

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
Variation 1 to the Proposed Waimakariri District
Plan

MINUTE 43 – RESPONSE TO THE CHRISTCHURCH
INTERNATIONAL AIRPORT LIMITED REQUEST,
REPLY REPORT QUESTIONS FOR HEARING
STREAM 12C

INTRODUCTION

1. This Minute sets out:
 - a. The IHP's decision to the Memorandum of Counsel for the Christchurch International Airport Limited (CIAL), dated 30 September 2024, seeking leave to provide additional material following the hearing of submission and evidence on Hearing Stream 7. This was the subject of our Minute 42
 - b. The PDP Panel's questions and timeframe for the Reply Report for Hearing Stream 12C. The questions are set out in Appendix 1.
 - c. A list of questions and matters that the Hearing Panel request to be addressed in a final wrap-up reply report from the section 42A reporting officers, as a whole or individually as is relevant to the question/matter. These are set out in Appendix 2.

IHP DECISION ON CIAL REQUEST TO PROVIDE ADDITIONAL EVIDENCE

2. In Minute 42, we invited parties to Hearing Stream 10A to set out their positions under sections 37 and 37A of the RMA as to whether CIAL's request to provide late expert health practitioner evidence should be accepted for us to consider and submitters to respond to through a yet to be determined process, by 16th October 2024.
3. We received responses from Counsel on behalf of Canterbury Regional Council and Momentum Land Limited and Mike Greer Homes NZ Limited. These are available on the [Council website](#). Both of these responses did not support the extension of timeframes to allow the introduction of further evidence.
4. We have reviewed the feedback received and considered the provisions set out in sections 37 and 37A of the RMA. Having done so, pursuant to sections 37 and 37A of the RMA, we hereby decline to grant leave to the CIAL for the late provision of expert health practitioner evidence. The reasons for declining to grant leave are:
 - a. There have been no substantive reasons provided for why the evidence should be admitted at this point in time, and how the evidence would assist the interests of the community in achieving the adequate assessment of effects of the PDP
 - b. Introducing this late evidence now would result in delays in concluding the hearings and the Panel finalising its recommendations.
 - c. Accepting this late evidence would not only prejudice submitters to Hearing Stream 10A, it would also prejudice other submitters on other hearing streams who have met the requirements set out in our Minute 1.

QUESTIONS FOR REPLY REPORT FOR HEARING STREAM 12C

5. Now that the Joint Witness Statement for Transport has been received, the section 42A report author for Hearing Stream 12C is directed to address the matters included in Appendix 1 of this Minute in their Reply Report. We are aware that the report author has already been engaging with submitters post-hearing, and as such, many of these questions are simply formalising what the report author will already be responding to.
6. The Reply Report should also include comment on any other matters raised in submitter evidence at the hearing that require a response and should confirm or amend any recommendations as may be appropriate. The Reply Report is to append a fully updated Appendix B, recommended

responses to submissions and further submissions.

7. The report author is directed to provide their Reply Report by no later than **4pm Friday 29 November 2024**.

PANEL QUESTIONS AND MATTERS FOR A FINAL REPLY REPORT FROM THE SECTION 42A REPORT AUTHORS

8. As we approach the last hearing of the PDP, the Hearings Panels for the PDP and Variation 1 have identified several questions and matters that we request be addressed in a “wrap-up” reply report from the section 42A report authors. Some of these questions/matters are appropriate to be addressed by all the authors as a whole, while some fall individually to a particular author and are follow up questions from their Reply Reports. Some of these are also technical in nature, while others are matters of integration and consistency through the Proposed Plan. We are also expecting a memorandum from the Council on its own identified issues of integration, and we appreciate that there may be some duplication across these.
9. Appendix 2 to this Minute sets out our questions and matters to be addressed through a final Reply Report. This Reply Report is to be provided to the Hearings Panel by no later than **4pm Friday 29 November 2024**, unless otherwise agreed to with the Chair.

CORRESPONDENCE

10. 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 Audrey.benbrook@wmk.govt.nz.



Gina Sweetman
Independent Commissioner – Chair - on behalf of the PDP and IHP members
18 October 2024

APPENDIX ONE

Overarching:

1. Please review and respond on the each of the submitters' planners' opinions in respect to:
 - What is the "urban environment" relevant to these rezoning requests;
 - Whether the LLRZ is urban and whether the NPS-UD applies (noting that some planners considered each LLRZ needed to be considered in its relevant context). In doing so, please also comment on the s32 report for the Residential Chapter which concludes that LLRZ should be treated as an urban environment for the purposes of the NPS-UD, even after acknowledging that in many ways it does not appear as an urban land use;
 - the importance and application of UFD-P3 (with its separate (a) and (b) limbs), and the relevance that UFD-P3 is located in the Urban Form and Development Chapter of the PDP;
 - does UFD-P3 give effect to the RPS, and, if not, does the NPS-UD provide a pathway to resolve the conflict;
 - the weight that should be afforded to the RRDS;
 - the RRDS direction for growth, and in particular does this provide sufficient detail relating to property boundaries etc;
 - Review the evidence relating to NPS-UD Objective 3 and Policy 1 re: location/typology (same matter as for Mr Yeoman above);
 - are there any other matters raised in submitter evidence for specific areas for rezoning that would cause you to change your opinion?

The submitters' planners' approaches can be grouped where these are the same.

2. In the event that the Panel determines that the LLRZ (or parts thereof) is part of the urban environment, and therefore the NPS-UD applies, please advise on the following:
 - a. What is your understanding of the overall objective of the NPS-UD?
 - b. Taking into account the expert economists/ positions, does the term 'at least sufficient development capacity' in NPS-UD Policy 2 (read alongside objectives 2 and 3) indicate a presumption or preference for providing more development capacity than is required to meet forecast demand?
 - c. Does the NPS-UD require that additional supply only be provided through intensification?
 - d. Does the NPS-UD require that the council consider the provision of a variety of homes in other than the three main centres in Waimakariri?

Specific questions:

3. Does the PDP provide for a Settlement overlay as you have recommended in respect to the Cameron submission in Ashley?
4. Given your response to the Panel's question in respect to Paragraph 291 of your s42A report, have you considered whether it is appropriate in the circumstances to recommend accepting these submissions in part, and applying a LLZR Overlay to these properties? Taking into account your answer to this question, are there any other submissions where it may be appropriate to apply a LLZR Overlay?
5. Please provide a final response in respect to 3025 and 3065 Oxford Road, Jamie Rapp [37.1], taking into account Panel questions during the hearing and your reply to our question in respect to paragraph 408.
6. Please respond to all evidence, and any legal submissions, presented at the hearing, in particular:
 - a. The tabled evidence from Ms Styles on behalf of Daiken [s145]
 - b. Ms Aston's evidence for Allaway and Larsen [236] seeking with a LLZR or a LLRZ Overlay apply to the subject land
 - c. Peter and Lizzy Anderson's [32] lay evidence in respect to 1 Tupelo Place
 - d. Mr Glasson's evidence and Mr Schulte's submissions in respect to Cameron [180]
 - e. The expert evidence (including supplementary) in respect to Carr [158]
 - f. The expert evidence (including supplementary) and Ms Appleyard's submissions in respect to Crichton [299]
 - g. The expert evidence in respect to Hack [201]. In responding to this, please liaise with the s42A report author for HS12E
 - h. The expert evidence (including supplementary) and Ms Eveleigh's submissions in respect to MacRae [s409]
 - i. The expert evidence (including supplementary) in respect to McAllister [s8]
 - j. The lay evidence in respect to Pinkham and Black [s247 and 265]
 - k. The expert evidence and Mr Fowler's submissions in respect to Prosser [s224]
 - l. Mr Fletcher's evidence and supplementary evidence in respect to Fraser et al
 - m. The tabled lay evidence from P Marambos [s263]
 - n. The lay evidence of Mr Harris [s348], Mr Guthrie [s85] and Mr Harphur [s388]
 - o. The presentation from Ms McKeever [s111]
 - p. The memorandum of Counsel on behalf of CIAL [s254]

In responding to this evidence:

- Please seek technical advice, as necessary

- Please consider the relevant technical joint witness statements relevant to Hearing Stream 12C
7. Please provide your advice in respect to the differences in the recommendations in the cultural advice reports in respect of the Crichton, Stokes and Hack submissions, and how the Panel should reconcile these differences.
 8. Please liaise with the relevant planners representing submitters on any planning provisions.
 9. When you have responded to the evidence and our questions, please update the Spreadsheet Table of all sites requested for rezoning that you have already provided the Panel, applying the same relevant Statutory Tests to all of them to show a consistent approach has been applied, and clearly setting out any changes to your recommendations as a result of:
 - a. your consideration of the evidence presented at the hearing,
 - b. subsequent technical advice, including the joint witness statements,
 - c. conferencing and discussions held with the submitters after the hearing, and
 - d. consideration of any additional information or changes as a result of the above.

APPENDIX TWO

1. Fulton Hogan [41.18] requested a new policy in the UFD chapter as follows:

"Recognising materials requirements:

Decision making on the use of land must take into account the physical construction materials requirements of infrastructure and, in particular, the critical role of aggregates for the sustainable management of communities."

The EI reporting officer agreed that aggregate supply sterilisation is an issue relevant to the district plan review but considered that it is more appropriately located within the Rural zone chapter. Fulton Hogan addressed this at the Rural chapter hearing and maintain that aggregate extraction as it relates to a construction material for infrastructure is not only a rural issue and should be addressed at the strategic level. Please provide drafting responses to Fulton Hogan's request, along with consequential amendments that may be needed, for the Panel's consideration.

2. The relationship between the EI chapter rules and NZECP 34:2001 is still unclear to the Panel. Three of the planners involved in the JWS prepared on this matter agree that the plan should contain a rule that replicates but simplifies the requirements of NZECP 34:2001, while two planners disagree with this approach for a number of reasons including the fact that *"Plan users still need to refer to the full text of NZECP:34 regardless of simplified text (discussed above and appended below) in the Plan as there are other components of NZECP:34 that still need to be met that are not in EI-R54 and R56."* The Panel has reviewed both the proposed rules and the requirements of the NZECP 34:2001, and there appear to be subtle differences in what is required. Please reconsider the consistency of Rules EI-52 to EI-56 (as proposed) with the requirements of NZECP 34:2001, and whether such rules are required in terms of s32 of the Act.
3. A number of inconsistencies appear to remain in the rural provisions that deal with the NPS-HPL and the soil provisions of the CRPS (although we recognise that this may be due to scope issues). We note that Policy 8 of the NPS-HPL is to protect HPL from **inappropriate** use and development and that clause 3.9 provides for a pathway for a range of activities on HPL, including those that have a functional or operational need. One such example of this was raised by Fulton Hogan who seek a pathway for quarrying activities on HPL, and also recommended a new policy and definitions to assist with the interpretation of the NPS-HPL in a local sense, at least in the context of quarries. We note that RURZ-P2 (as recommended) does not appear to accurately reflect this direction. Nor does it seem to reflect the more nuanced approach of Objective 15.2.1 and Policy 15.3.1 of the CRPS (particularly with the proposed use of 'avoid'). What scope is available to address the wider issue of a pathway for activities not considered to be 'inappropriate' by the NPS, along with the specific issue raised by Fulton Hogan?
4. With respect to CRPS, we note that 'versatile soils' are not referred to in the objectives and policies of that document. However, RURZ-O1, RURZ-P2, and RLZ-P1(3) use that phrase. Objective 15.2.1 of the CRPS requires the *'Maintenance and improvement of the quality of Canterbury's soil to safeguard their mauri, their life supporting capacity, their health and their productive capacity.'* We also note that the Principal Reasons for the soil provisions state that *"The protection of soil quality is not absolute. There will be situations where soil will be degraded as a result of land-uses and where it is not necessarily appropriate to foreclose a development option purely for soil conservation or soil quality reasons, such as in existing urban locations, or when alternative areas or options are not available."* Is there scope to better reflect the direction of the CRPS, particularly in relation to the RLZ given it is not a rural production or general rural zone and therefore not subject to the NPS-HPL?

5. We also note that the NPS-HPL has recently been amended to include 'intensive indoor primary production or greenhouse activities' within the clause 3.9 exemptions list. This was an issue raised by HortNZ throughout the hearings. Can you please revisit this issue in light of the change to the NPS-HPL.
6. The recommended new rule **GRUZ-R X Artificial Crop Protection Structures** uses three descriptors in relation to where a standard applies as follows:
 - a) 'within 30m of the boundary of the property '
 - b) 'from the boundary to an adjacent lot',
 - c) 'site coverage'

In relation to the use of 'lot' in the setback standard, we note that a property can be made up of a number of 'lots'. The definition of 'site' overcomes this to a degree by including 'an area of land which comprises two or more adjoining legally defined allotments in such a way that the allotments cannot be dealt with separately without the prior consent of the council', although this does not overcome the problem completely as properties are also made of several titles that can be sold 'separately without the prior consent of the council'. Property is not defined but does not need to be as it would have its ordinary mean and is relatively easy to determine. Please reconsider the use of these terms in this rule and for consistency in other parts of the plan where similar issues might exist.

7. The Panel notes that RURZ-P7 Retail Activities is split into two parts, the first dealing with 'new' activities and the second dealing with the 'expansion of existing activities'. We note that the first part does not refer to 'traffic effects' although the second part does. Waka Kotahi and KiwiRail have raised concerns with this. The reporting officer appears to reject this on the basis that the TRANS Chapter will provide for the safe and efficient operation of the transport system. However, the Panel have not identified any relevant TRANS rules that might address this issue, particularly in relation to the cumulative effects of rural retail outlets on high-speed roads. Can you please advise how this is addressed? If it is not addressed, please provide a drafting response to address the issue.
8. The Panel is confused on why the maximum GFA limitation in a SASM is recommended to be deleted from **RLZ-R11 Rural industry** but not for **GRUZ -11**, and why the maximum land area in **GRUZ -11** is recommended for deletion but not in **RLZ-R11**. Please advise.
9. During the course of the hearings on the UFD chapter (and subsequent chapters) it became apparent that various policies in the UFD chapter (at least P2, P3, P7, and P8) need to be revised to address the different development criteria that applies within the Greater Christchurch Area (Chapter 6 of the CRPS and Map A) and that which applies outside the Greater Christchurch Area (Chapter 5 of the CRPS). Complicating this issue is how the application of the Policy 8 of the NPS-UD might apply in this policy context, in particular where feasible development capacity under UFD-01 cannot be met in the urban form required by Map A of the CRPS. The Panel has heard substantial evidence on the need to address shortfalls outside of the areas identified on Map A, and outside the areas identified in UFD-P2(1). To assist the Panel with its deliberations, can you please provide a set of provisions that:
 - a) split the policies into two parts (inside and outside of the GCA), and
 - b) incorporate a policy basis to address Policy 8 of the NPS-UD.
10. The Panel has noted a number of jurisdictional issues within some of the standards and other provisions of the PDP, which are essentially ultra vires because they relate to Regional Council functions. Can the plan provisions please be reviewed to ensure all such provisions are identified

and dealt with if possible.

11. The EI chapter section 42A report author recommends accepting the Waimakariri District Council submission (367.15) that would make “large scale solar electricity generation” a restricted discretionary activity. We note that this would already seem to be a ‘restricted discretionary activity’ under Rule EI-R43 (so question whether the new rule is needed) but would also highlight that this rule (along with EI-R43) has no scale limitation i.e. very large renewable projects (outside of large-scale windfarms) are restricted discretionary activities. In the Panel experience, large-scale REG activities are generally identified as discretionary activities because they impact on a wide range of resources over the large geographic area. Is there scope to address this matter?
12. The Panel has received varying recommendations on how Chapters should cross-reference each other, particularly in respect to the Energy and Infrastructure Chapter. We would like a final, integrated, and consistent recommendation on cross-referencing.
13. Please consider that part of the House Mover’s submission point that seeks particular standards be introduced that relate to relocatable buildings which are to be permanent buildings on a site. We note that this is an integration issue between all zone chapters, where House Movers have sought this relief.
14. Please provide a consolidated response and final recommendations to the matter of whether the Strategic Directions and Urban Form and Development Objectives and Policies should have primacy or not, including any recommended drafting. In doing so, please carefully consider the wording set out in the Introduction of both Chapters, and advise whether there should be any amendments made to this wording, and if so, under what scope.
15. Please consider that part of the House Mover’s submission point that seeks particular standards be introduced that relate to relocatable buildings which are to be permanent buildings on a site. We note that this is an integration issue between all zone chapters, where House Movers have sought this relief.
16. Please provide a final consolidated response as to whether the proposed railway corridor setback should be consistent through the Plan, and where the setback should best be located (in zone chapters or the Energy and Infrastructure chapter).
17. Please provide updated recommendations in respect to the application of the National Environmental Standard for Commercial Forestry.
18. Please provide updated recommendations which address the Kainga Ora submissions on Variation 1 that were not addressed through Hearing Stream 8 nor Hearing Stream 7A.