

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

Nick Boyes - Final reply

Open Space and Recreation Zones
Subdivision and Development Areas

4 August 2025

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Introduction

- 1 My name is Nick Boyes. I am a self-employed Consultant Planner (trading as Core Planning and Property Ltd). I prepared the section 42A reports relating to submissions lodged on the Open Space and Recreation Zones and Subdivision and Development Areas Chapters of the Proposed Timaru District Plan (PTDP). I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to those chapters. I have the qualifications and experience as set out in my section 42A reports.
- 2 The purpose of this statement is to provide my final reply in relation to the chapters in respect of which I prepared section 42A reports in accordance with the directions contained in Minute 38.

Panel directions – Minute 38

- 3 Minute 38 directed that I provide a final reply that addresses the following:
 - (a) Not repeat but confirm interim replies where no further changes are recommended;
 - (b) Address any further amendments to the definitions, Strategic Objectives Chapter, any consequential amendments, and any errors;
 - (c) Confirm collective agreement between section 42A officers on integration matters;
 - (d) Illustrate any further recommended amendments to the provisions in double underline and ~~strike through~~;
- 4 More specifically, Minute 38 included the following specific questions relating to the topics covered in my section 42A reports:
 - (a) **Hearing D Holiday Hut Precinct and Open Space Zone:**

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. Specifically, the Panel has asked for clarification of the following:

- (i) 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?
- (ii) Whether, in the author's 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?

(b) Hearing E Development Area 3:

The Panel has requested my view on the Rooney Group's request to include the word 'design' alongside construction in Note 1 to DEV3-S5; and more specifically whether the inclusion of this word would create any issue in terms of plan implementation.

Hearing D Holiday Hut Precinct and Open Space Zone

- 5 Matters relating to the appropriate activity status under OSZ-R2 and OSZ-R10 were not addressed in the section 42A report due to there being no relevant submission seeking changes to these provisions. On that basis the matters raised by the Panel in Minute 38 were not something that I was required to turn my mind to in preparing the section 42A report.
- 6 In general terms I see no issue with rules relating to 'activities' and those relating to any associated 'building and structures' resulting in a different activity status. I note that OSZ-R10 regulates all buildings and structures, regardless of their intended use. The 'activity' rules within the Open Space Chapter include an advice note that any building or structure must also comply with OSZ-R10. There are various examples where an 'activity' based rule provides for a less onerous activity status than set out in OSZ-R10, these include recreational activity, park management activity, non-intensive primary production, burials and cremations associated with existing cemeteries, public artwork and playground equipment.
- 7 More specifically, I see no issue with OSZ-R2 assigning a non-complying activity status to 'community activity, cultural activity and educational facilities' within the Holiday Hut Precinct. This reflects a risk based approach given the congregation of people arising from such activity. Whilst the building and structure itself may only be a restricted discretionary activity (where outside the High Hazard Area), this rules also provides for any buildings and structures associated with the activities listed above that

would not otherwise require additional consenting requirements relating to their proposed use (or the activity aspect). In that context I do not consider it necessary that all buildings within the Holiday Hut Precinct should necessarily have non-complying activity status.

- 8 Notwithstanding, I note that the majority of PREC4 is currently within the area identified as a 'High Hazard Area' (see **Figure 1** below)¹. The practical implication of this is that the vast majority of buildings and structures likely to be constructed within PREC4 will require a non-complying resource consent in any case.

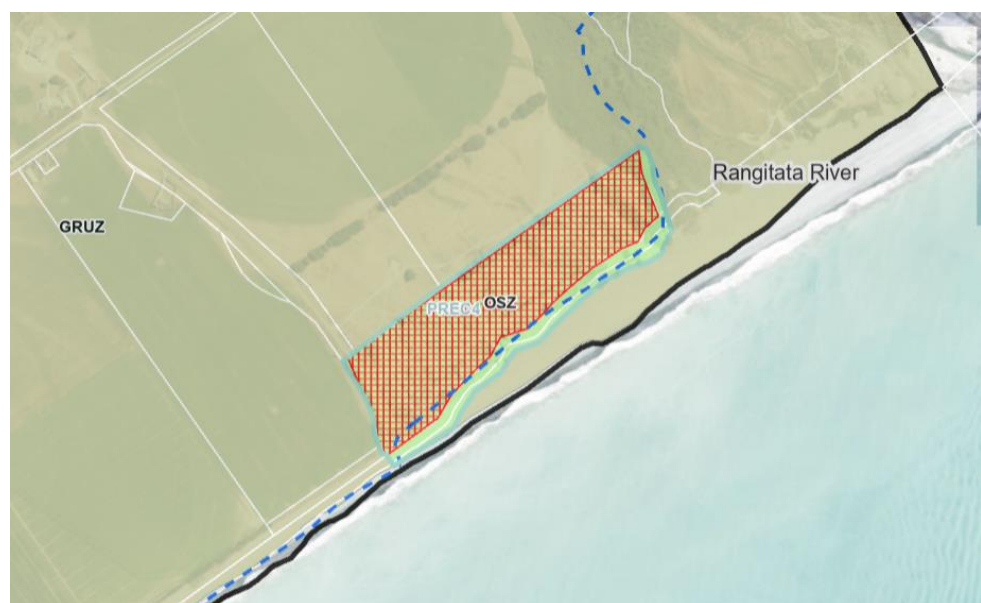


Figure 1: PREC4 (light blue outline) with High Hazard Area overlaid (red cross-hatched).

- 9 The second aspect of the query from the Hearing Panel specifically addresses the difference in activity status and whether this is coherent with the objectives and policies for the Holiday Hut Precinct and with the overall risk management approach in the PTDP.
- 10 PREC4-P2 refers to 'Buildings and structures in the Holiday Hut Precinct', as follows:

Avoid buildings and/or structures within high hazard areas in the Holiday Hut Precinct where there is a risk of loss of life or significant damage to structures or property.

¹ Please note this overlay has been recommended to be removed by Mr Andrew Willis in his section 42 Report for Hearing F, see para 7.39.6.

- 11 For the reasons set out above, I consider the rule framework reflects this policy. Those buildings and structures that do not give rise to risk of loss of life or significant damage to structures or property (such as public toilets, public artwork and playground equipment) may obtain the necessary consent required under OSZ-R10. In contrast, buildings and structures associated with activities resulting in greater risk (such as community activity, cultural activity and educational facilities) will face a greater policy scrutiny in terms of PREC4-P2.
- 12 My involvement in the Timaru District Plan review process has been limited to the chapters reported on. On that basis it is difficult for me to comment on the overall risk management approach in the PTDP. However, to the extent that my comments above reflect planning practice, I consider they equally apply to the approach taken in the PTDP more generally, particularly as it relates to the differentiation between 'activity' based rules and those relating to 'buildings and structures'.

Hearing E Development Area 3

- 13 Mr Hole (on behalf of the Rooney Group) requested the specific inclusion of the 'design' aspects of road construction be included in Note 1 to DEV3-S5.
- 14 The section 42A report focussed on consideration of the submission point that stated Council should be solely responsible for the design and construction of ROAD 5 and compensation should be paid to the landowner for the land taken (if ROAD 5 becomes a Principal Road).
- 15 At paragraph 39 of his evidence Mr Hole notes that Note 1 to DEV3-S5 largely alleviates Rooney Group's concerns. However, Mr Hole considers that the proposed apportionment of construction costs should be clarified by amending Note 1 to include design as well as construction. Mr Hole goes onto note that such an amendment would also address the same issue in relation to other types of vested infrastructure.
- 16 I do not consider that the inclusion of reference to design would create any issue in terms of plan implementation; and otherwise note that there are other references to "design and construction" within the SUB chapter. I therefore recommend that this change is made relying on the submissions by RHL [174.94], Rooney, GJH [191.94], RGL [249.94], RFL [250.94], REL [251.94] and TDL [252.94]. To maintain consistency across the various DEV areas, I also recommend that this change is also made to DEV1-S5, DEV2-S5 and DEV4-S5 pursuant to Clause 10(2)(b) of the RMA.

- 17 Therefore, I recommend that DEV1-S5, DEV2-S5, DEV3-S5 and DEV4-S5 are amended as follows:

Note:

1. *The actual cost of road, utility services and walkway/cycleway design and construction will be apportioned between the developer and Council, with that apportionment to be determined on the basis of the percentage of public versus private benefit.*
- 18 The scale of the changes above does not require a section 32AA evaluation because they are minor changes to improve drafting and do not alter the general intent and therefore the original s32 evaluation still applies.

Confirmation of interim replies/ further amendments to provisions

- 19 I confirm that aside from the above, the recommendations set out in my interim replies still stand.

Integration matters

- 20 The only potential matter of plan integration discussed and agreed with other authors relates to the proposed new rule SUB-S9 (Tree planting in the Brookfield Road Specific Control Area). This new rule was proposed in the Joint Witness Statement² relating to the submissions made by C and S McKnight (Sub No. 30), which requested the rezoning of their land at 60 Landsborough Road, Timaru to enable rural lifestyle development.
- 21 I have reviewed this new provision and see no issues arising from a plan integration/structure perspective. This rule makes any subdivision proposal that does not comply with the screen planting requirements, or otherwise secure the required planting through a legal instrument registered on the subject Record of Title, a restricted discretionary activity.
- 22 In the process of assigning the numbering to this new rule, the JWS (paragraph 2.10) also identified a potential omission in that both SUB-R1 (boundary adjustments) and SUB-R3 (general subdivision) do not make reference to SUB-S8 (Esplanade reserves and esplanade strips).
- 23 It is acknowledged that this omission appears to be an oversight. Unfortunately, there appears to be no obvious submission that provides

² JWS – Planning and Landscape, dated 23 July 2025 relating to C and S McKnight (Sub No. 30).

scope to correct this matter. This then raises the legal question as to whether this situation constitutes a “*minor error*”; and that any alteration to rectify it “*is of minor effect*” pursuant to Clause 16, Schedule 1 of the RMA. It is my understanding that adding an additional standard to a rule may go beyond what can normally be done as a Clause 16 change.

- 24 In any case, I note that whilst both SUB-R1 and SUB-R3 do not make reference to SUB-S8, they do include as a matter of control and/or discretion the following:

8. *the requirement for any consent notices, covenants, easements, esplanades or public access; and...*

- 25 On that basis SUB-R1 and SUB-R3 do provide the ability for esplanades to be taken, albeit without specific reference to SUB-S8. I note the inclusion of the above matter of control/discretion within the existing rules is potentially a relevant matter when making the assessment whether the change “*is of minor effect*” under Clause 16, RMA.
- 26 Overall, it is acknowledged that both SUB-R1 and SUB-R3 should make reference to SUB-S8. The issue is the mechanism to achieve that outcome; whether by way of Clause 16 at this time, or by way of a subsequent Variation/Plan Change. I consider this to be finely balanced and a matter for the Hearing Panel to determine.

Amended provisions

- 27 The amendments recommended in this final reply are set out in double underline and double strikethrough in the updated chapters contained in the s42A Officers Final Reply Consolidated Set of Provisions.

Nick Boyes
4 August 2025