

**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 3 – CHANGE OF TIMING FOR
HEARING STREAM 3 AND QUESTIONS
FOR COUNCIL REPORT AUTHORS ON
HEARING STREAMS 1 AND 2**

PURPOSE

1. The purpose of this Minute is to:
 - a. Respond to the Memorandum received from the Waimakariri District Council Hearing Stream 3 Chapter Authors dated 2 May 2023.
 - b. Put a series of questions to Council s42A report authors in advance of the hearing of submissions in Hearing Streams 1 and 2 commencing.

TIMING OF HEARING STREAM 3

2. The Council Memorandum seeks to defer Hearing Stream 3 from being heard on 14 to 16 June 2023, to be heard immediately after Hearing Stream 4, the week of 24 July 2023. The reason for the request is to enable further engagement on submissions on the Natural Hazards Chapter to occur before the s42A reports are finalised. A copy of the Memorandum is available on the [Council PDP hearing website](#).
3. The Hearings Panel has considered the request from the Council and agrees its reasons for the deferral. It has also considered the impact on all participants to the overall hearings. We appreciate that while this provides more time for submitters to prepare evidence for Hearing Stream 3, this may impact any submitters who will be preparing for Hearing Stream 4 and may also have submissions on Hearing Stream 3, and may wish to present their submissions concurrently. However, there are only limited matters being considered in Hearing Stream 3 and the extra time may allow some of the submission points to be resolved, allowing a more efficient hearing.
4. Accordingly, we agree to move Hearing Stream 3 to after Hearing Stream 4. In doing so, we have kept the two streams distinct by having a two working day gap between the two.
5. Hearing Stream 4 will now be held from 17 to 20 July 2023 and Hearing Stream 3 will be held from 25 to 27 July 2023. We have updated Minute 1 accordingly.

QUESTIONS TO COUNCIL OFFICERS

6. The Hearing Panel for Hearing Streams 1 and 2 has prepared a list of questions for Council s42A report authors, which are attached to this memorandum. The purpose of these questions is to allow for the efficient running of the hearing, by allowing the Council s42A report authors time to consider the questions in advance of the hearing commencing. It is important that all parties are aware that this is not an exhaustive list and report authors should expect additional questions at the hearing itself. Submitters who have relevant submission points to which these questions relate may also wish to address these questions at the hearing.
7. The Hearings Panel intends to take the same approach to the other Hearing Streams, as and when relevant.

CORRESPONDENCE

8. 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

5 May 2023

Hearing Streams 1 and 2: Part 1 etc; Strategic Directions; Urban Form and Development, Sites and Areas of Significance to Māori and Special Purpose Zone Kāinga Nohoanga

Questions from the Hearing Panel

Having read the Section 42A Reports, the Hearing Panel has questions that they would appreciate being answered by the Section 42A Report author(s) at the hearing, both verbally and in written form.

This is in the interests of running an efficient hearing.

Please note this list of questions is not exhaustive. The Panel members may well ask additional hearings during the course of the hearing.

S01:R1 - Part 1, General matters, Cross Plan issues, Definitions, NDI

Paragraph or Plan reference	Question
Para 36	In comparing the operative and proposed plans please explain, with examples, what is meant by: <i>“a change from an effects based to activities based planning regime”.</i>
4.1.11	Can you please confirm that we are not dealing with any submissions on Variation 1 at this point in time, and are only addressing submissions on the PDP.
Para 88	Please confirm whether this submission is in the right place? It doesn't appear to relate to definitions.
Para 134	Please advise whether it would be appropriate to make (higher level) decisions on the use of cross-referencing (as a method to assist readers) between chapters as a more general matter, but have the relevant s42A authors for each topic make specific recommendations with respect to their chapters?
Para 135	As above, can the Panel appropriately make a higher level decision with respect to submissions requesting generic removal of non-notification or limited notification clauses for all controlled and discretionary activities? For example, the Panel may make a decision to (say) reject the generic submission, but state that each individual Panel will make decisions on notification for each specific chapter rule that has been submitted on.
Para 139	Should the Rangiora-Ashley Community Board be an accept or some other recommendation, given that they did not provide a relief sought?

S01:R2 – Strategic Directions

Paragraph or Plan reference	Question
Para 56	While you state there is no requirement to provide a hierarchy of strategic directions in the Plan, do you nevertheless consider any particular SD Objective deserves to be ranked higher than others?
Paras 58 and 61	<p>You state that: <i>“Several submitters want the inclusion of wording from the NPSUD included into the objectives of Strategic Directions chapter.”</i> And then you subsequently say the wording is not required.</p> <p>However, then you recommend using the wording from the NPSUD, such as <i>“planned urban form”</i> and <i>“mix of housing”</i>.</p> <p>Can you please explain why you have used some terminology from the NPSUD, but not all.</p>
Para 61	Does the inclusion of <i>“Well functioning urban environments”</i> need some cross reference to the NPS-UD so it is clear to Plan readers what the term means.
Para 65	We understand that the NFL and SUB chapters include reference to what is inappropriate and therefore addresses s6(b). However, is there potential that the wording of SD-O1(3) provide an argument for some that the protection of ONFs and ONLs is an absolute; and more restrictive than what s6(b) requires?
Indigenous biodiversity	How much weight should the Panel be ascribing to the draft NPSIB and any guidance where it has yet to be gazetted? The Panel understands from the Minister for the Environment’s recent speech to the New Zealand Planning Institute that the NPS-IB will not be coming out anytime soon.
Para 89	<p>You state:</p> <p><i>“Forest and Bird [submission 192.29] have implied that “overall net gain” has a greater degree of impact than “net gain”,...”.</i></p> <p>The recommendation to use <i>“net gain”</i> is understood, but, in practical terms, what is the difference in the application of these two terms?</p>
Para 100	<p>You state:</p> <p><i>“DoC in submission 419.32 wants additional clauses in Objective SD-O3 to avoid loss of extent of natural inland wetlands and rivers. The suggested change is in line with the direction of the NSPFM. However, the suggested changes are a function of Regional Councils as per sections 3.23 and 3.24 of the NSPFM. Objective EI-O2, and Policies EI-P5, NATC-P5 and NATC-P6</i></p>

Paragraph or Plan reference	Question
	<p><i>address the issue of infrastructure impacts upon natural inland wetlands and rivers.”</i></p> <p>Could this be considered to be a district council matter where the Panel’s decisions on zoning requests may result in other potential land use impacts on natural inland wetlands and rivers, e.g. allowing/encouraging urban development right alongside those natural features.</p>
Para 114	<p>You state:</p> <p><i>“Fulton Hogan has submitted [41.14] to amend SD-O3 to acknowledge the need for a ready local supply of physical construction materials for infrastructure. The submission is inconsistent with Policy 8 of NPSHPL which in section 3.9(2)(j)(iv) details that aggregate extraction is only allowed on highly productive land where it “...provides a significant national or regional public benefit that could not be achieved using resources within New Zealand”.</i></p> <p>Can you please explain why you have referenced highly productive land as relevant here, as SD-O3 is not restricted to just consideration of highly productive land.</p>
Para 116	<p>You state:</p> <p><i>“The Proposed District Plan has not addressed the issue of the protection of highly productive land.”</i></p> <p>Is that correct?</p> <p>The NPS-HPL was notified after the PDP. Do you consider that this is now of sufficient importance that a SD objective for protection of HPL should be added to the Plan? Will SD-O4 be reconsidered as part of the s42A report for Rural Zones? You reference in para 118 in respect to the ECan submission that the strategic objectives can be considered in that report.</p>
Para 140	<p>What would the consequence be of including “inappropriate” within SD-O6-1, given the RPS has the direction to avoid inappropriate development in high hazard areas?</p>
Para 141	<p>Is relying on a definition in another planning document where there is no cross-reference to that document or definition the most appropriate response to the submitter’s request for a definition?</p>
Para 150	<p>When was the Waimakariri District Development Strategy adopted and under what statutory process?</p>
Para 164	<p>What would the consequence be of removing reference to the Port of Lyttleton in the definition of Strategic Infrastructure?</p>

Paragraph or Plan reference	Question
Page 31 – amendments to SD-O2	What is the rationale for deleting “existing character” from clause 2?

Over-arching question

There are a number of places where the assessment states that the matter will be considered in subsequent s42A reports and then the recommendation is to reject the submission. Why is that the most appropriate recommendation?

S01:R3 – Urban Form and Development

Paragraph or Plan reference	Question
Para 70	Please explain how UFD-O1 provides for residential activities.
Para 76	Regarding the purpose of the certification process – it has been used elsewhere (e.g. Dunedin City) as a means to determine when Deferred Residential Zoning can be upgraded to straight Residential Zoning. Please explain how it is proposed that the Council’s certification process would operate.
Para 77	Please provide a reason why you do not support the inclusion of the words “At all times ...” in UFD-O1 and UFD-O2.
Paras 90/121	Please clarify your understanding of what the responsibilities of a submitter are as regards having done their own s32/s32AA evaluation for their requested changes to the District Plan. The Panel’s responsibility to do this are understood, but your inference seems to be that is a requirement for submitters to have done this as part of their submissions?
Para 92	What is the current status of Private Plan Change RCP031?
Para 107	You state: <i>‘Submission 249.245 (MainPower) requests multiple amendments to UFD-P10 in relation to reverse sensitivity. The first amendment wanting the inclusion of the wording “and development” is redundant ...’</i> Can you please explain why, in the tracked changes, you have then recommended including the word ‘development’?

Paragraph or Plan reference	Question
Paras 127/144/145	<p>Please explain the significance of Map A of the RPS to UFD-P10, and in particular will the expansion of this policy to include, as you have recommended, Ravenswood and Pegasus cause any conflict with the RPS?</p> <p>In your para 145 you say: <i>“This is reflected in Objective 6.2.2(5) which encourages sustainable and self-sufficient growth of Rangiora and Kaiapoi and Woodend”</i>.</p> <p>However, Ravenswood and Pegasus are not included in that objective.</p>
Para 128	<p>The Panel understands that the use of “minimise” would not be the same as the use of “avoid” in the RPS. However, how does the use of avoid sit with the NPSUD, which is a higher order document than the RPS? Has the RPS been amended to give effect to the NPSUD?</p>
Para 144	<p>Are the development areas in the Future Development Strategy the same areas as those in Map A of the RPS? When was Map A to the RPS introduced and under what process?</p>
Para 148	<p>You state:</p> <p><i>“CCC has also questioned the meaning of the word “concentrates” within UFD-P2(2)(a). The meaning is in accordance with the common understanding of ‘to bring or direct towards a common centre of objective’.</i></p> <p>Please clarify your understanding of this - does it mean concentrated development is to be located <u>within</u> an urban boundary or could include <u>expansion</u> of an urban boundary.</p>
Para 150, 154	<p>Is there a conflict between giving effect to the NPSUD and allowing expansion beyond the greenfield priority areas identified in Map A in the RPS.</p> <p>If so, is it simply sufficient for the Panel to be satisfied that the <i>“UFD-P5 gives effect to <u>the intent of Chapter 6 of the RPS”</u> ?</i></p>
Para 137	<p>Is the reference to the NPSUD in line 4 correct, or was this intended to be a reference to the NPSHPL? If it was intended to be a reference to the NPSUD, then please explain how lifestyle blocks in the General Rural Zone would be at conflict with the NPSUD.</p>
Para 144	<p>Please explain more fully why it is appropriate to refer to the Future Development Strategy rather than Map A of the RPS.</p>
Para 147	<p>The assessment seems to refer to Map A of the RPS rather than the FDS 2048 which CCC seek to have included. Please address CCC’s point.</p>

Paragraph or Plan reference	Question
Para 158	Is the word “not” missing from the sentence: <i>“Given that there may be sufficient development capacity for industrial land within the existing areas identified in Map A RPS, the long-term shortfall needs to be addressed through policy (UFD-P8) that enables Council to respond to long term shortfall.”</i>
Para 168/176	You have recommended a new definition of Urban Centres, as <i>“The area encompassing the townships of Rangiora, Kaiapoi, Woodend, Ravenswood and Pegasus.”</i> Firstly, please ensure that the new definition is included in your recommended amendments in Appendix A. Secondly, will the addition of the last two townships conflict with the RPS? (refer to previous question). Thirdly, does the word “encompassing” mean just the area inside the zoned area of those townships? How are the townships defined (how would someone know what was in a township vs out of a township)?
Para 177	Are you intending to amend the definition of urban environments or replace the use of urban environments with urban centres in the stated SDs? If the former, how would this be consistent with the NPSUD?
Appendix A - UFD introduction	Why have you used “may” in point 1 regarding the strategic UFD objectives and policies?
Appendix A - UFD-P10	Should the reference in 2 be to “industrial activities”?
Table B 8 - 246.6	Should this be an accept in part rather than a reject?

SASM

Paragraph or Plan reference	Question
Para 60	Please set out where in Rule EI-R4 does it say that the provisions of the SASM chapter do not apply to “customer connection...”

Paragraph or Plan reference	Question
Para 61	Please explain why there is a different approach with Rule SASM-R4 to other s6 RMA matters? For example, EI-R4 covers heritage, indigenous biodiversity, SNAs, ONF, etc.
Para 79	<p>Your report states that:</p> <p><i>The submitter suggests that SASM-P4 needs to be amended to include management of earthworks through a farmer discovery protocol. In my opinion, such an addition is not required as this is covered in Policy SASM-P8 Engagement with rūnanga which encourages persons undertaking activities and/or applying for resource consent to engage with Te Ngāi Tūāhuriri. This policy would support the suggested farmer discovery protocol.</i></p> <p>The Panel’s reading of the submission is that it is seeking that the policy is amended to include management of earthworks through a farmer discovery protocol, <u>and</u> that changes are made to the rules (i.e. R1) to avoid the need for resource consent - if a farmer discovery protocol is first put in place.</p> <p>So when you say a change to the policy is not required (as farmer discovery protocols are already encouraged by Policy 8) do you nevertheless acknowledge that this will not meet the submitter’s intentions with removing the need for resource consents in that situation?</p>
Para 111	<p>Your report states in 110 that:</p> <p><i>The submitter is concerned that the assessment of indigenous vegetation and restoring natural features may be inconsistent with the primary purpose of the rural zone and override private property rights.</i></p> <p>Your position is that these matters of discretion are s6 matters. However, the wording used in the matters of discretion are on the face of them broader than s6(b) and (c) which relate to “outstanding” and “significant” respectively. Please explain how using broader terms and extending beyond s6 matters is more appropriate.</p>
Section 32 – section 2.6	This section concludes that no consultation was undertaken with landowners whose properties would be subject to the proposed provisions. Were they separately or specifically advised of the proposed provisions when the PDP was notified?

SPZ (KN)

Paragraph or Plan reference	Question
Para 84	It is unclear as to whether you consider that the trigger is the most appropriate option. Can you please explain your position.
Para 86	Your report states: <i>The non-complying resource consent status for building a residential unit on a site less than 4ha, enables the objectives and policies of the SPZ(KN) to be considered,</i> Would a discretionary activity status also allow the objectives and policies of the zone to be considered? If this is the case, what is the main reason for recommending non-complying activity status is retained?