



SECTION 42A REPORT

Officer's written right of reply 14 June 2024 14 June 2024

Hearing 1 - Tangata Whenua Chapter

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Appendix 1: Officer's Recommended Amendments to Provisions.



1 Introduction

1.1 Background

1. My full name is Theresa Annetta Burkhardt, I am the writer of the original Section 42A Report for Hearing 01 on the Proposed District Plan: Tangata Whenua chapter.
2. In the interests of succinctness, I do not repeat the information contained in Section 2.1 of 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. The submitters who presented evidence at the hearing Te Aupōuri Commercial Development Ltd (Tipene Kapa-Kingi), Haititaimarangai Marae (Keringawai Evans) and Haititaimarangai Marae Kaitiaki Trust (Karena Hita and Troy Ulrich could not attend due to illness), were generally supportive of the recommendations contained within the Section 42A report.
5. I have only addressed those sections and evidence where I consider additional comment is required. I have grouped these matters into the following headings:
 - a) Relationship and Partnership
 - b) Treaty Settlement land as ancestral land
 - c) Sites and Areas of Significance to Māori
6. To distinguish between the recommendations made in the s42A Report and my revised recommendations contained in Appendix 1 of this report are shown as follows:
 - a) Section 42A Report recommendations are shown in **red text** (with **red underline** for new text and **~~strikethrough~~** for deleted text); and
 - b) Revised recommendations from this Report are shown in **blue text** (with **blue underline** for new text and **~~strikethrough~~** for deleted text)
7. Where I reference provisions in this report, I use the new reference number (consistent with renumbered provisions in **blue text** in **Appendix 1**).
8. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.



3.1 Partnership and Relationship

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 2 – Objectives in the Tangata Whenua Chapter From paragraph 75. Key Issue 5 – General Issues Related to the Tangata Whenua Chapter ...Significant Resource Management Issue 1 (SRMI), ... From paragraph 167
Evidence in chief Te Aupōuri Commercial Development Ltd (Tipene Kapa-Kingi)	From submitter presentation in relation to the use of the word partnership and including questions from the hearing panel.

Analysis

9. Te Aupōuri Commercial Development Ltd supports the use of the word partnership in the objective TW-01 and Significant Resource Management Issue 1, as including this terminology ensures balance and fairness. In addition, a consequential amendment to SD-CP-01 is recommended. This recommendation has been discussed with the reporting planner for the Strategic Direction chapter. The text is inserted below:
 - a) ***TW-01*** *Tangata whenua and Council have a strong, high trust and enduring partnership and relationship based on the principles of Te Tiriti o Waitangi / The Treaty of Waitangi.*
 - b) ***Issue 1 – Partnerships and relationships with tangata whenua*** *Historically it has been difficult to build strong partnerships between Council and tangata whenua due to lack of resources, awareness and capacity within both parties. Through the legislative process (RMA), there is limited use of tikanga, matauranga māori, and māori values to express kaitiakitanga in the management of resources. Development of Māori freehold and Treaty Settlement land can be complex because of multiple ownership, no governance structure, financing and involvement of multiple government agencies. The District Plan is focussed on improving planning tools (zoning, overlays etc.) to enable tangata whenua to use land in a manner which exercises their kāwanatanga and rangatiratanga.*
 - c) ***SD-CP-01*** *– Te Tiriti o Waitangi partnerships and relationships support iwi and hapū to deliver on the social, economic, environmental and cultural wellbeing outcomes for tangata whenua.*
10. I recommend that the abovementioned requested changes are accepted and have made these amendments to the provisions in **Appendix 1** to this Report.



Section 32AA Evaluation

Effectiveness and efficiency

- a) I consider that the amended provisions will be effective and efficient in achieving the purpose of the RMA, the relevant
- b) The recommended amendments clarify the intent of the provisions and achieve consistency across the plan.

Costs/Benefits

- c) The more inclusive text provides for all viewpoints and aids with interpretation which will reduce time/cost/uncertainty for plan users and lead to more consistent outcomes.

Risk of acting or not acting

- d) There is no risk in accepting the recommended amendments to the version recommended in the Section 42A report as the amendments are more inclusive, but do not change, the intent of the provisions.

Decision about most appropriate option

- e) The recommended amendments are considered to be more appropriate in achieving the purpose of the RMA and the PDP objectives than the notified version of the PDP and the section 42A report recommendations.

3.1 Treaty Settlement Land as Ancestral Land

Overview

Relevant Document	Relevant Section
Section 42A Report	There is no scope in the submissions to the Tangata Whenua chapter provided to reference.
Evidence in chief Te Aupōuri Commercial Development Ltd (Tipene Kapa-Kingi)	From submitter presentation as follows: <i>" Ensuring that Treaty Settlement land is ancestral land in the FNDP is critical. The treaty settlement process has, by legislation, recognised Te Aupōuri's relationship to this lans as outlined in our deed of settlement."</i>

Analysis

- 11. The point is acknowledged however there is no scope provided in the submissions to the Tangata Whenua chapter and will be addressed in the hearing on the Treaty Settlement Land overlay chapter.
- 12. I recommend that the abovementioned requested changes are not accepted.



3.2 Sites and Areas of Significance to Māori

Overview

Relevant Document	Relevant Section
Section 42A Report	There is no scope in the submissions to the Tangata Whenua chapter provided to reference.
Evidence in chief Haititaimarangai Marae Kaitiaki Trust (Karena Hita and Troy Urlich could not attend due to illness)	From submitter evidence paragraph paragraph 5.2 as follows: <i>There are many areas within our rohe that are significant to us. Some of the mātauranga that attaches to these areas is sensitive and passed down in accordance with our tikanga. We want these areas protected, but we do not want it in a public schedule. We do not want to change our tikanga for Council's purposes.</i>
Evidence in chief Haititaimarangai Marae (Keringawai Evans)	From submitter evidence in presentation identifying specific pā sites.

Analysis

13. The points are acknowledged and it is accepted that certain sites and areas of significance may need to be 'silent files'. However, there is no scope provided in the submissions to the Tangata Whenua chapter and will be better addressed in the hearing on the Sites and Areas of Significance chapter, with that evidence in mind.

14. I recommend that the abovementioned requested changes are not accepted.

3.3 Additional Information / Questions from the Hearing Panel

15. At the conclusion of the hearing members of the panel raised the following questions:

a) The matter was raised as to the accuracy of the list of 11 Iwi Authorities for the purposes of the RMA in the Far North District. This information is sourced from the Te Kahui Mangai, the Directory of Iwi and Māori Organisations on the Te Puni Kōkiri website. The information is accurate to the best of my knowledge.

b) The matter was raised to ensure that all the Iwi and Hapū Management Plans lodged with Far North District Council, are referenced in the PDP. A review has been carried out and all Iwi and Hapū Management Plans are referenced in the PDP

c) The matter was raised regarding the appropriateness of including all other relevant relationship agreements including MoU's in the PDP. This list will be updated as they come in under Clause 16.



d) The matter was raised regarding the updating of the statistics relating to the District's Māori population following the recent publication of the 2023 Census. This information will be updated under Clause 16.