



SECTION 42A REPORT

Officer's written right of reply 14 June 2024

Hearing 1 – Strategic Direction

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Appendix 1: Officer's Recommended Amendments to Provisions.

Appendix 2: Officers Recommended Decisions on Submissions.



1 Introduction

1.1 Background

1. My full name is Tammy Wooster I am the writer of the original Section 42A Report for Hearing 1 on the Proposed District Plan: Strategic Direction.
2. In the interests of succinctness, I do not repeat the information contained the Section 42A report and request that the Hearings Panel (“the Panel”) take this as read.

2 Purpose of Report

3. The purpose of this report is primarily to respond to the evidence of the submitters and provide my right of reply to the Panel. In this Report I also seek to assist the Panel by providing responses to specific questions that the Panel directed to me during the hearing under the relevant heading.

3 Consideration of evidence recieved

4. I have only addressed those sections and evidence where I consider additional comment is required. I have grouped these matters into the following headings:
5. Function and purpose of the strategic direction chapter
6. Additional Business zones
7. Amended Provision - non primary production
8. Climate change
9. Additional information
10. In order to distinguish between the recommendations made in the s42A Report and my revised recommendations contained in Appendix 1 of this report:
11. Section 42A Report recommendations are shown in red text (with red underline for new text and strikethrough for deleted text); and
12. Revised recommendations from this Report are shown in blue text (with blue underline for new text and strikethrough for deleted text)
13. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.

3.1 Function and purpose of the strategic direction chapter

14. The Panel was presented a number of pieces of planning evidence related to the purpose and function of the Strategic Direction chapter. In particular, that the chapter should:



15. be the 'engine room' of the PDP;
16. provide a 'hierarchy' within the PDP;
17. provide a foundation for zoning framework decisions;
18. address cross zone boundary issues;
19. have policies;
20. resolve all competing values and national, regional and local issues and direction.
21. I have considered the evidence provided at the hearing by McGrath, Badham and others for various submitters provided at the hearing.
22. In my view the evidence provided fails to acknowledge the complete wording of the mandatory direction of 7(1) in the National Planning Standards which begins "if the following matters are addressed...". The inclusion of a Strategic Direction chapter is a discretionary matter.
23. The provisions under 7(1) set out, "if" there is a Strategic Direction chapter, what must be included, what must not be included and how matters should be formatted.
24. I disagree that the Strategic Direction Chapter necessarily forms a 'hierarchy' of provisions within the PDP in the manner suggested by a number of submitters. For example, where there are objectives, policies and methods seeking to 'give effect to' higher order policy documents in other parts of the PDP and it may be more appropriate to give those provisions more weight than those in the Strategic Direction chapter when making decisions. Further, the PDP was not developed with a hierarchical lens in mind. The chapter must be read in conjunction with the whole plan and is not intended to guide all outcomes from the PDP in every instance.
25. Further, while desirable as an outcome of the resource management system, integrated management of all competing priorities within the Objectives and Policies of the PDP is a significant challenge. The PDP, let alone the Strategic Direction chapter, will not resolve all conflicts between differing priorities and directives. This 'balancing and resolution' can appropriately occur during the consideration of resource consents where necessary.
26. As correctly identified by evidence at the hearing, the use of policies within the chapter is similarly discretionary under the direction of 7(1)(c). I disagree with the assertion that the 'assumption' is that policies should be included in the first instance. The language provides two clear options for plan writers to consider. No policies from the PDP were identified by submitters as being more appropriately located in the Strategic Direction chapter. Several additional policies were proposed which only addressed a narrow range of matters.



3.2 Additional Business zones

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 9 – Other submissions, Zoning framework From Paragraph 295
Evidence in chief Foodstuffs, Audrey Campbel-Frear, Mcdonalds, Te Whatu Ora, FNHL	Various

Analysis

27. I acknowledge the direction from the Panel to Council regarding the consideration of additional business zones. While it is clear that the Panel does not wish to receive detailed information through Officers Right of Reply, I wish to confirm that the matters are being considered and will be reported back to the Panel in due course through the Business land stream and /or the rezoning stream of hearings.

28. We further note the directions regarding the management of reverse sensitivity for non-commercial activities in additional zones and also the consideration of the application of additional business zones district wide.

3.3 Amended provision – Non- primary production

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 7 – Rural Environment From Paragraph 223
Evidence in chief Peter Hall on behalf of Bentzen Farm Limited, Setar Thirty Six Limited, The Shooting Box Limited, Matauri Trustee Limited, P S Yates Family Trust, and Mataka Station Residents Association	Section 8 Submission points on Part 2 Strategic direction and Supplementary evidence provided after the hearing

Analysis

29. I have reviewed the amendments to the proposed new objective from Peter Hall. For clarity, the amended provision reads as follows:



SD-NE-03

The importance of non-primary production activities in the rural environment to the social, economic and cultural well-being of the district is recognised and provided for, where those non-primary production activities are compatible with rural character and amenity with primary production activities.

30. I am not of the view that the provision is either appropriately located within the Strategic Direction chapter, nor provides appropriate policy direction.
31. The scope of activities promoted by the provision is extremely broad. It would apply to any activity, apart from primary production activities. Regardless of whether an activity is required to be compatible with rural character and amenity, this would encourage a range of activities to locate in rural zones which would more appropriately be located in other zones and potentially lead to cumulative effects on rural character, and weaken the outcomes for business zones.
32. Further, the provision would be inconsistent with RPROZ-O1, O2, O3, and potentially O4. These objectives prioritise and protect primary production activities and ancillary activities in the Primary Production Zone. It is also arguable that the provision could give rise to significant cumulative effects on rural character. There may be other unintended consequences relating to the spatial location of activities that are provided for elsewhere. In my view, the direction provided by the objective is inappropriate.
33. In terms of the amendment proposed by Peter Hall to SD-NE-05, I am of the view that the Objective as notified sets an appropriate direction and is interpreted to include restoration. Adding text is unnecessary and selects only one matter that would give effect to the Objective, while leaving out a range of others potential approaches.

3.4 Climate change

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 9 – Other submissions Section 42A Strategic direction From Paragraph 273
Evidence in chief Multiple submitters	

Analysis

34. Multiple submitters sought amendments to the plan in relation to climate change. In particular these included:



35. Implementation of Council statements on the need to address climate change
36. Introduction of provisions to reduce greenhouse gas emissions
37. PDP acknowledge that the climate emergency requires a new approach
38. The Resource Management Amendment Act 2020 included changes in relation to how climate change is managed under the RMA. This included the introduction of 'the effects of climate change' into section 7 of the RMA. As of 30 November 2022, Council's must have regard to Emissions Reduction Plans and National Adaption Plans under the Climate change Response Act 2002 when amending district plans.
39. New Zealand's first Emissions Reduction Plan was released in May 2022 and the First National Adaption Plan was published 3 August 2022; it is to be noted that this direction was after the notification of the PDP.
40. In my assessment of the Emissions Reduction Plan and National Adaptation Plan do not set aside specific requirements for Territorial Authorities that require implementation in the PDP.
41. The PDP has undertaken measures to promote the reduction of greenhouse gas emissions and climate resilience where scope is available. The strategic direction objectives specifically SD-CP-05, SD-CP-04, SD-EP-05, SD-UFD-04 and SD-EP-04 signal this by:
 42. the promotion of well-functioning and planned environments,
 43. promotion of urban consolidation,
 44. promotion of renewable energy,
 45. the natural hazards management framework,
 46. iwi and hapu participation, and;
 47. supporting biodiversity
48. Council's Climate group has supported Officers response. Further climate change matters will be considered in subsequent hearings.
49. I agree with the submissions of Kapiro Residents Association (S428) Carbon Neutral NZ Trust (S529) Vision Kerikeri (S521) and Kapiro Conservation Trust (S443) insofar as I recommend that SD-NE-04 is amended to include greenhouse gas emissions and have made these amendments to the provisions in **Appendix 1** to this Report. I recommend the submissions and further submissions are accepted in part, as indicated in **Appendix 2**.



50. I recommend that the other abovementioned requested changes in relation to climate change are not accepted.

Section 32AA Evaluation

51. It is considered that the recommended replacement in wording of SD-NE-04 from 'carbon emissions' to 'Greenhouse gas emissions' is the more appropriate term. Greenhouse gas is used in several PDP provisions and referred to in higher order documents.

3.5 Additional Information / Questions from the Hearing Panel

32. In consultation with the Tangata Whenua report writer consequential amendments are recommended to SD-CP-O1 to include relationships. I have made these amendments to the provisions in **Appendix 1** to this Report.