearing, F – Clarification of direction and extension of time for part of interim reply, 19 June 2025

³ Submitter points that deal with issues across the full content of the plan that have not otherwise been allocated to hearing streams A-G.

⁴ In accordance with the directions in paragraph [13] of Minute 24, Hearing E – Panel Request for Information and Clarification from S42A Authors and Submitters, dated 3 March 2025.

⁵ A separate timetable for final replies on Hearing H and I matters will be addressed in a separate Minute.

- (i) Not repeat but confirm interim replies where no further changes are recommended.
 - (ii) Address any further amendments to the definitions, Strategic Objectives Chapter, any consequential amendments, and any errors.
 - (iii) Confirm collective agreement between s42A officers on integration matters.
 - (iv) Illustrate any further recommended amendments to the provisions in double underline and strikethrough.
- (c) The s42A authors address the following additional matters in the final reply:

Final Reply – Hearing D Ecosystems Chapter

- (a) Ms White: Federated Farmers sought the removal of the 2m clearance width specified in ECO-R1(4). In our review of submissions and evidence, we are unclear if the relief sought falls within the scope of any primary or further submission. Can Ms White please look into this matter and provide advice.

Final Reply - Hearing D Holiday Hut Precinct and Open Space Zone

- (i) Mr Boyes: The Panel has identified a potential inconsistency in the policy and rule framework applying to the Holiday Hut Precinct. Under OSZ-R2, community, cultural and educational activities are classified as non-complying in the Holiday Hut Precinct. However, under OSZ-R10, buildings and structures associated with permitted activities in the Precinct may be a restricted discretionary activity if located outside a High Hazard Area. Mr Boyes to clarify:
 1. The policy rationale for assigning a more lenient (restricted discretionary) activity status to buildings and structures in certain parts of the Precinct, while assigning a more stringent (non-complying) status to community activities themselves?
 2. Whether, in your view, this difference in activity status is coherent with the objectives and policies for the Holiday Hut Precinct, particularly

PREC4-P2, and with the overall risk management approach in the Proposed Plan?

Final Reply - Hearing E s32AA evaluation of recommended changes

- (b) Mr MacLennan appears to adopt a blanket approach to his conclusions and undertakes a s32AA analysis for all recommended amendments. Can Mr MacLennan clarify which of his recommended changes to provisions are Clause 16(2) or Clause 10(2)(b) changes.

Final Reply – Hearing E heritage matters

- (c) Mr MacLennan in his interim reply⁶ confirmed, in response to Ms Seaton's evidence, that once demolished he anticipates being able to recommend the removal of item HHI-75 Sailors Rest/South Canterbury Seafarers' Centre from Schedule 3 in his final reply. Conversely, Mr MacLennan does not arrive at the same position in response to Mr Gray's relief which seeks to remove item HHI-79 Hampton House from Schedule 3, noting that Mr Gray has stated he also has a consent to demolish the property. Is there an inconsistent approach being applied?

Final Reply – Hearing E Development Area 3

- (d) In Mr Boyes' interim reply he remains of the view that the Rooney Group's request in respect of DEV3 Road 5 be rejected. Specifically, in his evidence Mr Hole requested that the Note 1 to DEV3-S5 state include the word 'design' alongside construction. The Panel is interested in Mr Boyes' view on whether the inclusion of this word would create any issue in terms of plan implementation.

Final Reply - Hearing F Noise Chapter matters

- (i) Mr MacLennan: To revisit his response to submissions in Hearing B on GRUZ-S4 in regard to frost fans, where he indicated he would review his position after hearings on the Noise Chapter. Mr MacLennan is to confer with Ms White and present a joint position or set out reasons why they are not aligned.

⁶ Andrew Cameron MacLennan, Hearing E Interim reply, Historic Heritage and Notable Trees, 17 April 2025

- (ii) Ms White: In her interim reply to the Noise Chapter⁷, Ms White recommends changes to Noise-O2 to address reverse sensitivity issues to include reference to 'existing and anticipated' activities. The Panel received evidence from a number of parties regarding the definition of 'reverse sensitivity' and the policy direction for addressing reverse sensitivity in Hearing A and B. In Hearing A there were differences in opinion expressed by submitters and Ms Hollier as to whether reference in the definition should include 'anticipated' activities. Please refer to the evidence of Ms Seaton's definition for Reverse Sensitivity.⁸ The Panel's preliminary view is that the term 'anticipated' creates some uncertainty as to whether this includes activities that are controlled, restricted discretionary or discretionary, and whether they are 'anticipated.' Can Ms White please consider Ms Seaton and Ms Hollier's views on this matter in her reply. If the Panel agrees with Ms Seaton on the definition of reverse sensitivity, do her views on the drafting of Noise-O2 and any other provisions change?

Mapping to accompany s42A author final reply:

[5] The Panel directs that Council publishes an online GIS map viewer at the same time as the s42A author final reply, which includes a comparison tool to illustrate all map changes between the notified maps and the recommended maps.

Administrative matters:

[6] Throughout the Hearings process, s42A officers have arrived at recommendations (and revised recommendations in summary s42A reports and interim reply reports) relying on the technical evidence of TDC staff. Can s42A officers please ensure the Panel has a copy of all technical evidence underpinning their respective positions in their final reply reports. For example, the Panel do not appear to have received a copy of Mr Harding's evidence that Ms White relies on in her Hearing D s42A summary report and interim reply.

Reconvened public excluded hearing of the SASM Chapter:

[7] In preparation for the reconvened public excluded hearing of the SASM Chapter, the Panel understands the notified SASM Chapter was based on the *Timaru District Plan Review*:

⁷ Liz White – Hearing F - Interim reply, Light and Noise, 6 June 2025

⁸ Kim Seaton, Statement of Evidence on behalf of Port of Timaru and TDHL, Hearing Stream A, 22 April 2024, paragraphs 28 and 29

Report on Sites and Areas of Significance to Māori (Aoraki Environmental Consultancy Limited, March 2020) and the AECL letter dated 30 June 2021. The s42A report⁹ and subsequent interim reply report¹⁰ recommended substantial changes to the notified SASM provisions. We direct Ms White to prepare a supplementary statement at the same time as the s42A author report on across-plan submissions:

- (a) Provide a summary of the key differences between the notified version and the version recommended in the s42A interim reply report, and explain why these differences are considered appropriate from a cultural perspective.
- (b) The Panel understands that the amended version reflects discussions between the s42A author (Ms White) and the Council's cultural advisor (Mr Henry). Please confirm whether all amendments in the s42A interim reply report version of the SASM Chapter are supported by Mr Henry.

Further clarification from submitters on issues to be addressed before final s42A author reply

Hearing E Stormwater Chapter – Clarification sought of PrimePort and JWS signatories

- (c) Appendix B of the interim reply of Mr Willis dated 17 April 2025¹¹ contains a Joint Witness Statement (JWS) on the Stormwater Chapter dated 14 April 2025. There are two matters arising from the JWS for consideration of submitters, being:
- (d) The JWS records that whether the definition of 'stormwater neutrality' should include reference to volumes was not agreed by Ms Seaton. The Panel seeks confirmation from counsel for PrimePort and TDHL that it considers this matter is still outstanding, and whether it is seeking that the definition be amended or deleted. If, the matter remains outstanding can counsel confirm by **5pm 4 July 2025** whether Mr O'Neill, on whom Ms Seaton relies on, was aware of the definition of stormwater neutrality in the Timaru Infrastructure Design Standards referring to volume, as outlined in paragraphs 14 and 15 of Mr Willis's interim reply, and whether he agrees or disagrees with Mr Willis that having different definitions

⁹ Section 42A Report: Sites and Areas of Significance to Māori and Māori Purpose Zone Report on submissions and further submissions, Liz White, 9 December 2024

¹⁰ Liz White – Hearing E - Interim reply, Sites and Areas of Significance to Māori and Māori Purpose Zone, 17 April 2025

¹¹ Andrew Willis, Hearing E, Interim Reply, 17 April 2025

of stormwater neutrality in the District Plan and the Infrastructure Design Standards creates uncertainty from a technical perspective.

- (e) The JWS records an agreed definition of Impervious Surface. In his interim reply report and explanation of the changes resulting from the JWS Mr Willis is proposing further changes to this definition which he describes in paragraph 13 as a minor amendment which does not change the meaning of the term. The signatories to the JWS have not had the opportunity to consider these further changes proposed by Mr Willis. If any of the signatories to this Joint Witness Statement have concerns with the further changes proposed by Mr Willis to the definition of Impervious surface they are to advise the Panel by **5pm 4 July 2025**.

Hearing F Noise Chapter – Clarification sought of KiwiRail

[8] KiwiRail proposed 5m rail setbacks for activities adjacent to the rail corridor for safety reasons. In support of the proposed rule change KiwiRail provided a s32 evaluation which included draft economic evidence from Fraser Colgrave. Can Counsel for KiwiRail please clarify why Mr Colgrave's report is 'Draft' and if available provide the final version by **5pm 4 July 2025**.

Directions for Hearing I: Updated Proposed Flood Assessment Area Overlay

[9] The Hearing Panel is in receipt of a memorandum of Counsel from Council in response to Minute 33 regarding the notification of the updated Proposed Flood Assessment Area Overlay¹². The Hearing Panel acknowledges the mapping progress update in the memorandum of Counsel, and accepts the proposed notification process and timeframes in Appendix B, and as follows:

- (a) Updated Flood Hazard Assessment Overlay complete by **27 June 2025**
- (b) ECan review of revised mapping by **4 July 2025**
- (c) Notification of proposed Flood Hazard Assessment Overlay **17 July 2025**
- (d) Further submissions close **1 August 2025**

¹² Memorandum of Counsel on behalf of Timaru District Council – Notification of proposed Flood Assessment Area Overlay, Jen Vella Counsel for Timaru District Council 9 June 2025.

- (e) Section 42A report to be filed by 5pm on **2 September 2025**
- (f) Submitter expert evidence is to be filed by 5pm on **16 September 2025**
- (g) Submitter legal submissions are to be filed by 5pm on **24 September 2025**
- (h) Hearing I to be **held online**, from **2 October 2025**

Directions regarding timeframes and process for s42A author and submitter comment on the draft final Proposed Timaru District Plan decision

[10] The Hearings Panel intends to share a draft final decision report and draft final provisions with the Council and submitters for technical feedback prior to releasing the final decision on the plan. The scope of the technical feedback from s42A author and submitters shall be limited to:

- (a) Typographical and cross-referencing errors;
- (b) Linkages between and across definitions, provisions and chapters;
- (c) Mapping errors;
- (d) Inconsistent use of terminology, or incorrect use of technical terms defined in higher order planning documents or defined in the plan; and
- (e) Other minor corrections that do not alter the meaning or reasoning of the draft final decision.

[11] The technical review process is intended to address minor technical defects and is strictly not an opportunity for the rehearing or reconsideration of any matter of the merit of any submission point.

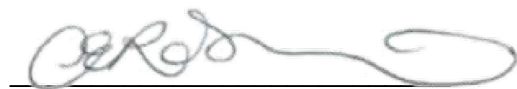
[12] The Hearing Panel will be the sole determiner of whether any technical feedback meets the standard of a technical correction as described above. The Panel does not wish to receive further commentary or responses from any party as to the merit of another party's technical feedback on the Plan.

[13] The Panel proposes the following timetable for technical review so that the Panel can issue its final decision to the Council by 22 March 2025:

- (a) The draft final decision report and draft final provisions shall be provided to the s42A officers and published on the PDP web page on **30 January 2026**.
- (b) Technical feedback by the 42A authors is to be filed by **3pm 20 February 2026**.
- (c) Technical feedback by submitters on the draft final decision report and draft final provisions is to be filed by **3pm 27 February 2026**.

[14] If the Council or submitters have any concerns about the proposal for technical feedback as outlined above, then they may file a memorandum by **30 June 2025** setting out any alternative approach for our consideration.

Dated this 24th day of June 2025

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

C E ROBINSON - CHAIR ON BEHALF OF THE HEARINGS PANEL