

Hearing Stream 10A: Development Areas and Airport Noise and Bird Strike

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 authors 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 hearings during the course of the hearing.

Wāhanga waihanga - Development Areas

Overarching questions:

1. Please take the Panel through how the Development Area chapters work. For example, explain how DEV-WR-R1 “Activities provided for in General Residential Zone” works, when the land is all zoned Rural Lifestyle Zone until such time as it is rezoned.
2. Please explain how the new “certification consent” process would work.
3. What exactly would an applicant be obtaining consent for – what is the land use activity that is being applied for and what would be the end product?
4. Have you had legal advice on the vires of this approach? Please provide a copy of any legal advice obtained. If legal advice has not been obtained, please obtain and provide it.
5. Please provide examples of how other local authorities are addressing the “release” of development areas in advance of rezoning to a relevant Zone to enable development to occur.
6. For DEV-R1, why have you chosen a different format for a restricted discretionary activity consent with the matters of discretion included in the rule, rather than separately in a different table?
7. In terms of DEV-R1 – what does “zoning within the land is in accordance with that ODP” in clause 4 mean, how would it be applied and how does it relate to the RLZ referenced in clause 1?
8. In the matters of discretion for DEV-R1:
 - a. Is there a typo in clause 3.b in “will have to capacity”?
 - b. Please check the wording for clauses 4 and 9 for grammatical sense
9. What is the activity status for DEV-R2 clause 1 and is there a default activity status? We note that this applies for other Rules in the recommended DEV rules.
10. We note that there are a number of highlighted yellow sentences starting “update”. We assume this has not happened and will be done through the Reply Report. Please advise.

Paragraph or Plan reference	Question
Para 32	Is your reference here to two different Development Areas? The sentence is unclear.
Para 34 (and others)	Can you please explain each of the following terms, and the difference between and context for the different terms used through the s42A report, in particular:

Paragraph or Plan reference	Question
	<ul style="list-style-type: none"> - Development Areas (which we understand to be the National Planning Standard definition) - Future Urban Development Areas - Future Urban Growth Areas
Para 36	Are the provisions of the Rural Lifestyle Zone amended, replaced, superseded or augmented?
Paras 65 & 66	Is it implicit that the certification of <u>all</u> identified areas will meet or exceed demand, or is there an iterative process undertaken to assess this as certifications proceed?
Para 67	Please, for the convenience of the Panel, clarify what your opinion is on whether there are any implications on the DEV chapter if the panel determines the SD objectives should have full primacy.
Para 92	Why is there a need for different minimum lot sizes for RLZ, and RLZ where certification has been consented?
Para 96	Please clarify the status of the NW Rangiora Development Area. It was not listed in your earlier description of the four development areas. Why are we considering it at all if it is, as you say, outside of the Development Area Overlay?
Para 97	What are your reasons for increasing the minimum density requirements?
Para 99 & 105	But what are the key reasons (that we should know about now) for Council not simply proceeding with a rezoning process for all of these identified areas?
Para 135	What is the process the Council reporting officers are following to ensure that these submission points are addressed and not missed?
Para 142	Does this amendment replace the amendment at para 124.
Para 153	<p>You have recommended an amendment to DEV-SBT-R1.</p> <p>Can you please clarify how an applicant would determine if the ground level was “consistent with” NH-S1, and what elements of NH-S1 (as notified and as recommended to be amended) are required to be consistent with? Should this rather be that it complies with or meets?</p>
Section 6.9 EKP	Please provide an assessment against and recommendations in respect of Cory and Philippa Jarman [107.1].
Para 197	Please explain how DEV-MILL-BFS2 is relevant to Area C, and please correct/update this section – we note that your second sentence refers to DEV-MILL-BFS3, then sets out DEV-MILL-BFS2

Paragraph or Plan reference	Question
Para 225	You have recommended that DEV-MPH-R1 be deleted. Please provide the Panel with details of the scope for this to occur.
Para 255	Please explain exactly how compliance with clause 2 of this standard would be determined through a certification process or certification consent process.
Para 262	Do you mean that the areas of general residential in the ODP are now proposed to be medium density residential, rather than are now?
Para 302	Is the upzoning of the Kaiapoi ODP to medium density not mean that the submitters' relief is accepted in part? If not, can you please explain this more clearly.
Para 319	Please complete this sentence.
Para 327 – bullet point 2	Is the addition of all of Lot 2 effectively not a rezoning sought, to be considered through HS12?
DEV-NWR	Can you please set out the logic for retaining this advice note here (as recommended to be amended), where you have recommended that the Rule be deleted and be subject to the generic rules in the recommended new DEV provisions. The same applies to some of the other Development Area chapters.
DEV-WKP	Can you please set out the logic of retaining DEV-WKP-R3 in relation to your recommended new generic DEV Rules. The same applies to some of the other Development Area chapters.
DEV-EWD	What is the submission reference for the amendment to the Advisory Note? And why is Advisory Note used instead of Advice Note?
DEV-WR	Does the reference in the third paragraph of the Introduction to the release by the Council's CEO or delegate need to be amended as a consequential amendment to your recommended new certification consent process? The same applies to some of the other Development Area chapters.

Airport Noise and Bird Strike - PDP

Paragraph or Plan reference	Question
Paras 125, 129, 130 and 137	To what extent can and should we consider a media article, Joint Witness Statement submitted to a hearings panel or the decision of another council in respect of the consideration of submissions on the PDP, particularly in respect to the Airport Noise Contours? You may wish to seek legal advice and append that to your response.

Paragraph or Plan reference	Question
Para 128	<p>Notwithstanding your opinion that <i>“it will be more efficient to wait until after the RPS review is complete and make any necessary amendments to the District Plan at that stage”</i>, what obligation does the Panel have to make recommendations now, based on the matters and evidence in front of us now?</p> <p>Is it a valid reason to reject a submission which now includes revised noise contours as a relevant matter for the Panel’s consideration, on the grounds that a review of a Statutory document has not yet taken place?</p> <p>Notwithstanding the above, will there be any issues of natural justice, fair process and certainty likely to arise if we were to accept CIAL’s submission, which did not include the revised noise contours at the time of public notification and as such were not available to review and make submissions on?</p>
Para 134	<p>Do you think that there is a risk that inclusion of a provision requiring direct notification to CIAL of all applications with elements of non-compliance over a wide range of matters, including for sites located some considerable distance from the Airport, may be seen as the Council stepping down from its functions and responsibilities under the RMA, and for CIAL to be effectively taking on the role of Consent Authority?</p> <p>Has the CIAL provided a s32 evaluation as to why this is the most appropriate option?</p>
Para 137	<p>Please advise who were the parties and planners involved in the JWS for DPC31.</p> <p>Did the Panel considering DPC31 and the Waimakariri District Council accept the planners’ advice in the JWS in making their recommendation/decision? Please provide us with a copy of the JWS and any relevant discussion in the recommendation/decision.</p>
Para 151	<p>Does the Rangiora Airfield fall within the definition of either regionally strategic infrastructure or strategic infrastructure?</p>
Para 178	<p>You say that only two of the activities listed in the CIAL proposed definition of ‘bird strike risk activity’ are defined in the PDP. How difficult would it be, in your opinion, to amend the descriptions of the undefined activities to match some existing definitions in the PDP?</p>

Airport Noise and Bird Strike – IPI – VAR 1

Paragraph or Plan reference	Question
Para 44 / over-arching	<p>Please explain to us your understanding of Policy 6.3.5 of the RPS and how it applies:</p> <ul style="list-style-type: none"> - To infrastructure in general - To the Christchurch Airport in particular <p>Is the wording “unless the activity is within an existing residentially zoned urban area, residential greenfield area identified for Kaiapoi, or residential greenfield priority area identified in Map A” apply to all infrastructure or just to the Airport Noise contour? What is the implication of this wording?</p> <p>If your answer is that the implication is that new noise sensitive activities within the 50dBA Ldn airport noise contour for the Airport does not need to be avoided in these areas, can you please set out the rationale for the IHP why a qualifying matter has been applied to the Medium Density Residential Standards in these areas, and why density needs to be limited to these areas.</p> <p>Please clearly explain to the IHP how Variation 1 amends the PDP. We are unclear of the relationship between the 50dBA airport noise contour and the 50dBA annual average noise contour and how this plays out through the PDP.</p>
Para 55	Is Figure 4 (showing revised airport noise contours) provided just for information - as it seems to have no uptake in the recommended provisions?
Para 57	See above – the IHP would like to understand how Policy 6.3.5 requires density to be limited beyond the application of the Noise rules for noise sensitive activities.
Paras 69 & 71	Just a reminder note to please clearly identify where you are proposing amendments that are beyond the scope of what has been sought through submissions. This will greatly assist the IHP.
Para 74	Aside from the scope issue, do you consider changing ‘avoid’ to ‘mitigate’ is really only a minor change in a s32AA context, given case law on the meaning of avoid?
Paras 82 & 83	Do you also agree with Mr Sheerin’s reasons (in para 134 of his s42A Report) for recommending against the inclusion of direct notification clauses?
Para 93	We find your assessment difficult to follow. What is the relevance of your statement “the qualifying matter for airport noise relates to

Paragraph or Plan reference	Question
	<p>subdivision rather than land use". The Panel notes that it has yet to hear submissions on MRZ, so can not follow your discussion.</p> <p>The airport noise qualifying matter with Variation 1 does however appear to contain aspects other than just subdivision (e.g. residential units per site and residential units)?</p>
Para 100	<p>You say that <i>"the qualifying matter implements pre-existing provisions of the operative district plan, which in turn give effect to the CRPS"</i> .</p> <p>The airport noise qualifying matter within Variation 1 is included in your paragraph 42 and seems to do more than simply implementing pre-existing provisions, e.g. it changes the minimum allotment sizes, adds a matter of discretion, adds two new building form standards.</p> <p>Please clarify what is meant in your para 100.</p>
Para 108	<p>Your tracked changes show CIAL's submission as requesting "avoid" is to be added in to RSL-1, whereas your Appendix A shows "avoid" is already in the qualifying matter (and is recommended to be replaced with "mitigate").</p> <p>Please clarify.</p> <p>As per a previous question, is the change from 'avoid' to 'mitigate' really a minor matter for s32AA?</p>
Para 110	Did you mean to recommend deleting the "to" before "avoid"?