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

Liz White - Final reply

Residential and Commercial and Mixed Use Zones

Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes

Sites and Areas of Significance to Māori and Māori Purpose Zone

Light and Noise

4 August 2025

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Introduction

1 My name is Liz White. I am a self-employed independent planning consultant (Liz White Planning). I prepared the s42A reports on the:

(a) Residential and Commercial and Mixed Use Zones (Hearing B);

(b) Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes chapters (Hearing D);

(c) Sites and Areas of Significance to Māori and Māori Purpose Zone (Hearing E); and

(d) Light and Noise (Hearing F).

2 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 s42A reports.

3 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.

4 In addition, I have also been asked to consider any 'unresolved' matters from Hearing A - Overarching Matters, Part 1 and General Definitions - which were addressed by Ms Alanna Hollier[1], where it may be appropriate to revisit those matters now that subsequent topics have been considered. This is particularly in relation to definitions which are relied on across a number of chapters of the PDP. I have been asked to consider these matters because Ms Hollier is currently on maternity leave and therefore unable to provide a Final Reply in relation to these matters. In considering these matters, I confirm that I have read the submissions, further submissions, and submitter evidence that relates to any matters previously identified as unresolved.

[1] As identified in the *Evidence of Allana Hollier in response to Minute 7 (17 May 2024)*.

Panel directions – Minute 38

5 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 s42A officers on integration matters;

(d) Illustrate any further recommended amendments to the provisions in double underline and strikethrough;

(e) The following additional matters:

(i) In relation to Hearing D Ecosystems Chapter:

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.

(ii) In relation to Hearing F Noise Chapter:

In her interim reply to the Noise Chapter, 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.[2] *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?*

(iii) In relation to technical evidence:

Provision of technical evidence underpinning recommendations, where the technical evidence of TDC staff have been relied on in making those recommendation, including a copy of Mr Harding's evidence that Ms White relies on in her Hearing D s42A summary report and interim reply.

Confirmation of interim replies/ further amendments to provisions

6 I confirm that the recommendations set out in my interim replies still stand, except as identified below. The further amendments I recommend to provisions are as set out below.

Hearing B – Interim Reply dated 19 September 2024 – Residential and Commercial and Mixed Use Zones

7 In the s42A Report for Residential; and Commercial and Mixed Use Zones, I recommended amendments to the rules in the LFRZ Chapter which included reference to personal services, and consequentially recommended the inclusion of a definition for such services (paras 6.18.18 – 6.18.20). However, 'personal services' is already a defined term in the PDP. It is used once in the notified PDP in setting the minimum loading space requirements (Table 13 in TRAN-S7). There were no submissions seeking changes to the notified definition. The only difference between the wording I recommended and the notified term is that the latter refers to "*an*

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

activity" whereas my recommendation includes reference to "*a commercial activity*". The notified term is also consistent with the operative definition. Given that the changes recommended to the LFRZ provisions were to align them with those in the operative Plan (i.e. those applying currently to the Commerical 2A Zone) I consider it appropriate to rely on the notified term and not include a new definition for personal services for the recommended use of the term in the LFRZ provisions. My final recommendation is therefore not to include a new definition for personal services set out in para 6.18.20 of the s42A Report, with the recommended suite of rules for the LFRZ instead relying on the notified definition of personal services.

8 In the Interim Reply for Hearing B, I indicated that I did not support the request from KiwiRail [187.85] to apply a 5m setback from the rail corridor boundary within the GRZ, MRZ, LFRZ, MUZ, TCZ and CCZ.[3] I however indicated that if the Hearing Panel considered such a setback to be necessary, then in order to ensure the rule was more efficient, it should:

- Be targeted to buildings only; and
- Apply a tiered approach depending on the height/number of storeys of any building, i.e. 4m should only apply to buildings of two storeys or more, with a lesser setback of 2m applied to single storey buildings
- Apply the setback to the boundary of a site which adjoins the designated rail corridor (KRH-1), for the reasons set out by Mr Maclennan.

9 Following Hearing B, I had a further discussion with Ms Grinlinton-Hancock and Mr Maclennan. In this we discussed:

(a) That for this rule, it would be appropriate to apply any setback to the boundary of the designation. This reflects that the sites of concern to Mr Maclennan are sites owned by KiwiRail, but leased out. As such, any buildings and structures within the leased areas require approval from KiwiRail in any case, so the rule would not impose additional restrictions.

[3] Hearing B - Interim Reply - Residential and Commercial and Mixed Use Zones, 19 September 2025, Appendix A, pages 6-8.

(b) That if possible, the rule would be most efficient if a breach of the setback could be permitted, where written approval is provided by KiwiRail. This would allow for the setback imposed to act as a trigger point where a developer/landowner would need to consult with KiwiRail, but would avoid the need for Council involvement and the cost of a resource consent process where KiwiRail is comfortable with the incursion.

(c) That the concerns held by KiwiRail would not arise in relation to a most structures. The setback should therefore only apply to buildings, and some specifically identified any structures.

(d) That the height of a building adjoining the rail corridor is the key factor in whether the concerns held by KiwiRail arise or not, and therefore it might be acceptable to KiwiRail for a tiered/hybrid approach to be taken to setbacks, with greater setbacks applying to taller buildings.

10 In relation to (a) above, Mr Maclennan has confirmed that on the basis that the sites within the designated area are all owned by KiwiRail, he is comfortable with any setback applying from the designated boundary. For completeness I note that this differs from other circumstances where officers have not supported a rule applying from the designated boundary, as the circumstances are different, in terms of the issue that is being addressed.

11 In relation to (b) above, while such an approach would be my preference, I do not think it could be accommodated within a permitted framework, as it would essentially result in a requirement for third party approval in order for an activity to be permitted. In addition, it would not be possible for anyone reading the rule to know in what circumstances approval from KiwiRail would be forthcoming. Therefore, I do not think this can be pursued.

12 In relation to (c) above, Ms Grinlinton-Hancock was to identify those structures that the rule should be applied to. Unfortunately, at the time of finalising this reply report, this has not occurred. My recommendation therefore remains for any setback rule for the rail corridor to apply to buildings only and not to structures.

13 In relation to (d) above, I continue to support a tiered approach whereby a 5m setback is only applied to buildings of two storeys or more; and a lesser setback of 2m is applied to single storey buildings.

14 In summary, while I continue to consider that applying a setback from the railway corridor is not the most appropriate approach, should the Hearing Panel agree with applying such a setback, then I consider that it should be drafted as follows (and added to GRZ-S3, MRZ-SZ, LFRZ-S3, MUZ-S3 and TCZ-S3, and as a new standard within the CCZ):

Buildings must be setback from the boundary of designation KRH-1:

a. a minimum of 2m where the building is a single storey: or

b. a minimum of 5m where the buildings is two or more storeys.

15 I consider that a restricted discretionary status should apply to breach of the standard in all zones with the matters of discretion set out in the Hearing B evidence of Alexander Gifford.

16 Since the Interim Reply, it has also been identified that a clause 10(2)(b) change is required as a consequence of my recommendation to rezone 2, 4, 6 Shaw Street and 6 & 6A Hislop Street from RLZ to GRZ[4]. The area is also subject to a Special Control Area (SCA) ("2ha lot size specific control area"). As a consequence of the recommended rezoning, the SCA should also be removed from these properties.

Hearing E – Interim reply dated 17 April 2025 – Sites and Areas of Significance to Māori and Māori Purpose Zone

17 In the s42A Report for this topic, I considered submissions that relate broadly to how cultural values are managed across the PDP (not just to the SASM and MPZ Chapters). This included consideration of the request by TRoNT [185.8] to add matters of control or discretion relating to effects on Kāti Huirapa values within all controlled or restricted discretionary rules within all zone chapters. In Minute 24, the Panel requested that Ms Pull

[4] Section 42A Report: Residential; and Commercial and Mixed Use Zones, 18 June 2025, para 6.39.33, and updated in Hearing B – Interim Reply, Residential; and Commercial and Mixed Use Zones, Appendix A, page 20.

identify any additional rules that she considered appropriate to add a matter of discretion relating to effects on cultural values. In that minute, the Panel noted that the Council would be able to respond to Ms Pull's assessment as part of the final reply. Ms Pull identifies the following rules as managing activities that have the potential to adversely affect Ngāi Tahu values and requests additional matters of discretion be added. I have discussed this with the s42A Report author for each respective chapter and note the response below:

Rule	Comment
GRUZ-R23	This rule applies a restricted discretionary status to the expansion of existing quarries that meet the conditions set out in RDIS-1 to RDIS-3. Mr Maclennan agrees with a matter of discretion relating to cultural values being included in this rule. This will allow for the consideration of effects on cultural values where a quarry expansion is proposed.
PORTZ-R3	This rule applies to Industrial activities and ancillary activities that do not otherwise fall within the definition of a "port activity". These are restricted discretionary where located within PREC7. Mr Willis notes that the purpose of the rule is to prioritise Port activities and not let them get crowded out by general industrial activities or undermined by sensitive activities. In this context, he does not consider it to be appropriate to include matters of discretion relating to effects on cultural values. He further notes that the PORTZ zone is an existing built out urban area.
ECO-R1	A restricted discretionary status applies under ECO-R1.2 to indigenous vegetation clearance, where the permitted activity conditions are not met. It would also apply under ECO-R1.4 (a new rule recommended in the s42A report) to indigenous vegetation clearance, where the permitted activity conditions are not met. The change sought by Ms Pull is to amend the existing matter of discretion #5 in each rule to read "*any adverse effects on the mauri of the site, Rakatirataka, Kaitiakitaka, mahika kai,*

	tikaka, wāhi tapu or wāhi tāoka values." I am comfortable with expanding the matters of consideration, but recommend a slight grammatical improvement to be clearer that the "values" relate to *wāhi tapu or wāhi tāoka.* The recommended wording is: "*any adverse effects on the mauri of the site, rakatirataka, kaitiakitaka, mahika kai, tikaka, or wāhi tapu or wāhi tāoka values"*
HS-R1	This rule applies to the use and/or storage of hazardous substances in a hazardous facility (excluding Major Hazard Facilities). A restricted discretionary consent requirement is triggered where the hazardous facility is within a sensitive environment; or within a Flood Assessment Area Overlay but does not meet the finished floor level requirements. Mr Willis notes that the matters of discretion already refer to adverse effects on ecosystems and SASMs, which would already afford some consideration of cultural values. However, he considers that including a broader consideration of effects on cultural values would provide greater clarity. Mr Willis considers that in this instance the consideration should be limited to where the facility is within a sensitive location, rather than applying where the consent requirement is triggered for other reasons. To achieve this, it would be worded, consistent with Mr Willis' recommended drafting of matter #5, as follows: "*the potential adverse effects on the spiritual and cultural values and beliefs of Kāti Huirapa within the sensitive locations, and any measures to avoid, remedy or mitigate adverse effects*."
EW-R1	A restricted discretionary status applies to earthworks under this rule, where the standards are not complied with. My understanding of Ms Pull's evidence is that the additional matters of discretion are sought to be added where EW-S1 is not met, or where EW-S2 or EW-S5 are not met in respect of the depth of earthworks.

	In terms of EW-S1, I note that the additional matters of discretion sought by Ms Pull are consistent with those recommended through Hearing E, where the earthworks volumes in EW-S1.2 and SEW-S1.3 are not met. In relation to EW-S2, I recommended in my Interim Reply[5] for Hearing E that a further matter of discretion be added to allow for consideration of effects on cultural values when the permitted depth for earthworks is exceeded, whether located within an SASM or not. I note that this additional recommendation was unintentionally omitted from Ms Williams' Interim Reply for the Earthworks Chapter. This has been added into the s42A Officers Final Reply Consolidated Set of Provisions. This leaves the question of whether an additional matter(s) of discretion should be added in relation to EW-S5. Ms Williams does not agree that it is appropriate to add a matter of discretion to this rule, because in this instance, the purpose of the depth restriction in the rule relates to the impact of earthworks on the stability of transmission line support structures.
TEMP-R3	This rule relates to temporary events (as notified) along with temporary emergency services training activities (as recommended). PER-4 requires that there is no permanent or mechanical excavation carried out as part of these activities, and a restricted discretionary status applies where this is not met. Ms Williams is comfortable with a matter of discretion relating to cultural values being included in this rule. This will allow for the consideration of effects on cultural values where they involve any permanent or mechanical excavation.

18 Where the recommendation above is to include further matter(s) of discretion, I recommend that the drafting used is "*the potential adverse*

[5] Hearing E - Interim Reply - Sites and Areas of Significance to Māori and Māori Purpose Zone, 17 April 2025, page 11.

effects on the spiritual and cultural values and beliefs of Kāti Huirapa, and any measures to avoid, remedy or mitigate adverse effects." This better reflects what was sought in the original submission, and in my view is more aligned with the drafting taken elsewhere in the PDP which refers to Kāti Huirapa, rather than Ngāi Tahu values.

Hearing F – Interim reply dated 6 June 2025 – Noise and Light

19 In the s42A Report for Light and Noise, I recommended the inclusion of controls for new noise sensitive activities located within specified proximity of existing or consented frost fans. Specifically, I recommended[6] that new noise sensitive activities within 100m be subject to a requirement to obtain resource consent (under GRUZ-S4) and that between 100m – 300m of a frost fan, new noise sensitive activities be required to meet the insulation standards in NOISE-S3.1. However, the drafting contained in Appendix 1 of the s42A Report, and ultimately in Appendix B of the Interim Reply Noise Chapter applied the standard (both in terms of NOISE-R9 and NOISE-S3) to the "*General Rural Zone within 300m of any frost fan (including any frost fan for which a resource or building consent has been issued)"*. This does not align with the recommendation which is not intended to provide a permitted status for new noise sensitive activities within 100m an existing or consented frost fan. The effect of the drafting is that while a resource consent requirement would be triggered under GRUZ-S4, an applicant could argue that as they are providing insulation in accordance with NOISE-S3.1, the consent should be granted. However, the level of insulation required under NOISE-S3.1 is not considered sufficient by Mr Hunt to mitigate the level of noise anticipated from a frost fan which is within 100m.[7] The changes recommended are therefore to amend NOISE-R9 and NOISE-S3.1 to align the drafting with the original recommendation and the advice of Mr Hunt, as follows:

NOISE-R9	***Any new building for use by a noise sensitive activity and alterations to existing buildings for use by a noise***

[6] Section 42A Report: Light and Noise, 24 March 2025, para 8.2.6

[7] Appendix 3 of the Section 42A Report: Light and Noise, 24 March 2025, page 14

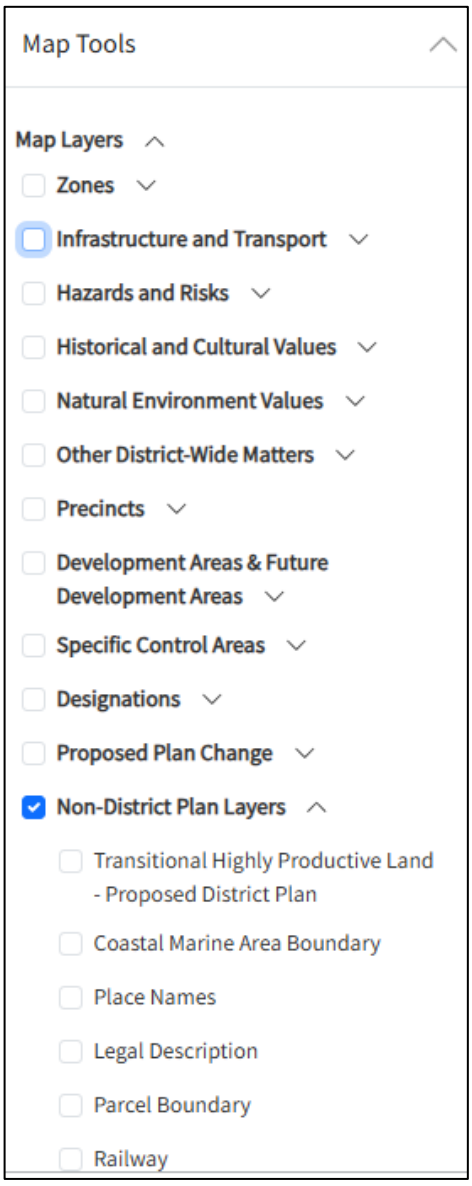
	sensitive activity (not listed in NOISE-R12)	
… ***General Rural Zone ~~within~~ between 100m and 300m of any frost fan (including any frost fan for which a resource or building consent has been issued)***	***Activity Status: Permitted*** ***Where:*** ***PER-1*** …	*…*

NOISE-S3	***Acoustic insulation***	
1. ***…*** ***General Rural Zone ~~within~~ between 100m and 300m of any frost fan (including any frost fan for which a resource or building consent has been issued)***	…	…

20 A further assessment under s32AA is not required, as the change recommended is to align the specific drafting with the overall recommendation, which has already been assessed in the s42A Report at para 8.2.17.

21 In my Interim Reply, I also recommended accepting KiwiRail's revised request in relation to managing vibration from the rail network, through inclusion of a Rail Vibration Alert layer in the PDP planning maps. The inclusion of the layer is intended to be for information purposes only, with a note referring to it also recommended to be added to the Introduction to the

Nosie Chapter[8]. For the avoidance of doubt, my intention was that this be added into the EPlan planning maps as a "Non-District Plan Layer" in the same manner as the railway itself is included in the non-district plan layers (refer to snip below of the map layers).



22 Since the Interim Reply, it has also been identified that a clause 10(2)(b) change is required to Schedule 16B, as a consequence of my

[8] Hearing F – Interim Reply, Light and Noise, Appendix A, page 13.

recommendation to apply a new SCA to the property that was formerly 18A Hobbs Street[9]. The change required is to alter the Schedule 16B column heading from "Zone Located" to "Chapter Located", to reflect that the SCA provisions are located in the Noise Chapter and note the zone chapter.

Integration matters

23 Any matters of integration that I have identified and discussed with other s42A authors are set out in this reply.

Removal of the 2m clearance width specified in ECO-R1(4)

24 The s42A Report recommended the inclusion of a new rule applying to clearance of indigenous vegetation not otherwise captured in the ECO Chapter rules as notified. This was in response to several submission points[10] which raised concerns that the chapter did not adequately manage indigenous vegetation clearance outside of identified sensitive areas and SNAs, in order to maintain indigenous biodiversity overall. I considered that additional controls were required in the PDP to control indigenous vegetation clearance outside identified SNA areas, in order to achieve ECO-O2 and meet the Council's function under s31(1)(b)(iii).

25 The specific drafting of the recommended rule was not taken from a submission, because the relief sought in these submissions was general in nature[11]. Instead, it was based on similar rules contained in the Partially Operative Selwyn District Plan and proposed Waimakariri District Plan, and then refined through input from Mr Harding.

26 I consider that changes to the drafting of the recommended rule fall within the scope of these original submissions, which sought an additional rule for the clearance of indigenous vegetation outside areas otherwise specified in the ECO Chapter. This includes the amendments sought to the specific drafting recommended, including in the evidence by Federated Farmers to

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[9] Hearing F – Interim Reply, Light and Noise, Appendix A, page 17.

[10] Including Frank, H [90.23], Forest and Bird [156.3, 156.116], Dir. General Conservation [166.29]

[11] For example, Forest and Bird sought to "Add a general indigenous vegetation clearance rule or rules that maintains indigenous biodiversity outside of sensitive areas and SNAs" – but did not include specific drafting for the rule.

the originally recommended 2m clearance width specified in ECO-R1.4 PER-1.1 a. and c. This is because the scope is anywhere between the notified PDP (i.e. no additional rule and therefore no further controls on clearance of indigenous vegetation not specified elsewhere in the ECO Chapter) and any type of control intended to manage indigenous vegetation clearance outside of identified sensitive areas and SNAs.

NOISE-O2

27 In my s42A Report, I recommended amending NOISE-O2, which relates reverse sensitivity issues associated with noise, to include reference to 'existing and anticipated' activities within specified zones. The definition of 'reverse sensitivity' was considered in Hearing A, along with the policy direction for addressing reverse sensitivity being considered in subsequent hearings. The Panel has asked me to consider Ms Seaton and Ms Hollier's views from Hearing A on this matter, and in particular, if the Panel agrees with Ms Seaton on the definition of reverse sensitivity, whether my views on the drafting of NOISE-O2 and any other provisions would change.

28 I note NOISE-O2 includes reference to 'reverse sensitivity', such that the definition of that term will apply to the interpretation and application of this objective. I have therefore reconsidered the wording of the objective and consider that it would be more appropriate to remove the additional words that I had recommended (i.e. "*existing and anticipated*"). This is on the basis that the "*activities within*" the specified zones are those which fall within the definition of reverse sensitivity; whether they are those which Ms Seaton recommends would be "*an approved, lawfully established or permitted activity"*; or Ms Hollier recommends would include "*lawfully established, permitted or consented activity, or activities otherwise anticipated by the Plan"*; or the further changes I recommend below.

29 I have also considered an alternate option, being that the wording in NOISE-O2 could effectively replicate the definition; however I do not favour this option as I do not consider it necessary, given the defined term would apply. I therefore recommend the following wording:

The Airport, Raceway, State Highway, railway lines, ~~and~~ the Port and Clandeboye Dairy Manufacturing Precinct and ~~existing and anticipated~~ activities ~~located~~ within commercial, mixed use and Industrial zones are not

constrained by reverse sensitivity effects arising from noise sensitive activities.

Technical Evidence

30 The Panel have asked that s42A officers ensure the Panel has a copy of all technical evidence underpinning their respective positions. Particular reference is made to the evidence of Mr Harding evidence which I have relied on in the Hearing D s42A summary report and interim reply.

31 Where technical experts have provided evidence or a technical memorandum, this has been appended to the relevant s42A report or Interim Reply Report. These reports have then referred to that evidence. However, in some instances, the advice provided has been on an informal basis, such as through an email, phone call or meeting; rather than being provided in the form of a written technical report or further written evidence. This is the case with the matters I discussed with Mr Harding as part of the preparation of the summary statement and then Interim Reply for Hearing D. This informal advice has been referred to/summarised in the summary report and interim reply in that manner, e.g. "*Mr Harding has advised me that*…"[12] "*I have confirmed that Mr Harding agrees with this"[13], "Following further discussion with Mr Harding…"[14]*.This is also the case with additional discussion I had with Ms Pfluger in forming the views set out in the summary statement and Interim Reply for landscape matters in Hearing D.[15] In relation to Hearing F, the summary statement also referred to discussions

[12] Hearing D – s42A summary statement - Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes, 7 November 2024, paras 10(e) and 18.

[13] Hearing D - Interim Reply - Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes, 18 December 2024, page 11.

[14] Hearing D - Interim Reply - Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes, 18 December 2024, page 16.

[15] Hearing D – s42A summary statement - Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes, 7 November 2024, paras 10(j) and 21; Hearing D - Interim Reply - Ecosystems and Indigenous Biodiversity; Natural Character; and Natural Features and Landscapes, 18 December 2024, pages 18 & 23 and Rows 13-14 & Table 1 in Appendix C.

I had with Mr Hunt[16], but I note that these were subsequently formalised in the advice attached as Appendix D to the Interim Reply.

Unresolved Matters from Hearing A

32 I have reviewed the 'unresolved' matters from Hearing A which were identified as such by Ms Hollier[17]. Except where commented on further below:

(a) I consider that these matters are relatively self-contained, and do not have a particular bearing on the wider PDP (such that I do not consider it necessary to provide further advice to the Hearing Panel)[18]; or

(b) having reviewed the relevant submitter evidence, and Ms Hollier's response, I confirm that I agree with her recommendation for the reasons she has set out[19]; or

(c) further consideration has been provided in another hearing, with the final reply being addressed through that topic.[20]

33 There are two definitions – being those for 'sensitive activity' and 'reverse sensitivity' - where I have carefully considered Ms Hollier's interim recommendation, along with the submissions, further submissions, and submitter evidence, and consider it appropriate to revisit that interim recommendation now that subsequent topics have been considered. This also reflects that at the time the Hearing A s42A Report was prepared, it was noted that:

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[16] Hearing F - s42A summary statement - Light and Noise, 23 April 2025 paras 8(a), (d), (g) and (h).

[17] I note that Ms Hollier also identified some matters are unresolved, or unresolved with some, but note that either the S42A officer recommendation she provided results in the matter being resolved or the submitter's have indicated support for the recommendation. This applies to the requested definition of 'risk' and 'conservation activity' and to amendments sought to the 'land disturbance' definition.

[18] This applies to 'General Approach' chapter, Figure 1; and 'Domestic Garden' definition.

[19] This applies to 'Description of the District chapter' – Rural Areas; General Approach chapter in relation to the description around definitions; 'Conservation Activity' definition; 'Height' definition

[20] This applies to the requested definition of 'Helicopter Landing Area' that was addressed in Hearing B.

(a) The definitions considered in that report were those that affect multiple topics and chapters throughout the District Plan; and

(b) The recommendations on definitions in the Hearing A report were not intended to be final, on the basis that definitions are important to the interpretation of provisions in the PDP, and any recommended amendments to a defined term would likely have consequences for how that term is applied in the PDP.[21]

Reverse Sensitivity

34 Ms Hollier's interim recommendation was to amend the notified definition as follows:

Reverse sensitivity means the potential for the operation of ~~an existing~~ lawfully established<u>, permitted or consented</u> activity<u>, or activities otherwise anticipated by the Plan,</u> to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by ~~an existing~~ <u>that</u> activity.

35 Ms Hollier notes that the term is referred to in various Chapters across the PDP. I further note that direction included in the PDP in relation to reverse sensitivity effects differs across the provisions, e.g. avoiding (PREC4-P1, PORTZ-P1) or avoiding the potential for (EI-P3); not being compromised/constrained by (EI-O4, TRAN-O3, NOISE-O2, GIZ-P6); not resulting in (SUB-P5), minimising (HS-P4; SUB-O4, PREC-O1, MRZ-P1, MUZ-P5); or mitigating (NOISE-R12.1). I further note that within these provisions that it is made clear what the existing or anticipated activity/ies are, and where appropriate, what the 'more recent' activity to be managed is. For example:

Provision	**Existing or anticipated activity/ies**	**More recent activity/ies**
EI-O4	The efficient operation, maintenance, repair,	Subdivision, use and development (notified) /

[21] Section 42A Report – Part 1 and Overarching matters – 5 April 2024, paras 160-161.

	upgrading or development of Regionally Significant Infrastructure (RSI) and lifeline utilities	incompatible activities (s42A recommendation)
EI-P3	The safe and efficient operation, maintenance, repair, upgrading, removal and development of the National Grid	Any activities
TRAN-O3	Land transport infrastructure	Incompatible activities
HS-P3	Major Hazard Facilities	Sensitive activities
SUB-O3	Intensive primary production (notified) / primary production (s42A recommendation)	Subdivision
SUB-P5	The operation of RSI/ facilities and legally established intensive primary production (notified) / The safe and efficient operation of RSI/ facilities, lifeline utilities, lawfully established primary production or industrial activities (s42A recommendation)	Subdivision
NOISE-O2	Airport, Raceway, State Highway, railway lines and the Port and activities within commercial, mixed use and Industrial zones (notified) and Clandeboye Dairy Manufacturing Precinct (s42A recommendation)	Noise sensitive activities

PREC1-O1 and P1	The General Industrial Zone	Low-density residential development
MRZ-P1	Adjacent Commercial and mixed-use or General industrial zones	Residential activities
MUZ-P4	Commercial activities or existing industrial activities	Residential activities
GIZ-P6	Industrial activities	Other activities, including residential activities
PREC4-P1	Adjoining primary production activities	Activities
PORTZ-P1	Port activities and industrial activities	Residential activities

36 I note Ms Seaton's concern that it is not sufficiently clear what might be "*activities otherwise anticipated by the Plan*"[22] and I tend to agree with her. Having considered the range of 'existing or anticipated activity/ies' that these provisions seek to manage reverse sensitivity effects on, I am not convinced that they relate to "*activities otherwise anticipated by the Plan*" that would not otherwise be captured by reference to existing (lawfully established), permitted or otherwise authorised activities. I therefore recommend that this aspect of Ms Hollier's preliminary recommendation is not included in the definition. With respect to 'consented' activities, I note that Ms Seaton's preference is to refer to 'approved' activities so that the definition would capture not only activities approved by way of resource consent, but also those approved via a designation. I agree with this in principle, but prefer the term 'authorised' as I think this is clearer.

[22] Kim Seaton, Statement of Evidence on behalf of Port of Timaru and TDHL, Hearing Stream A, 22 April 2024, paragraph 28.

37 Having considered the direction across the PDP outlined above, I also recommend removal of reference to "*the operation of*" these activities. This reflects that the objective and policy direction specifies what aspects of the relevant 'existing or anticipated activity/ies' are to be considered and in some cases, is not limited to operation only. Retaining reference to operation only would therefore, in my view, conflict with the direction in objectives and policies where it is broader than this.[23]

38 I have also considered the evidence of Ms Pull relating to this definition, which seeks:

(a) that reference is added to an existing lawfully established activity as "*operating according to best practice*";

(b) removal of reference to "*the more recent establishment or alteration of"* another activity; and

(c) replacement of "*perceived"* adverse environmental effect with "*cumulative"*.

39 I do not agree with those amendments, on the basis that:

(a) I do not agree that an existing activity should have to be required to alter its operation to operate in accordance with best practice where its operations are being undertaken lawfully, for example, within the scope of existing use rights, consent conditions or the designated purpose. The very intent of controls aimed at managing reverse sensitivity are to avoid an existing activity having to change the way it is operating in response to a new activity. In addition, I consider that an assessment would be required of what best practice might be with respect to any such activity, and this would introduce an element of subjective judgment into the definition that I do not consider would be appropriate.

(b) Reverse sensitivity is well understood as arising when a new activity establishes near to an existing activity that generates specific effects,

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[23] I consider that there is scope for this change in the submissions of KiwiRail [187.13], Silver Fern Farms [172.10] and Alliance Group [173.9].

such as odour or noise, that the new activity may be sensitive to. The reverse sensitivity effect occurs when the new activity starts to put pressure (either directly or indirectly) on the ability of the existing activity to continue to operate to its fullest (lawful) extent. Removing reference to "*the more recent establishment or alteration of"* another activity would relate to any adverse effects between one activity and another, regardless of when either activity is established. In my view, this is not reverse sensitivity.

(c) I do not agree with removal of reference to perceived effects, because complaints that may be generated by new activities (that lead to pressure on the ability of the existing activity to continue to operate to its fullest extent) may not be limited to actual effects, but may also arise from perceived effects. For example, an odour may not be assessed by an expert as being offensive and objectionable, but it may well be perceived as such by a residential occupant, who then complains about it. I do not consider that reference to "*cumulative*" effects is required, because this is already encompasses in the definition of 'effect' and would therefore result in duplication.

40 Taking the above into account, I recommend the following changes to the definition of reverse sensitivity:

Reverse sensitivity means the potential for ~~the operation of~~ an existing lawfully established activity, or a permitted or authorised activity, to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by ~~an existing~~ that activity.

Sensitive Activity

41 Ms Hollier's interim recommendation was to amend the notified definition as follows:

Sensitive activity means:

1. *Residential activities;*
2. *Educational facilities and preschools;*

3. *~~Guest & v~~Visitor accommodation;*

4. *Health care facilities which include accommodation for overnight care;*

5. *Hospitals;*

6. *Marae (building only); or*

7. *Place of assembly.*

except that:

a. *subclause ~~f.~~ 6 above is not applicable in relation to electronic transmission.*

b. *subclause ~~g.~~ 7 above is not applicable in relation to noise or ~~electronic~~ electricity transmission.*

42 For completeness, I note that there are also separated definitions of 'noise sensitive activity' (generally applying to the Noise Chapter) and 'natural hazard sensitive activity' (generally applying to the Natural Hazards and Coastal Environment chapters). These are separate to, and do not rely on the 'Sensitive Activity' definition.

43 In considering the changes sought to the definition, I have considered the provisions in the PDP which rely on it. These relate to:

(a) buildings and structures within the National Grid Yard (EI-R27)

(b) managing reverse sensitivity effects on major hazard facilities (HS-O2, HS-P3)

(c) managing sensitive activities in the GRUZ in relation to primary production activities (GRUZ-P5, GRUZ-S4)

(d) managing potential effects of specific primary production activities on sensitive activities (GRUZ-R2, GRUZ-R3, GRUZ-R16, GRUZ-R23, GRUZ-S5, RLZ-R4, RLZ-R5, MPZ-R4 and MPZ-R5)

44 No further changes to the definition were sought in the evidence for Transpower[24] or Silver Fern Farms[25]. The interim recommendation also addresses the matters raised in the evidence of Ms Cameron for HortNZ.[26]

45 In response to Minute 7, Ms Pull suggested additional changes to the definition[27]. Ms Pull considers that it may be worthwhile to consider more than one definition for sensitive activities. I agree with this, noting that the PDP does so already, with 'sensitive activity', 'noise sensitive activity' and 'natural hazard sensitive activity'. However, Ms Pull suggests taking this further by having two separate definitions for sensitive activities, one for 'Industrial Activity and Regionally Significant Infrastructure' and another for 'Rural Activities'. However, she does not expand on this by indicating in which provisions which definition would apply, nor why there is a need – when considering the provisions which rely on the definition of 'sensitive activity' – for this differentiation. I note in any case that Te Rūnanga o Ngāi Tahu was a further submitter on a submission from KiwiRail, which sought additions to the definition. Having reviewed KiwiRail's request, along with other submissions on this definition, I do not consider that there is scope to make any additional changes to the definition that extend beyond whether or not additional items are added to the definition[28].

46 Ms Tait considers that 'community facilities' and 'places of assembly' should both be included in the definition[29]. Her concern appears to be that places of assembly is a narrower definition, and that there are "*highly sensitive community facilities, such as health and welfare facilities, which are clearly activities that are sensitive to effects arising from other activities*". The concern I have with this approach, is that by including community facilities, a range of non-sensitive activities would also be captured, with controls or limitations imposed on these and other activities

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[24] Evidence of Ainsley McLeod, 22 April 2024, para 26 and Table 1.

[25] Letter from Steve Tuck evidence, 11 April 2024, Table 1.

[26] Evidence of Sarah Cameron for Horticulture New Zealand, 12 April 2024, para 43.

[27] Memorandum of Rachael Pull, 31 May 2024, paragraphs 2.12 – 2.26.

[28] The only other changes sought to the definition were correcting numbering/references, and adding an exclusion in relation to residential activities.

[29] Evidence of Susannah Tait, 23 April 2024, paragraphs 9.4 – 9.11.

in proximity to them, which are not necessary to achieve the outcomes sought in the PDP relating to management of potential conflict. I therefore think the addition of community facilities to the definition would be very inefficient. With respect to 'health and welfare facilities' I note that the definition already includes "*Health care facilities which include accommodation for overnight care"* and "*Hospitals".* I therefore consider that the types of health care facilities that may require management under the identified provisions are already sufficiently captured.

47 Therefore, for the reasons set out, I do not recommend any further changes to the definition and support Ms Hollier's interim recommendation.

Amended provisions

48 The amendments proposed 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.

Liz White
4 August 2025