

Hearing Stream 8, 9A, 11 and 11A

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 written.

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 questions during the course of the hearing.

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SUB – Wāwāhia whenua – Subdivision - Urban

Paragraph or Plan reference	Question
Para 69	There are also other Overlays within the PDP that apply to section 6 matters (outstanding natural landscapes and features, natural character, indigenous biodiversity, public access). Have you considered whether it may be appropriate to define conservation values, given this is a term that is used in the Subdivision Chapter?
Para 71	The Panel notes that NATC-P4(4), ECO-MD1 and ECO-MD2 use the term indigenous biodiversity values. Does this affect your assessment?
Para 73	In your assessment, have you considered a territorial authority's function under s31 RMA to maintain indigenous biodiversity. Should the Subdivision objectives contain a stronger (more direct) reference to indigenous biodiversity?
Paras 97 and 98	Should the recommendation for MainPower [249.204] and KiwiRail[FS99] not be 'accept'?
Paras 106-108	You address Forest & Bird submission point on used of 'conservation values' but not addressed whether the protection of indigenous biodiversity should be included in SUB-O3. Please advise.
Para 132	Do you consider there may be some merit in the submission that the words " <i>has the potential to... restrict the operation, etc ...</i> " are added into Clause 3, to reflect that subdivision in itself may not have actual effects, but it is rather the resultant development that has effects?
Para 137	Did you consider the objectives and policies in the PDP that include "anticipated built form and purpose" and "character and amenity values anticipated for the zone" when responding to Kāinga Ora [325.154]?
Para 138	Would deletion of the words "character" and "amenity values" and their replacement with " anticipated form and function ..." also have a potentially unintended consequence of removing any consideration of the existing form and function of the relevant zone?
Para 153	Your answer addresses MRZ-R18 and MRZ-P1(3). Have you considered how SUB-P1 aligns with RECZ-P3 and how it relates to multi-unit development in the General Residential Zone?
Para 157	Should Mixed Use Zones be in your recommended clause 4?
Para 168	Are you saying here that climate change is the sole reason for SUB-P3(3), or one of its purposes? While there might not be a link to a permitted activity rule, have you considered whether there are any linkages to any of the matters of discretion, for instance SUB-MCD2, 5 and 6? If you do think there is a linkage, do you still recommend "where appropriate" is maintained
Para 184	The Panel notes that SUB-S1 defaults to a discretionary activity. Does this policy support a discretionary activity status where the lot doesn't comply

Paragraph or Plan reference	Question
	with the minimum size? What would such a resource consent be assessed against?
Para 206	Could it be that the intent of the Ministry of Education submission is to demonstrate that there are sufficient education facilities to service the subdivision and additional families that live therein, rather than provide for education facilities within the ODP? If so, would you amend your recommendation?
Para 214	While the WRCDM23 is stated as supporting the 15 hh/ha threshold, from where was the (lesser) 12 hh/ha standard taken and how was it rationalised?
Para 225	As notified, subclause (i) requires the applicant to show how other 'potential adverse effects' will be avoided, remedied or mitigated. CIAL seek an amendment to 'show how <u>more than minor adverse effects</u> will be avoided, remedied or mitigated". In your opinion, what is the difference between these two and which would you prefer and why?
Para 231	To what extent is your recommended clause consistent with the RPS and the NH objectives and policies, particularly considering the different treatment between high and other hazard areas?
Para 234	<p>Does the ECO chapter include relevant objectives, policies and rules that would be considered through an ODP process? What is the link between these? Why is it appropriate that cultural and historic heritage features and values, which are also subject to separate chapters in the PDP, are identified, enhanced or maintained, but indigenous biodiversity is not?</p> <p>Also, we note that the reporting officer for the Contaminated Land Chapter has recommended amending CL-P3 to insert "including ecological values" in response to a submission from Ecan which sought clarification of the term "natural values". Have you considered this recommended amendment in responding to the Forest and Bird submission point?</p>
Para 251	How are these fixed and flexible elements differentiated in the ODPs?
Para 264	<p>Can you please outline what the scope is to delete "such as financial contributions", given the relief sought by Waka Kotahi .</p> <p>Further, the phrase 'proportional to the benefit received' would appear to be dealing with cost sharing between landowners being served by the infrastructure, so it is not a useful part of the policy to ensure equity between the parties?</p>
Para 283	It is not usual practice to require 'boundary adjustments' to comply with minimum site sizes given the practical issues they are often dealing with (such as severance by a road or a river or rectifying physical occupation that doesn't align with legal boundaries). By doing so, many such subdivisions may default to non-complying under this approach. Does SUB-MCD1 not safeguard against the concerns you raise?

Paragraph or Plan reference	Question
Para 297	Please explain the intent of SUB-R2 – is it the intent that either SUB-S1 to SUB-S18 are met, <u>or</u> clauses a to d apply? Also, if clauses a to d are met then would this potentially make the subdivision in those circumstances a Permitted Activity, i.e. it is no longer a Controlled Activity?
Par 305 to 315, SUB-R4	Some submitters are seeking the default activity category to be lower to restricted discretionary. Your position is that non-complying should remain given the subject matter (hazard risk to life and property). However, to remain a restricted discretionary activity in flood hazard areas, condition 1 requires the identification of a building platform on the scheme plan. That automatically means that any subdivision that isn't taking place to create a building platform would become non-complying. Given such subdivisions are unlikely to exacerbate hazard risk, is this appropriate? A similar issue would appear to arise with SUB-R6.
Para 366	<p>Please provide specific reasons why discretionary activity status is not appropriate, i.e. could those concerns/potential effects not also be considered as part of an application for a discretionary activity?</p> <p>In considering this issue, is Policy 1(a)(i) of the NPS-UD relevant here? The approach appears to restrict the ability of people to have a larger section if they so choose.</p>
Paras 395 and 396	Making direct reference to Sarah Gale [273.6], please set out the scope for this change to activity status.
Para 406	<p>Your recommendation is to accept the wording requested by Waka Kotahi.</p> <p><i>“Limited Access Roads must be considered to ensure the properties have frontage to a legal road”</i></p> <p>However, do you consider their wording is clear as to its intent, i.e. what does <i>“must be considered”</i> mean in practical terms?</p>
Para 413	The Panel has read this submission. We are not sure that this submission point is on reverse sensitivity, given they have another submission point on MCD10 reverse sensitivity. We interpret their submission point to be rather on the design, so that for instance, the productive part of a rural lot is maintained for productive activities. If we are correct, would that change your assessment, and if so, is this rather a point that should have been assessed in the rural subdivision s42A? If so, the reporting officer for the rural subdivision s42A report is requested to address this submission point.
Para 460	Please provide evidence that the workability of the new rule/matter of discretion has been reviewed and deemed “workable” by a suitably qualified Council officer involved in Plan implementation.
Para 465	Please explain how the right hand column “activity status when compliance not achieved” would come into play, if there are no standards referenced in the Rule itself.

SUB – Wāwāhia whenua – Subdivision - Rural

Paragraph or Plan reference	Question
Para 87	Could the ability to construct a new minor residential unit not be restricted by the plan rules in these circumstances? With that issue addressed, what are the additional environmental effects of creating a new boundary around existing dwelling? Is s7(b) not relevant here?
Para 96	Please provide an assessment to tie into your recommendation to reject the McAlpines submission point.
Para 109	Does the current subdivision policy framework adequately address Policy 7 and clause 3.8 of the NPS-HPL? If not, does the Federated Farmers submission provide scope?
Para 122	<p>You state that “Policy SUB-P1 is intended to provide guidance on design and amenity for subdivisions and is not intended to control reverse sensitivity.”</p> <p>If that is correct, then is clause 2 in the wrong policy, i.e. “2. <i>Minimises reverse sensitivity effects on infrastructure</i>”?</p>
Para 129	<p>Para 129 partly answers the question posed above (i.e. on para 122).</p> <p>It appears you have supported clause 2 because it relates specifically to protecting infrastructure and the National Grid from the effects of reverse sensitivity, and that expanding this clause is not necessary as wider consideration of reverse sensitivity effects is provided in the SD and UFD chapters. However, the E&I Chapter similarly provides consideration of reverse sensitivity effects on infrastructure (EI-P6), and so why have you recommended that it is only reverse sensitivity effects on infrastructure that require inclusion in the SUB chapter.</p> <p>Can you please assist the Panel to rationalise why the SUB chapter should contain a provision on reverse sensitivity but only for protecting infrastructure and the National Grid.</p>
Para 163	The Panel is confused. The Federated Farmers submission point talks to SUB-P8 – Subdivision to create a bonus allotment; however, this policy relates to infrastructure. Are you able to provide context.
Paras 176 and 183	<p>We are unclear on why the Rural Subdivision report is addressing a submission point specific to residential subdivision, given the commentary in both s42A reports of their scope. Does the author of the Residential Subdivision s42A report agree with your assessment and recommendation?</p> <p>You refer to policies SUB-P2(1) and SUB-P5 providing flexibility. How does SUB-P5 provide this flexibility, when it says “while achieving minimum residential site sizes that are no smaller than specified for the zone”? Is this not an absolute?</p>
Para 180	You refer to a new policy being proposed. What is the new policy proposed?

Paragraph or Plan reference	Question
Para 203	<p>You say SUB-R1 provides for boundary adjustments when they meet the minimum lot size for the zone. Is that correct? SUB-S1 does not seem to apply to SUB-R1.</p> <p>And why do the properties need to comply with minimum lot size to use this mechanism? Boundary adjustments are often used to address a range of issues/constraints around the practical use of land rather than facilitating new development.</p>
Para 209 - 215	<p>Not all subdivision is for the purpose of establishing a building platform. If no building platform is required, the subdivision appears to be a non-complying activity. Is that appropriate?</p>
Para 223	<p>It is assumed that this will apply to an allotment that will contain land that is both within and outside the corridor. If the platform is outside the corridor, why can the subdivision not be a controlled activity?</p> <p>And this rule would also appear to have the same issue as SUB-R3 and R4 where the subdivision does not need to identify a building platform.</p>
Para 240	<p>What is the intended process to remove the rule once the plan is operative?</p>
Para 284	<p>How would allowing development under 4ha be inconsistent with the NPS-HPL, when you have said previously that the NPS-HPL does not apply to the RLZ?</p>
Para 294	<p>Again, in the Panel's experience not all rural allotments are created to accommodate a building, particularly on the larger, extensively grazed properties. For example, subdivision could be created for sale to production forestry companies, or for sale to neighbouring property owners. By not showing a building platform, the subdivision becomes non-complying. There are simple mechanisms available to restrict buildings on allotments that have not been created for them at the original subdivision. Is there scope to address this issue?</p>
Para 309	<p>You state that "<i>New subdivisions will be required to meet TRANS-S5</i>". Is there any merit in including a cross reference in SUB-S6 to TRANS-S5 so that readers of the Plan are aware that there are additional access rules (i.e. additional to SUB-S6) that will be relevant?</p>
Para 327 & 330	<p>The Panel questions whether it is necessary to add this Advice Note as it will be a matter of common law that a subdivider cannot expect to connect to a State Highway drain without the prior approval of Waka Kotahi, and Council will in any event not grant a subdivision approval unless it connects to a drain that the Council as consent authority is satisfied is in fact a public drain?</p> <p>Rather than including an Advice Note, would you consider it may be more efficient to simply add in the word "an available" before "public drain", i.e.</p>

Paragraph or Plan reference	Question
	<p>1. <i>Any new allotment in Rural Zones shall connect to an available public drain</i></p>
Para 340	How does SUB-MCD5 require an assessment under the natural hazards chapter?
Para 373	<p>Please articulate how Hort NZ's concerns are addressed through SUB-MCD10, if you say that it does not address the effects on HPL and versatile soils?</p> <p>It would appear that the HortNZ submission has incorrectly referred to SUB-MCD10 when discussing 'productive potential of rural resources'. This submission point does, however, refer to 'Subdivision Design', which is dealt with in SUB-MCD2. Do you consider there is scope to address the issue in that provision?</p>
Para 385	Are the matters traversed in this requested amendment covered by the matter of discretion? If so, how?

IND – Whaitua Ahumahi – Industrial Zones

Paragraph or Plan reference	Question
Para 52	Have you considered whether heavy industrial activities may involve discharges that do not need consent from the regional council. Would the recommended amendment still be appropriate if this was the case?
Para 77	Could the word “screening” be made clearer by changing to “screening including fences and vegetation”? And how do you envisage screening that is not a fence be a least 45% visually permeable between 1.2m and 1.8m?
Para 91	Please set out how replacing intensive with extensive is within scope of the submission, and what the meaning of intensive vs extensive is.
Para 102	Applying supermarkets to those amendments, would that mean there is a potential consenting pathway for supermarkets (even as NC activity) if they can establish that they have a functional need to locate in a particular Industrial Zone, AND their economics assessment can establish that they will not have significant adverse effects on the Town Centre?
Para 130	On this assessment, would an onsite managers residential unit would be achievable under the policy and rule framework?
Para 136	Should this be “within the noise control contours...”
Para 163	From a plan useability perspective, is it not better to have all relevant bulk and location type standards for an activity listed within the zone rules? While it is appropriate to have all rules that relate to the use, development etc of infrastructure located in just the infrastructure chapter, should rules that relate to use, development etc of non-infrastructure activities (which are provided for in zones) be located in the infrastructure chapter? And does the argument against repeating such provisions in each zone hold water now that we use an electronic plan as opposed to the hard copy plans of the past.
Para 195	Are there any implications from making Rural Production a permitted activity in terms of does the PDP then have appropriate controls for any future expansions/additions to the existing Daiken plant?

TEMP – Ngā mahi taupua – Temporary Activities

Your Appendix A does not reference the submission points for your recommended amendments. Please provide an update with these references in it.

Paragraph or Plan reference	Question
Para 33	Can you please confirm that these are the two submission points referenced in Mr Binder's memo.
Para 75	<p>The Panel found this a bit difficult to follow. Are we correct to think that your view is that TMTA and ESTA do fall within the definition of temporary activities? If this is the case, would a solution not be to specifically include them in the definition, along with the amendment recommended to clause j? If your intent is that they are not included however, would the alternative be to specifically exclude them from the definition?</p> <p>Notwithstanding your answer to the above question, what is the value of clause j (even as recommended to be amended) as it will essentially repeat what is contained in the chapeau at 1. and 2.</p>
Para 82	Which submissions are you attributing the recommended amendment to the definition of temporary activity to?
Para 95	Would it not be easier for plan users to just include the relevant rules applying to temporary activities in the National Grid Yard within the Temporary Activities rules section?
Para 101	Is the recommendation to reject, or accept in part, given your assessment that the requested change is already covered by the objective.
Para 104, 3 rd paragraph	Does the recent Port Otago case have any bearing on the need for plans to resolve conflicts?
Para 124	Please explain why you reference Mr Binder and then reference Ms Mace-Cochrane.
Para 124 - 125	<p>Given the rule is for a temporary activity, why can the effects referred to not be managed by an approved traffic management plan for activities over 250 vmpd?</p> <p>Also, what would 'temporary access upgrades' involve, and could they not also be part of a TMP?</p>
Para 133	By including buildings and structures into this Activity rule can you please clarify if there are any rules that will apply to the size and height of those buildings (and if there aren't any, are such restrictions necessary)?
Paras 134 to 137	At para 137 you refer to 'the 31 days duration' requirement. Please explain your understanding of how this condition works. Is it restricting the activity to 31 days <u>total</u> , or just 31 <u>consecutive</u> days at any one site? Does it restrict the activity to 'one site' only, bearing in mind the definition of site in the plan, or can it operate across multiple sites?

Paragraph or Plan reference	Question
Para 139	You refer to other 'district wide matters' that may affect the site. What are the implications of these 'other matters' for the activities listed as permitted in this section? As with the question in relation to the National Grid yard above, is it not easier for plan users to reference these in this section?
Para 140 - 142	The Panel assumes that TMTA may involve explosives training. How would this type of activity 'restore to the same condition'? And why is this necessary in all environments, particularly when land owner agreement is required for private land?
Para 183	Is there a problem caused by a new definition and inclusion of the term ESTA in a rule if there is no policy support specifically for ESTA like there is for TMTA?
Para 194	Please explain why it matters if a building is relocatable or not, when the rule specifically talks to temporary buildings.
Para 207	Why is temporary storage of a relocatable building acceptable in Open Space and Recreation Zones but not in Residential Zones, taking into account the Zones' underlying purpose and function.
Para 210 and 213	Again, wouldn't it be better to include these rules in this section?

Tautapa – Designations - Council

Paragraph or Plan reference	Question
WDC-47	Please explain how the recommended ecology conditions fall within the scope of a designation? It is the Panel's understanding that a designation does not preclude a requiring authority's responsibility to comply with the Land and Water Regional Plan and obtain any necessary consents.