

**IN THE MATTER of
the Resource Management Act 1991**

AND

**IN THE MATTER of
hearing of submissions and further
submissions on the Proposed
Waimakariri District Plan**

AND

**of hearing of submissions and further
submissions on Variations 1 and 2 to the
Proposed Waimakariri District Plan**

**MINUTE 9 – REPLY REPORTS,
TRANSPORT EXPERT REPORT, VAR1 1,
HEARING SCHEDULE AND
CONFERENCING**

PURPOSE

- (1) The purpose of this Minute is to:
 - (a) Set out our response to s42A report authors seeking more time to complete Reply Reports for Hearing Streams 3 and 4.
 - (b) Respond to the late evidence provided by the Council's Transport Engineer in respect to the Transport Chapter s42A report heard in Hearing Stream 5, and to set directions to address that late evidence.
 - (c) Direct expert conferencing arising out of Hearing Streams 4 and 5.
 - (d) Respond to Council's memorandum of 18 August 2023, regarding Variation 1, the hearing schedule and other matters, and invite submitters to respond to particular matters in that memorandum no later than 4pm Monday 18 September 2023.
 - (e) Put a series of questions to Council s42A report authors for Hearing Stream 5 to respond to in preparing their Reply Reports to the Panel, due by 4pm Friday 29 September 2023.
- (2) The Hearings Panel notes that it is expecting a memorandum from the Council which addresses submission points regarding the primary or not of the Strategic Directions objectives. The Panel has also received memoranda regarding the timing of the rezoning hearings and the process in advance of that, which it is currently considering. A separate Minute will be issued on those matters in due course, with a further update to Minute 1.

MATTERS RELATING TO REPLY REPORTS FOR HEARING STREAMS 3 AND 4

- (3) In the Reply Reports for the Coastal Environment and Natural Character Chapters, the s42A report author, Mr Wilson, set out his intention to undertake caucusing in respect of:
 - (a) Setbacks for scheduled areas of natural character in the coastal environment overlay
 - (b) Policy CE-P7 in respect of infrastructure in the coastal environment.
- (4) Mr Wilson also proposed to confirm his recommended rewording of NATC-P3 with Ngāi Tuahuriri. In the Reply Report for the Hazardous Substances Chapter, Ms Manhire set out her intention to liaise further with the Fuel Companies regarding HS-R1.
- (5) At the commencement of Hearing Stream 5, the Hearings Panel advised that a Reply Report should be final, and where further time is needed or direction is required for caucusing, conferencing or to discuss a matter with a submitter, then this should be sought from the Hearings Panel in advance of the due date for the Reply Report.

- (6) The Hearings Panel also noted the s42A report author, Ms Milosavljevic, recommended rewording of NFL-P1, NFL-P3 and NFL-P4 to provide for a pathway for consenting infrastructure. Given the overlap of this with the Energy and Infrastructure Chapter heard in Hearing Stream 5, we have decided that expert conferencing on this wording and the interface between the Energy and Infrastructure and other District Plan Chapters will be subject to the expert conferencing which we direct in this Minute.
- (7) We received a memorandum from the Hearing Stream 5 report authors on 1 September 2023, which is available on the [Council website](#), setting out their proposed timeframes and approaches for the CE, NATC and HS matters (along with Hearing Stream 5, which we address later). In respect of these:
- a. We agree that the matter of CE-P7 and NFL should form part of the expert conferencing on the interface with the EI Chapters.
 - b. We do not consider that the matter of HS-R1 is one that needs expert conferencing; and rather is a discussion to be had with the Fuel Companies and for Ms Manhire to provide a final reply on.
 - c. We do not consider that the matter of setbacks for scheduled areas in the coastal environment is one that needs expert conferencing; and rather is a discussion to be had with Forest and Bird and for Mr Wilson to provide a final reply on.
- (8) In respect of the matters in b. and c. above, and the recommended rewording of NATC-P3, the s42A report authors are directed to provide their final Reply Reports by no later than **4pm Friday 22 September 2023**. The timeframe for those matters being considered by way of expert conferencing are as set out further below.

LATE COUNCIL TRANSPORT EXPERT EVIDENCE

- (9) On 18 August 2023, the Council issued an updated s42A report for the Transport Chapter which included amendments based on the feedback of the Council's Senior Transportation Engineer, Mr Shane Binder. The updated s42A report was made available to hearing participants; however, it was not accompanied by a report from Mr Binder. On the first day of Hearing Stream 5, the Hearings Panel requested that such a report be provided promptly. A memorandum was provided on Tuesday 22nd August, and an updated version was subsequently provided on Thursday 24th August 2023.
- (10) The Hearings Panel thanks those submitters who were attending the hearing who provide supplementary evidence in response to Mr Binder's memorandum. However, in the interest of natural justice and fair process, the Hearings Panel now invites all submitters who have submission points relevant to the matters traversed in Mr Binder's memorandum and Mr Maclennan's updated s42A report to provide any supplementary evidence necessary in response. Submitters are requested to provide this no later than **4pm Monday 18 September 2023**. This supplementary evidence will

inform the expert conferencing which we direct below, and the Hearings Panel's final recommendations.

- (11) All parties are reminded of the hearing procedures set out in Minute 1, and the timelines for providing expert evidence in advance of the hearing. The Hearings Panel has accepted the updated s42A report and Mr Binder's memorandum in this instance because of our direction for expert conferencing below; however, it is unlikely we would be so amenable in other and any future circumstances.

DIRECTION ON EXPERT CONFERENCING – HEARING STREAMS 4 AND 5

- (12) During and at the conclusion of the hearing, the Hearings Panel signalled that we would be directing expert conferencing to occur on a number of topics. We received a memorandum from Hearing Stream 5 report authors on 1 September 2023, which is available on the [Council website](#), setting out their proposed topics, indicative questions, experts involved and timeframes for expert conferencing. We have reviewed this, and we have generally agreed with it, except as set out below:
- (a) NOISE-R4. We address this in our questions in Appendix 2.
 - (b) The relief sought by the North Canterbury Clay Target Association, given there was no expert evidence presented by the submitter. We address this in our questions for Hearing Stream 5 in Appendix 2.
- (13) We hereby direct that expert conferencing occurs as set out and within the timeframes in the table in Appendix 2. Joint witness statements are to identify points of agreement on the issues, and, where experts disagree, a brief commentary on specific points of agreement. Expert conferencing is to occur in accordance with the Environment Court Consolidated Practice Note 2023–Code of Conduct for expert witnesses available at the following website <https://environmentcourt.govt.nz/about/practice-note/>
- (14) In undertaking the expert conferencing, the planners are requested to consider the Supreme Court's recent decision *Port Otago Limited vs Environmental Defence Society Inc et al* SC6/2022.
- (15) Submitters whose experts are not listed in the table in Appendix 1 but consider that their experts should be involved in the expert conferencing, are to liaise with the lead planner for co-ordinating the conferencing. This must occur no later than **4pm Friday 15 September 2023**. The lead planner will be responsible for confirming participants in expert conferencing, taking into account the parties to any particular provision and submission point(s) and where expert evidence was presented before or at the hearing.

- (16) The Hearings Panel would also like to draw s42A report authors' and submitters' attention to paragraphs 80 to 84 of Minute 1. While the Hearings Panel cannot direct expert conferencing to occur in advance of the relevant hearing, we certainly encourage parties to take the initiative to undertake expert conferencing in advance of the relevant hearing to narrow down areas of contention and make the hearing as efficient as possible.

NEXT STEPS – VARIATION 1, HEARING SCHEDULE AND OTHER MATTERS

- (17) On 18 August 2023, the IHP received the Council's memorandum responding to the following matters set out in Minute 5, relating to Variation 1, rezonings and an updated Hearing Schedule. This memorandum is available on the [Council website](#) and, for brevity, should be read alongside this Minute.
- (18) In respect of the interface between Variation 1 (IPI) and PDP submissions, the Council proposes that provisions changed by both processes should be heard within the same hearing stream as follows:
- (a) All residential, large lot residential, Variation 1 intensification and Variation 2 financial contribution matters are scheduled in Hearing Stream 7.
 - (b) Commercial and industrial zones are scheduled in Hearing Stream 9.
 - (c) Special purpose zones and future urban development areas (FUDA), and the airport noise and bird strike issue, are scheduled for Hearing Stream 10.
 - (d) Subdivision, currently in Hearing 8, is proposed for Hearing Stream 10.
 - (e) All rezonings are proposed to be heard in Hearing Stream 12, as follows:

Stream Name	Submissions
12(1)	General Rural, Rural Lifestyle zoning submissions
12(2)	Large Lot Residential Zone/ Overlay including Large Lot Residential Zone infill
12(3)	Rezonings within and around Rangiora
12(4)	Rezonings within and around Woodend/Ravenswood/Pegasus
12(5)	Rezonings within and around Kaiapoi
12(6)	Commercial Rezoning Requests

- (19) The Council proposes to prepare separate s42A reports for PDP submissions and IPI submissions. For submitters who have a PDP submission but not an IPI submission, the s42A report author will consider the content of the PDP submission in the context of Variation 1 where scope is considered to exist.
- (20) In terms of the Hearing Schedule, the Council also seeks to:
- (a) Confirm the hearing of the Temporary Activities Chapter in Hearing Stream 11.
 - (b) Confirm the hearing of the Ecosystems and Indigenous Biodiversity Chapter in Hearing Stream 11

- (21) The Hearings Panel accepts the Council’s requested changes to the Hearing Schedule, which we have updated in Minute 1. As a consequence of these changes, there remain issues of the Panel to be assigned to these hearings and the duration of each Hearing Stream. These will be addressed and the Schedule update accordingly.
- (22) The Council memorandum also addresses the request made in the Spark Memo for additional information and in paragraph 17 propose to issue a memo for some considerations for submitters prior to rezoning hearings. We agree with the Council in respect of the former and accept their approach in respect of the latter.
- (23) We noted the Council’s recommendation that the Hearings Panel may benefit from submitters’ comments on the Council memorandum. We agree that this would be beneficial; however, in the interest of a final position on this matter, and further comment is to be limited to Council’s position on:
 - (a) Overall scope as expressed in paragraphs 8 and 9
 - (b) Variation 1 and scope in paragraphs 10 and 11
 - (c) The hearing framework in paragraphs 12 and 13
- (24) Submitters who wish to comment on these matters are invited to do so no later than **4pm Monday 18 September 2023**. As necessary, the Hearings Panel will make a final determination after that time.
- (25) The Hearings Panel notes that it will need to finalise how hearings that involve both PDP and IPI submissions will be conducted, given that only the IHP can make recommendations to Council on the IPI. This will be confirmed by way of a future Minute and may require further changes to the Hearings Schedule.

QUESTIONS TO HEARING STREAM 5 SECTION 42A REPORT AUTHORS FOR REPLY REPORTS

- (26) In addition to the matters for which we have directed expert conferencing occur, the Hearings Panel has questions that we would like answered in the Section 42A report author’s Reply Reports. For ease, we have set these questions out in order of the Section 42A reports and provisions of the relevant Chapters of the PDP. The questions are attached as Appendix 1. With the exception of Historic Heritage, we request that these Reply Reports be provided no later than **4pm Friday 29 September 2023**, unless otherwise agreed with the Chair. The Historic Heritage Reply Report is to be provided no later than **4pm Friday 27 October 2023**.
- (27) This list of questions is not exhaustive and Section 42A authors are also invited to respond to other matters arising from the hearing that are not contained in the list in Appendix 1. This includes matters that the authors have deferred in their statements

of supplementary evidence. Each Reply Report is to append a fully updated Appendix B, recommended responses to submissions and further submissions.

- (28) In their Reply Reports, Section 42A report authors are also requested to provide a fully updated Appendix A “recommended amendments” to their respective chapters showing:
- (a) Any further recommended amendments to the chapters having read and heard evidence through the hearings process. These are to be shown in a consistent manner across the rights of reply, using the same annotation, which clearly delineates the recommended amendments from the Section 42A report and further recommended amendments following the hearing.
 - (b) Each recommended amendment to the chapter(s) being footnoted to the relevant submission(s) that the amendment(s) relates to.

CORRESPONDENCE

- (29) Submitters and other hearing participants must not attempt to correspond with or contact the Hearings Panel members directly. All correspondence relating to the hearing must be addressed to the Hearings Administrator, Audrey Benbrook, on 0800 965 468 or audrey.benbrook@wmk.govt.nz.



Gina Sweetman

Independent Commissioner – Chair - on behalf of the Hearings Panel members

4 September 2023

APPENDIX 1 – EXPERT CONFERENCING TABLE

Rule Reference/Issue	Affected Chapters	Overview of questions to be discussed and that will inform the Rights of Reply	Preliminary list of submitters / experts that may be involved	Other Expert conferencing required	Planning conferencing required	Council officers final Right of Reply timeframe	Lead Agency/Planner for co-ordinating conferencing
NOISE-R16, and associated 'noise sensitive activity' definition and matters of discretion	Noise	<p>Setback vs modelled contours. If a setback approach is used, then what is the appropriate measurement location and distance (100m vs 80m). If measurement location is to property boundaries, then does this change the setback requested?</p> <p>Inclusion of fixed sound insulation approach.</p> <p>The advisory Ventilation Overlay proposed by KiwiRail.</p>	<p>Waka Kotahi/KiwiRail (Dr Stephen Chiles, Catherine Heppelthwaite, Stuart Pearson)</p> <p>Kainga Ora (Jon Styles, Lance Jimmieson, Matthew Lindenberg, Clare Dale)</p>	Yes	Yes	30 November 2023	Waimakariri District Council (Jessica Manhire)

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		<p>The use of 2dB or 3dB as a perception threshold or trigger?</p> <p>The applicability of the rule framework in relation to designated state highways.</p> <p>Should the rule be expanded to include all noise sensitive activities?</p> <p>Is the definition of 'noise sensitive activity' definition appropriate?</p> <p>Is the wording of matters of discretion appropriate?</p>					
McAlpines	Noise	Further consideration of the evidence provided by McAlpines	McAlpines (William Reeve, Tim Walsh)	Yes	Yes	30 November 2023	Waimakariri District Council (Jessica Manhire)

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SIGN-R7 Off-site signs	Signs	Do you consider such a restrictive approach for off-site signs is justified relative to the approach for on-site signs (both of which could be digital signs)?	Waka Kotahi, Ravenswood Developments Limited Go Media Ltd, Clamptt Investments Limited Rolleston Industrial Developments Waimakariri District Council (Shane Binder)	Yes – in relation to potential traffic impacts	Yes – in relation to approach and activity status	27th October 2023	Waimakariri District Council (Shelley Milosavljevic)
EI – rule how to apply the rule and associated consequential amendments	EI, EW, NFL, ECO, HH, TREE	<u>Planners</u> How can the proposed rule ‘How to interpret and apply the rules’ be amended to provide better integration between the EI chapter and the other chapters in the PDP? In addition, what consequential changes are required to policies, rules, standards and	The telecommunications companies (Chris Horne) Transpower (Ainsley McLeod) MainPower (Melanie Foote) WDC (Andrew MacLennan, Peter Wilson, Shelley Milosavljevic, Bryony Steven)	No	Yes	30 November 2023	Andrew MacLennan

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		<p>matters of discretion in the EI chapter and other chapters?</p> <p>Does EI-P5 provide a pathway for EI activities when they propose to locate within “sensitive” environments? (note, the amendments proposed for NFL and CE are to be considered through this)</p>					
EI-R51, EI-R52, EI-R52A, EI-R54, EI-R55, EI-R56	EI	<p><u>Planners</u> How should the NZCEP be used in the EI chapter?</p> <p>Should it form part of the permitted standard, or should it be referred to within an advice note?</p>	<p>Transpower (Ainsley McLeod) MainPower (Melanie Foote) Federated Farmers (Lionel Hume) Kāinga Ora (Clare Dale) WDC (Andrew Maclennan)</p>	No	Yes	30 November 2023	Andrew Maclennan

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TRAN-R6, TABLE TRAN-7, TRAN-MD6 (Road vs accessway)	TRAN	<p><u>Engineers</u> What should the accessway width be within TABLE TRAN-7?</p> <p>When should an accessway be required to build to a road standard?</p> <p>What matters of discretions should be considered when applicants seek resource consent to breach TRAN-R6?</p> <p><u>Planners only</u> Is there a need for road standards to be included in the District Plan or can they be held outside the Plan as for the engineering standards, Development</p>	Kāinga Ora (Lisa Marie Williams) WDC (Shane Binder)	Yes	No	30 November 2023	Shane Binder / Andrew MacLennan

Rule Reference/Issue	Affected Chapters	Overview of questions to be discussed and that will inform the Rights of Reply	Preliminary list of submitters / experts that may be involved	Other Expert conferencing required	Planning conferencing required	Council officers final Right of Reply timeframe	Lead Agency/Planner for co-ordinating conferencing
		Manual, Codes of Practice etc?					
The treatment of energy and infrastructure activities within the coastal environment	CE/EI	Does CE-P7 provide appropriate direction to enable energy and infrastructure activities within the coastal environment overlay or is more required? (see above)	Transpower	No	Yes (combined with EI integration topics)	30 November 2023	Peter Wilson

APPENDIX 2 – LIST OF QUESTIONS TO SECTION 42A AUTHORS

TO ALL S42A REPORT AUTHORS

- In all reply reports, please provide any updated recommended amendments having heard the questions from the Hearings Panel and listened to expert responses on the use of manage in a policy framework.

EI - PŪNGAO ME TE HANGANGA HAPORI - ENERGY AND INFRASTRUCTURE AND HH – TAONGA O ONAMATA - HISTORIC HERITAGE

- Mr Maclennan and Ms Steven are to provide a joint response and final recommendations in respect of the request from the Telcos to change the activity status for customer connections in EI-R4 from restricted discretionary to controlled.

EI - PŪNGAO ME TE HANGANGA HAPORI - ENERGY AND INFRASTRUCTURE AND TRAN – RANGA WAKA – TRANSPORT

- Having heard from submitters and responded to questions from the Hearings Panel on TRAN-P2 and EI-P4, please provide any updated recommendations in respect to these policies. In particular, please consider the appropriateness of these policies, where they would best be located, and whether there is scope to move their location.

NOISE – TE ORORO - NOISE

- Please respond to the evidence and the submissions of the North Canterbury Clay Target Association (NCCTA) and McAlpines.
 - o Mr Camp is to respond to the acoustic merits of the noise contours approach proposed by each submitter.
 - o Ms Manhire is to respond to the planning merits of the two submissions and relief sought by each submitter. In doing so, please address whether there is scope in each instance for the relief sought by each submitter, and whether any issues of natural justice or fair process arise for those to whom the requested noise contour and provisions would apply. Ms Manhire may wish to seek legal advice in preparing her final position.
- Having heard from the New Zealand Defence Force and considered the additional information provided by the submitter, Ms Manhire is to provide any updated recommended amendments in respect of NOISE-R2.
- Please respond to the amendments sought by NZAAA and NZHA in respect to NOISE-R4 and NOISE-R7.
- Please respond to the tabled evidence from Ms Styles on behalf of Daiken, seeking a new policy

- Having heard question from the Panel and submitters' evidence, please provide your final recommendation in respect to the term "identified existing activities" used in NOISE-O2

TRAN – RANGA WAKA - TRANSPORT

- Please respond to the Panel's question as to how your recommended inclusion of micro-mobility in TRAN-O1 is given effect to through the policies and rules in the Chapter.
- Having heard the Panel's questions and considered submitters' evidence, please advise of any updated recommendation in terms of Kāinga Ora's requested amendments to clause 6 of TRAN-P11.
- Please respond to the tabled statement of Mr Rowe for the Fuel Companies and Z-Energy

EW – KETUKETU - EARTHWORKS

- Please respond to the narrowed relief sought by of NZPork and HortNZ to include particular provisions in respect of biosecurity.
- Please set out your final position in respect of the proposed setbacks in EW-S3 and the depth of excavation in EW-S5, taking into account the Panel's questions before and during the hearing, Ms Dale's and Federated Farmers' evidence and other submitter responses. In doing so, please provide an updated position as to whether a District Plan should include policies and rules for managing the use of land for the purpose of managing water quality and the discharge of contaminants, bearing in mind the questions from the Hearings Panel and submitters evidence, including whether rules and standards need to be the same in district and regional plans, even when they may have a different purpose, or conversely, are for managing the same effect.
- Please respond to Ms McLeod's requested amendments to EW-P1 for enabling earthworks for infrastructure; noting that the Panel identified that there appears to be a policy gap in respect of earthworks associated with energy and infrastructure activities.
- Please provided recommendations on WIL's submission points that seek:
 - o That the upgrade of community scale irrigation / stockwater networks should be a permitted activity.
 - o That Earthworks associated with targeted stream augmentation and managed aquifer recharge are a permitted activity.
- Please respond to Ms Dale and Ms Foote's suggested new rule/provision that would make earthworks that are subject to a building consent for a new building within a defined footprint a permitted activity? If you recommend such a rule/provision be included, what is the district planning consideration, if any, and what conditions if any, should apply?

- Please provide your advice as to whether EW-P6 is required, given the wording of EW-P1(2). Would there be scope to delete EW-P6 if it was determined that there is duplication?
- Please respond to ECan's submission in respect to earthworks in flood areas - EW-R5 in light of Mr Willis's recommended amendments to the NH rules
- Please respond to the tabled statement of Mr Rowe for the Fuel Companies and Z-Energy

HH – TAONGA O ONAMATA - HERITAGE

- Please respond to Ms Baird's evidence and Mr De Hamel's submission, with any recommended amendments as a result. Please obtain Dr McEwan's input in doing so.
- If there was to be a SD for heritage, what would that look like, and is there scope to do so?
- Please provide your final position in respect to painting and HH-R1.
- Having considered the legal submissions and evidence from Oxford Equity Ltd, do you think that there is scope for the amendments sought by Oxford Equity. Where there is any uncertainty, the Council may wish to seek legal advice in responding to this question. If there is scope, what is your recommendation in respect to this further submission?

TREE – RĀKAU HIRAHIRA – NOTABLE TREES

- Taking into account the evidence of Ms Foote and Mr Horne, Mr Maclennan and Ms Steven are to provide an updated position on the relationship between the E&I and TREE Chapters in respect of earthworks associated with infrastructure; including policy direction and Ms Foote's requested amendment to TREE-R7
- Please provide an updated position in respect to whether there should be a non-notification clause for TREE-R3, whether the rule is necessary, and whether there is scope to delete it.

EI – PŪNGAO ME TE HANGANGA HAPORI - ENERGY AND INFRASTRUCTURE

- Please respond to Ms McLeod's and Federated Farmers' evidence in respect to EI-R2.
- Please respond to the amendments sought by NZART to the amateur radio provisions.
- If the Hearings Panel was of the view that the benefits of infrastructure should be included in SD-O3, please recommend appropriate wording.
- Given your recommended amendment to EI-R18.1.a to remove the requirement for the attachment to the underside of a bridge etc, is there a need for this clause at all, and is there scope to delete it?
- Is there scope for EI-R42 to be reconsidered as an exemption of height and height in relation to boundary without the need for a rule?