

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

Rachael Williams – Hearing G – Final reply

Designations

11 August 2025

Council's solicitors:

Michael Garbett | Jen Vella

Anderson Lloyd

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

Private Bag 1959, Dunedin 9054

DX Box YX10107 Dunedin

p + 64 3 477 3973

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

**anderson
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Introduction

- 1 My name is Rachael Williams. I am a Senior Policy Planner at the Timaru District Council. I prepared the s42A report on the Designations. I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to my s42A report. I have the qualifications and experience as set out in my s42A report.
- 2 The purpose of this statement is to:
 - a) respond to direction contained in Hearing Panel Minute 42; and
 - b) provide my final reply in relation to the Designations, in accordance with the directions contained in Minute 38.

Panel directions – Minute 42

- 3 The Panel made the following directions or asked me to address the following specific questions:
 - 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; and*
 - 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?*

Process required where a requiring authority does not meet the conditions

- 4 A requiring authority that proposes an activity that does not meet the conditions of a designation, must serve a notice of requirement (NOR) on the territorial authority to alter the designation, under s181(1) of the Resource Management Act 1991 (RMA).
- 5 A NOR altering a designation is treated in the same way as a new NOR (i.e., the territorial authority is able to request further information, can notify the NOR to affected parties and can make recommendations to the requiring authority to modify the NOR including conditions). I note that this is different to the outline plan process under section 176A of the RMA as a territorial authority is unable to request further information, cannot notify an outline plan to affected parties and cannot recommend conditions. When processing

an outline plan, the Council can only recommend changes pursuant to s176A(4) of the RMA. The requiring authority then decides to accept or reject those recommendations. Council's only course of action if the requiring authority does not make the changes requested is to appeal the decision to the Environment Court (s176A(5)).

6 Section 181(3) of the RMA provides an exemption from this process where:

- a) *the alteration involves no more than a minor change to the effects on the environment associated with the use or proposed use of land; or*
- b) *involves only a minor change or adjustment to the boundaries of the designation or requirement; and*
- c) *written notice of the proposed alteration has been given to every owner or occupier of the land directly affected by the alteration; and*
- d) *the territorial authority and requiring authority agree with the alteration.*

7 The process required to alter the conditions of a designation (either under s181(1) or s181(3)) and the information required as part of that application will therefore depend entirely on the scale of the change and the effects on the environment.

Evidence basis for why existing schools subject to a new designation require conditions but existing schools within existing designations do not

8 To assist the Hearing Panel, I have separated my answer into two parts. First, I set out why I have only recommended conditions be applied to existing schools subject to a new designation and second, I address the evidential basis for recommending those conditions.

Why conditions are only recommended for existing schools subject to a NOR

9 Clause 9 of Schedule 1 of the RMA provides that a recommendation on a rollover designation must be made in accordance with s171 of the RMA. Section 171 also applies to recommendations on a new NOR. Section 171 provides that:

- 1. *When considering a requirement and any submissions received, a territorial authority must, subject to Part II, consider the effects on*

the environment of allowing the requirement, having particular regard to –

- a. *any relevant provisions of –
 - i. a national policy statement;
 - ii. a New Zealand coastal policy statement;
 - iii. a regional policy statement or proposed regional policy statement;
 - iv. a plan or proposed plan; and*
- b. *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –
 - i. requiring authority does not have an interest in the land sufficient for undertaking the work; or
 - ii. it is likely that the work will have a significant adverse effect on the environment; and*
- c. *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
- d. *any other matter the territorial authority considers reasonably necessary in order to make a recommendation/decision on the requirement.*

10 The exception to this is that a territorial authority is not allowed to make a recommendation in relation to an existing designation that is included without modification and on which no submissions are received (Clause 9(3)).

11 MEDU, in their Clause 4 Notice, requested the rollover of 23 designations with the following modifications:

- a) *the designation purpose of each school is changed to ‘Education Purposes’ and an explanatory note is included for each school to define ‘Education Purposes’;*
- b) *seven designations are updated to identify the correct location and/or legal descriptions; and*
- c) *minor changes are made to the mapped extent of two designations to reflect correct legal boundaries.*

12 The above modifications, in my view, are of form, not substance and do not materially change the scope/nature of MEDU existing designations. Nor will they be prejudicial to a third party (i.e., they do not alter the development potential at these sites or the outline plan process from what is currently provided for under the Operative District Plan/existing designation). There were also no submissions received in relation to these designations (except for the submission from MEDU). I therefore do not consider it is appropriate in light of Clause 9(3) to recommend new conditions on MEDU rollover designations.

- 13 The modifications sought by MEDU, in my view, will also not cause any increase in effects in the context of the 'receiving environment' (i.e., the existing designations). Any future educational activities at these sites, in my view, are reasonably anticipated under the existing designations which signal that these sites are to be used for educational purposes. However, for new schools subject to a NOR, any new educational buildings/activities, in my opinion, have not previously been reasonably anticipated by the planning framework (unless authorised by a resource consent). I note that all previous development on these sites has been managed through a resource consent process and none of the existing schools subject to the NOR hold resource consents that have not yet been implemented.
- 14 Having regard to the above, the 'environment' in which I have assessed the effects of existing schools subject to a new NOR and existing schools within existing designations under s171 of the RMA is different. Consequently I have only recommended conditions be applied to MEDU existing schools subject to a NOR.
- 15 I note that a recommendation to impose conditions on an existing designation being rolled over with modifications is not technically precluded under the RMA and that the Hearing Panel could recommend conditions on MEDU rollover designations if it considered conditions appropriate.

Evidential Basis for the recommended conditions

- 16 There will be no immediate change in effects on the environment of allowing the NOR. The sites and their use are well established and no physical or operational changes to the sites are proposed as part of the NOR. However, the definition of 'effect' in the RMA is broad and includes:
- a) any positive or adverse effect; and*
 - b) any temporary or permanent effect; and*
 - c) any past, present or future effect;*
 - d) any cumulative effect which arises over time or in combination with other effects –*
 - e) any potential effects of high probability; and*
 - f) any potential effect of low probability which has a high potential impact.*
- 17 In assessing s171 of the RMA I have therefore considered the potential effects of any future activities that may be undertaken at these sites such as the construction of new classroom blocks. I note

that effects of any future activities at these sites will be site/activity specific. However, in general terms, and based on my consenting experience, potential effects could include bulk and location effects, character and amenity effects, traffic and parking effects, noise effects and earthworks/construction effects. I have therefore focussed on potential effects that I perceive to be the most likely to cause adverse effects on the environment (particularly adjacent landowners) if not appropriately managed. I note that I have also relied on the provisions in the PDP as they have been subject to a more recent/detailed s32 analysis.

- 18 The GRZ and MRZ objectives and policies seek to only allow non-residential activities and buildings where they support the health, safety and wellbeing of residents or have a functional/operational need; where adverse effects on residential amenity values are avoided or minimised; and where they maintain the anticipated character, qualities and purpose of the zone. The anticipated character and qualities of the GRZ and MRZ in respect of buildings is set out in GRZ-O2 and MRZ-O2. Based on this direction, I have therefore recommended various bulk and location conditions to avoid/mitigate adverse effects on adjacent landowners including but not limited to visual dominance effects, privacy effects and outlook effects as well as ensuring appropriate levels of sunlight access is maintained. I note that the Partially Operative Selwyn District Plan also includes bulk and location conditions on some of MEDU designations including conditions that manage the height and setbacks of buildings, conditions that manage building coverage and conditions that impose height in relation to boundary requirements.
- 19 Based on direction in the PDP, I have also recommended flood hazard and transport conditions. In my opinion, these conditions are appropriate to enable Council to effectively consider the actual and potential transport and flooding effects and recommend changes to a future outline plan (if needed) to mitigate potential effects on the surrounding environment. Both conditions are supported by Council Stormwater Team Lead, Mr. Kevin Kemp and Councils Land Transport Manager, Ms. Suzy Ratahi. The requirement to submit a basic or full integrated transport assessment where any future activities do not comply with TRAN-S20 (high trip generating activities), in relation to MEDU-27 (Roncalli College) also responds directly to a concern raised in the submission of Dennison, L W and F M (146.1). From a consistency perspective I have also recommended that this condition be applied to MEDU-24 to MEDU-26 and MEDU-28.

- 20 I acknowledge that the outline plan process allows Council to consider any adverse effects from any works proposed in future and recommend changes to the outline plan. However, if the recommended conditions are not incorporated, Council can only make a recommendation to the requiring authority to mitigate potential adverse effects. The Council is unable to request further information as part of an outline plan such as a flood assessment certificate or an integrated traffic assessment, nor can Council notify an outline plan to potentially affected parties. In my view, the recommended conditions are therefore appropriate in ensuring future activities at these sites do not have adverse effects on the environment that are more than minor.
- 21 For completeness, it is not uncommon for existing designations (being rolled over) to have no conditions in district plans and new NOR to have conditions. In the Partially Operative Selwyn District Plan, for example, 18 existing school sites have been rolled over with modifications with no conditions, 12 existing schools have been rolled over with modifications with conditions (these conditions were existing in the Operative Selwyn District Plan) and two NOR have been included with conditions. The types of conditions included in the Partially Operative Selwyn District Plan include building requirements, transport management including the provision of a Transport Management Plan, noise conditions, fencing and the protection of historic heritage/protected trees.

Panel directions – Minute 38

- 22 I have considered the questions raised in Minute 38 and have nothing to add. I confirm that the recommendations set out in my s42A report still stand.

Rachael Williams
11 August 2025