



## **SECTION 42A REPORT**

Officer's written right of reply 14 June 2024

### **Hearing 1 – Part 1 and General / Miscellaneous**

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#### **Appendix 1: Reverse sensitivity provisions**



**1 Introduction**

**1.1 Background**

1. My full name is Sarah Trinder I am the writer of the original Section 42A Report for Hearing 1 on the Proposed District Plan: Part 1 and General / Miscellaneous.
2. In the interests of succinctness, I do not repeat the information contained in 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 specifically addressing options the Panel directed me to during the hearing.

**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:
  - a) Procedural matters
  - b) Reverse sensitivity
  - c) Contaminated land Chapter
  - d) Climate change
  - e) Specific amendments
5. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.

**3.1 Procedural Matters**

**Overview**

Relevant Document	Relevant Section
Section 42A Report	Procedural Matters
Evidence in chief Legal Submission on behalf of Aurey Cambell - Frear	In relation to coding of further submission points



Relevant Document	Relevant Section
Evidence in chief Visions Kerikeri, Kapiro Conversation trust, Carbon Neutral Trust	In relation to Out of scope requests

### Analysis

6. The Legal submission on behalf of Audrey Campbell-Frear addressed an apparent coding error with the further submissions.
7. An investigation into the issue found that some irregularities occurred in coding of numbers for further submissions that had been received electronically and subsequently transferred/ accepted into the Further submission database. This issue was reported in the s42A reports and a disclaimer addressed this issue.
8. Upon further investigation in the case of Audrey Campbell-Frear (FS172) this issue manifested in errors in the sequential order of the submitter references and some duplications with the further submitter numbers. There were 416 raw further submission points submitted by Audrey Campbell - Frear in Spoken and 416 further submission points have been confirmed as accepted by Council staff. All the further submission points are accounted for. It is recommended that the submitter work off the Spoken database numbering in future hearing streams.
9. The group of submitters, Vision Kerikeri, Kapiro Conservation Trust and Carbon Neutral Trust presented lay evidence to the Hearing Panel. I would like to make the panel aware that the following points in the evidence were not addressed in the S42A report, as they were not included in submissions or further submission by those parties. The relief sought related to:
  - a. SD-UFD-03 amendments to include "and funded"
  - b. SD-NE-01 amendments to include "indigenous"
  - c. SD-NE-03 amendment to include "intrinsic values and"
  - d. SD-NE-05 amendment to include "valued and"
10. It is recommended that the Panel disregard that evidence as it is 'out of scope,' and potentially raises issues of fairness and equity if accepted.



## 3.2 Reverse Sensitivity

### Overview

Relevant Document	Relevant Section
Section 42A Report	Reverse sensitivity provisions Part 1, General and Miscellaneous S42A From Paragraph 134 Strategic direction S42A From Paragraph 315
Evidence in chief Te Whatu Ora	From Paragraph 14 (Reverse sensitivity)

### Analysis

11. Reverse sensitivity was considered in both the Part 1, General and Miscellaneous and Strategic Direction S42A for ease I have addressed reverse sensitivity in the plan generally here. In particular:
  - a. The inclusion of reverse sensitivity in Strategic direction objectives
  - b. The coverage of reserve sensitivity in plan provisions
12. The evidence from Te Whatu Ora stated that reverse sensitivity is a significant resource management issue from a public health and wellbeing perspective. A new strategic objective was sought to avoid reverse sensitivity effect between incompatible activities and zones. The S42A stated that reverse sensitivity is more appropriate to address at the plan chapter level.
13. Direction from the panel included an assessment of the plan wide objectives and policies to ensure converge of reserve sensitivity. There are 38 objectives and policies in the PDP that specifically address reverse sensitivity (**Appendix 1**). Additionally, there are methods that address reverse sensitivity including:
  - a. Activity based rules
  - b. Controls on noise, vehicle movements, odour, setbacks etc.
  - c. Matters of restricted discretion around effects on adjoining sites
14. I recommend that requested changes in relation to reverse sensitivity are not accepted for the Strategic Direction objectives. I consider that reverse sensitivity is appropriately addressed in provisions distributed throughout the plan and will be addressed in subsequent hearings at the chapter level where applicable.



### 3.3 Contaminated Land Chapter

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Theme 6 – New Chapters From Paragraph 176
Evidence in chief Thomas Trevilla for 'The Fuel companies'	Evidence as a whole

#### Analysis

15. The Fuel companies seek the addition of a Contaminated Land chapter in the PDP. They have provided objectives and policies through the submission process and further a chapter overview and section 32AA analysis in their evidence.
16. For the reasons stated in the Fuel Companies evidence I consider it appropriate to include an overview, objectives, policies and a statement regarding rules. I recommend for clarity these are added to the Contaminated Land chapter within the PDP. While I recommend accepting the approach I disagree with some of the proposed language, specifically as follows:
  17. the scope of Council functions addressed in the objective
  18. specific duplication with NES-CS
  19. the use of the word minimise in policy 2
  20. only requiring 'good practice' in circumstances which may require 'best practice' in policy 2.
  21. While I recommend that the abovementioned requested changes are accepted in part. I have not made amendments to the PDP. I consider the best approach from here would be to organise a meeting with The Fuel Companies to discuss the specific wording where there is scope to do so.

#### Section 32AA Evaluation

22. The Fuel companies have provided a Section 32AA evaluation of the proposed provisions. I consider this evaluation appropriate for the inclusion on a contaminated land chapter appropriate but as mentioned above do not fully support the evaluation of the objective and policies.



### 3.4 Submission clarifications

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 9 – Other submissions From Paragraph 273
Evidence in chief Alec Cox	Evidence and submission

#### Analysis

23. Mr Cox submission point (S170.008) seeking amendments for clarity, duplications, typing, inconsistencies was not addressed clearly in the S42A report. In the below table I have listed all Mr Cox amendments and my suggested recommendations. It should be noted that since the plan was notified a number of cl 16 amendments have been undertaken.

Plan issue	Recommendation
Definition of building	To be addressed in Hearing 18 Interpretation – National Planning Standards definition?
Definition of development infrastructure	To be addressed in Hearing 10 - General Residential zone
Definition of lakes rivers and wetlands	To be addressed in Hearing 18a Interpretation
I-R7 I-R15	I-R7 - cl16 amendment to add 'poles' into the rule heading  I-R15 cl16 amendment to include rural lifestyle in the list of applicable zones to be excluded from this rule.
I-R14 missing PER 6	Ccl16 amendment to address numbering
Trans – Table 8	Consider cl16 amendment
NH-P1	Addressed in Hearing 14 Natural hazards
Rawene heritage area overlay	To be considered at Hearing 13 Historic and Cultural values



HA-R1, R3, R11,R12,R13	no changes recommended
HA-R14 missing PRO-7	Cl 16 amendment Update PRO numbering
NT-P5 and /or	Cl 16 amendments to 'and' 'or'
NATC-S2 missing 5	Cl 16 amendment Update '5' to '4'
SUB-R1	References are correct no changes required
SUB-S5	No change Intention of this rule - to be addressed in Hearing 17 Subdivision
CE-R10 -13	These references have already been updated
Light- S1	Consideration of use of either – to be addressed in Hearing 6 Light
NOISE R8 -PER1	Deferred to Hearing Noise 6 Noise
TA-O2	To be addressed in Hearing 6 temporary activities
TA-R7	Cl 16 amendment to remove RDIS-5
TSL -P4	Numbering amended under cl16
RSZ-R5	Offensive trade is in relation to Home business activity and offensive trade generally no changes recommended
RSZ-R8	Cl 16 amendment to renumber PER-3
HZ-R12 and HZ-R13	Cl16 amendment to update PER reference to DIS
Māori purpose zone reference to urban and rural	No changes recommended
MPZ-R2	Cl16 amendment to renumber PER 2
NIEP-P7	No changes recommended
NIEP-R5	Consideration of renumbering PER within the rule cl 16 amendment



Various telecommunications rules – consistency	Consideration of consistency to be addressed cl16 amendment
Accessory building duplication	Delete duplication under cl16
Mixed use zone duplication of healthcare activity	Delete rule MUZ-R11 under cl16 renumbering
Part 3- area specific matters	Cl 16 amendment 'ware' to 'are'
Definition child care service	Cl16 amendment 'say' to 'day'
SIGN-R6	Cl16 amendment PER-3 to PER-1
SIGN-Table 1	Cl16 amendment second 'minimum' should be maximum
QR-R7	Cl 16 amendment CON-2 'lease' to 'least'
QR-R8	Cl 16 amendment CON-2 'lease' to 'least'
I-P13	Inconsistences in numbering levels Cl16 amendment
NH-R2	Cl16 amendment font formatting
HA-P14 and P15	Cl16 amendments to write in a full sentence
HA-R13	Cl 16 amendment to 'HA-R13' to 'HA-R14'
HA-R14	No changes recommended
HH-R2	No changes recommended
SUB-R1	Cl16 amendment SUB-1 to SUB-S1
Subdivision general numbering corrections	Cl16 amendment
LIGHT-O1	Cl 16 amendment numbering consistency update
GRZ-R10	Cl 16 amendment Update RD1 to RDIS -1





RPOZ-P6	Cl 16 amendment Update numbering consistency
RSZ-R1 PER-2	Cl 16 amendment Update to add '\-' between standard references
KRT-P1	Cl16 amendment remove a. from first line
KRT-R6	Cl16 amendment Update to numbering
NEIP-R9 – NEIP-R10	Cl16 amendment Update RDA to RDIS
OBZ-R11,12,14	Cl16 amendment Update RDA to RDIS
Activity status where compliance not achieved	No recommended updates

24. I recommend that that Mr Cox submission is accepted in part, as was originally shown in Appendix 2 to the S42A report. Multiple changes are to be addressed by a Clause 16 amendment, and other changes to be deferred to subsequent hearings as per the recommendation in the above table.

### **Section 32AA Evaluation**

25. It is considered that section 32AA analysis is needed due to the nature of the proposed changes

### **3.5 Additional Information / Questions from the Hearing Panel**

26. Please note that report writers across all the layers and zones are working together to provide more clarity on how the overlays and zones interrelate. This work is yet to be completed, but will be communicated with the Panel as soon as practicable.

27. In relation to Kapiro Conservation trust, Habitat for Humanity Northern Region Limited submission for inclusion of Inclusionary housing provisions. I agree with the verbal feedback that relief is unlikely to be provided as part of the PDP.