

**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 20 – QUESTIONS ARISING FROM
HEARING STREAM 10, NEXT STEPS AND
DIRECTIONS FOR HEARING STREAMS 10A
AND 12**

PURPOSE

The purpose of this Minute is to:

- (a) Put a series of questions to Council s42A report authors for Hearing Streams 9A, 10 and 10A¹ to respond to in preparing their Reply Reports to the Panel
- (b) Respond to the Memoranda received from Submitters in response to Minute 18 and the timing, sequencing and provision of evidence in respect of Hearing Stream 12
- (c) Set out next steps and Panel directions and requests in respect of Hearing Streams 10A and 12, in particular relating to expert conferencing and the provision of Reply Reports for Hearing Stream 10A
- (d) Provide clarification on the timetable for Hearing Stream 12 and sub-streams.

QUESTIONS TO HEARING STREAMS 9, 10 AND 10A SECTION 42A REPORT AUTHORS FOR REPLY REPORTS

As signalled during and at the end of Hearing Streams 10 and 10A, 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. We request that these Reply Reports be provided no later than **4pm Friday 8th March 2024**, unless otherwise agreed with the Chair.

The questions for the Hearing Stream 10A report authors are preliminary and the report authors can anticipate further questions arising from the expert conferencing, which we address later in this Minute.

The Panel has also realised that we did not release our questions for the Section 42A report author for the Commercial and Mixed Use Zones in Hearing Stream 9A. These questions are also attached in Appendix 1, and we request that the Reply Report also be provided no later than **4pm Friday 8th March 2024**, unless otherwise agreed with the Chair.

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.

¹ An initial Reply Report

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.

MEMORANDUMS ON HEARING STREAM 12

The Hearings Panel received three memorandums² in response to our Minute 18, which set out the indicative timing of the provision of s42A reports and submitter and further submitter evidence for Hearing Stream 12, and our intent to stage Hearing Stream 12 as five sub-streams. These memorandums are available on the [Council's website](#) and should be read in conjunction with our response to the matters raised below.

The Panel can only request that expert conferencing occurs in advance of a hearing commencing. As we set out in Minutes 1 and 10, we encourage submitters and the Council liaise and undertake expert conferencing occurs in advance, so that matters are narrowed to those of contention in advance of each sub-stream hearing. We requested in our Minute 1 that s42A reports should only focus on matters in contention. Similarly, evidence presented by submitters should also only focus on matters in contention. Following, we anticipate that the hearings will be focussed on matters in contention and will not take as long as they would if all aspects of a rezoning were traversed. The timing and duration of each sub-stream hearing will be refined following Tuesday 5 March 2024 once submitter evidence has been submitted, and subsequently, as we know more about the amount of evidence that has been produced to support rezoning requests and the matters in contention.

In terms of the requests made as to how the Council deals with and responds to evidence provided in support of submissions, the Panel does not have the powers to do anything beyond requesting that the Council engage in the manner and within the timeframes we set out in our Minute 10. The Panel expects all parties to be acting in a professional manner that will assist the Panel to hear and make recommendations on submissions. Any concerns with the performance of any parties should be raised with the party's employer.

² Memorandum were received from (1) Andy Carr, (2) Momentum Land Limited, Mike Greer Homes NZ Limited, Bellgrove Rangiora Limited and Mark and Melissa Prosser and (3) Doncaster Developments Limited

Reply reports will generally be requested at the conclusion of each sub-stream. However, the Panel may also choose to direct replies to be provided at the conclusion of all the sub-streams. This will be indicated at the end of each sub-stream.

The Panel notes the availability of counsel for Doncaster Developments Limited and has passed on the timing request to the Hearings Administrator.

NEXT STEPS, AND DIRECTIONS AND REQUESTS FOR HEARING STREAMS 10A AND 12

In our Minute 18 and during the course of Hearing Stream 10A, the IHP signalled that they would be requesting³ and directing expert conferencing to occur following hearing of evidence on Hearing Stream 10A and before Hearing Stream 12 commencing.

Counsel for Momentum and Mike Greer Homes and the Christchurch International Airport Limited also advised that they had organised expert conferencing between the acoustic experts to occur on Thursday 22 February 2024, in advance of the IHP setting questions. The IHP made the submitters aware that they may ask further questions that would require further expert conferencing to occur.

The IHP has considered how best to approach expert conferencing. We have identified a number of topics that we direct⁴/request⁵ be the subject of expert conferencing and we have also considered the sequencing of how conferencing should best occur.

The topics, questions and experts that the IHP has identified for expert conferencing are:

Topic	Questions	Experts
Acoustic	Q1 - What is the level of annoyance from airport / aircraft related noise that could be equated to an adverse effect on amenity values? Q2 - Can those annoyance effects / effects on amenity values be mitigated?	Acoustic Acoustic
Bird Strike	Q1 - What are the types of activities that may generate bird strike effects and what is the best management approach(es) in respect of those activities? Q2 - What is the most appropriate approach, including provisions if any, for managing the potential effects of bird strike in the Proposed District Plan, taking into account other non-regulatory methods and the nature	Ecological Planning

³ A hearings panel may only request expert conferencing to occur in advance of a hearing commencing, they cannot direct it to occur.

⁴ HS10A

⁵ HS12

	and activity status of the activities that may generate bird strike effects?	
Urban growth and development	Q1 - How is urban development and growth provided for: <ul style="list-style-type: none"> • in the RPS and • in the NPS-UD? 	Planning
	Q2 - How are these two planning documents to be applied in conjunction, taking into account the King Salmon and Port of Otago direction in respect to higher level documents and “competing” policies?	Planning
	Q3 - What weight should be given to each document?	Planning
	Q4 - What was the extent of analysis into the appropriateness of the Future Development Areas when they were included in Map A of the RPS.	Planning
	Q5 - What weight should be afforded to the Greater Christchurch Spatial Plan (GCSP)? If weight is afforded to it, how does it impact on urban growth and development?	Planning
Airport Noise Contour	Q1 - How is Clause 4 of Policy 6.3.5 to be interpreted in itself in respect to the Airport Noise Contour, then in conjunction with the remainder of the Regional Policy Statement (RPS) and the National Policy Statement on Urban Development (NPS-UD), taking into account the King Salmon and Port of Otago direction in respect to higher level documents and the meaning of avoid?	Planning
	Q2 - Taking into account the response to the previous question Q1, what is the most appropriate means for managing noise-sensitive activities in the Airport Noise Contour?	Planning
	Q3 - Does the RPS require the PDP to use the 50db noise contour which is identified in Map A?	Planning
	Q4 - Is it appropriate for the remodelled contour (as sought through the submissions and further submissions) to be included in the PDP through our recommendations?	Planning
Release of land for urban development	Q1 - Are the certification process as notified in the PDP, the certification consent as set out in the s42A report, and the options presented in the preliminary responses to Panel questions appropriate to provide for the “release” of land for urban development, taking into account the provisions of the RPS and NPS-UD?	Planning
	Q2 - Is there a more appropriate approach to provide for the release of land (than a certification/consent	Planning

	process) taking into account the JWS in respect to urban growth and development, and if so, is there scope within the PDP or Variation 1 submissions to use this approach?	
Growth projections	Q1 - Does the PDP provide for sufficient development capacity in accordance with the requirements of s31 RMA, the NPS-UD and the RPS (respectively) in the short, medium and long term? Please set out any relevant assumptions.	Economic
	Q2 - Does the PDP, as amended through Variation 1, provide for sufficient development capacity in accordance with the requirements of s31 RMA, the NPS-UD and the RPS (respectively) in the short, medium and long term? Please set out any relevant assumptions.	Economic

We hereby direct that expert conferencing occurs on the acoustic and ecology questions within the next month, with a joint witness statement being provided by no later than **4pm Friday 22nd March 2024**.

We request that expert conferencing occurs on the other topics within the next two months, with joint witness statements being provided by no later than **4pm Friday 26th April 2024**. We have set this timeframe to enable submitters participating in Hearing Stream 12 to put forward their experts for expert conferencing. The economic expert conferencing is requested occur prior to and inform the planning expert conferencing.

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/>

As we cannot direct expert conferencing to occur in advance of Hearing Stream 12, we cannot also direct submitters to make their experts available for such conferencing. However, we consider that the conferencing will be beneficial for all parties to the hearing, including us, by narrowing down the matters in contention, gaining agreement, and limiting the matters in dispute, therefore reducing the amount of hearing time. We therefore strongly encourage submitters to make their experts available for expert conferencing.

Submitters who are making their experts available for expert conferencing are requested to liaise with the relevant s42A report author(s) through the Hearings Administrator (developmentplanning@wmk.govt.nz) for co-ordinating the conferencing. This must occur no later than **4pm Tuesday 12th March 2024**. The s42A report author 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 and ensuring that any conference is appropriately facilitated.

Once the IHP has received and reviewed the joint witness statements, we will issue further directions or requests, including the timing of any final Reply Report in respect to Hearing Stream 10A.

CLARIFICATION ON HEARING STREAM 12 (AND SUB-STREAMS)

The Council has advised they have received some queries on the content of the Hearing Stream sub-streams. The Panel trusts that the following updated table provides the necessary clarity for submitters.

Hearing Stream	Content (zoning sought by submitter)	Indicative Date
12A	Commercial/Ind, Oxford and surrounds, Pegasus Resort	4 – 7 June
12B	Rural Lifestyle Zone	11 – 14 June
12C	Large Lot Residential Zone and Large Lot Residential Overlay	24 – 27 June
12D	Ohoka – RIDL	1 – 4 July
12E	Rangiora, Kaiapoi, Woodend, Var 1	22 July – 2 August
7 (not rezonings)	RESZ, LLRZ, Var 1, Var 2	19 August – 2 September

CORRESPONDENCE

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 on 0800 965 468 or developmentplanning@wmk.govt.nz.



Gina Sweetman

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

27 February 2024

APPENDIX 1 – LIST OF QUESTIONS TO SECTION 42A AUTHORS

SPZ(KR) – Special Purpose Zone – Kaiapoi Regeneration and SPZ(PBKR) – Special Purpose Zone – Pines Beach and Kairaki Regeneration

1. Further to your responses about the status of the Waimakariri Residential Red Zone Recovery Plan 2016, during the course of the hearing the Panel queried further the status of this Plan under the RMA, now that legislation it was prepared under has been repealed. Can you please provide further advice on its status and the weight to be afforded to it, and any further recommended amendments to the introduction.

SPZ(PBKR) – Special Purpose Zone – Pines Beach and Kairaki Regeneration

2. Please provide an updated assessment and recommendation in respect to 2 and 3 Chichester Street.
3. What is the RMA purpose to distinguishing between visitors and clients?
4. In respect to SPZ(PBKR)-O2, should there be more specificity of the purpose of this objective, to link it more clearly to the associated policy and rule, and ensure that there are no unintended consequences of how it works alongside the Natural Hazard provisions?
5. Please respond to the submitter's request of wanting a limit on density.

SPZ(PR)- Special Purpose Zone – Pegasus Resort

6. Please respond to the evidence and submissions from Sports and Education.

Wāhanga Waihanga - Development Areas

7. Please provide the legal advice that supported the redrafted certification consent process as set out in the s42A report.
8. What was the extent of analysis that supported the inclusion of the Outline Development Plans for the four Development Areas, as notified in the PDP?
9. Please respond to the evidence of Mr Thompson in support of submissions of Hale and Spark that seeks that development can be non-contiguous in certain circumstances.

Whaitua Arumoni – Commercial and Mixed Use Zones

10. Please respond to KiwiRail's responses to the Panel's questions
11. Please respond to Kāinga Ora's responses to the Panel's questions
12. Please provide the Panel with details of relevant CMUZ height limits in the Partly Operative Selwyn District Plan
13. In respect to paragraph 278 of your s42A, please advise of any updates to your recommendation following the hearing in respect to the use of "plan outcomes".
14. In respect of paragraph 320 of your s42A report, please advise whether there is scope to include a new definition for convenience activities, and whether you recommend such a definition be included.
15. In respect of paragraph 418 of your s42A report, please advise of your final recommended wording.

16. In respect of paragraph 501, are there any elements of education facilities that may mean it is not appropriate for them to be permitted activities in the LFRZ, for instance construction noise?
17. Are there any issues of natural justice and fair process were we to recommend that community corrections facilities are a permitted activity in the TCZ, given that this relief sought was not contained in the summary of submissions, but was in the submission itself? You may wish to seek legal advice in responding to this question.
18. Do you agree with Ms Dale for Kāinga Ora that an alternative relief to the Kāinga Ora submission on the rail corridor setback could be the identification and mapping of a setback reflecting the actual setback area? Are there any issues of natural justice and fair process if the Panel was to recommend this to occur?
19. Please confirm where the maximum building height is measured from for an existing site (i.e. a site that is not part of a subdivision) in relation to the natural ground level v required filled level of a site. In particular, where Council may require a site to be filled with say 1 metre of fill is the height measured from the natural ground level or the filled level, and does the answer to this in any way affect your recommendations with respect to appropriate maximum building height level sufficient to accommodate a 5 level building?
20. In paragraph 526, do you consider the NPS-UD precludes consideration of existing amenity values, or could this Policy be amended to include reference to both existing and anticipated outcomes without offending the NPS-UD?