



SECTION 42A REPORT

Officer's written right of reply 6 December 2024

Hearing 6/7 – Signs

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1 Introduction

1.1 Background

1. My full name is James Witham. I am the writer of the Section 42A Reports for the Signs Chapter, for Hearing 6/7 on the Proposed District Plan.
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. 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) Key Issue 1 – Clarification and Interpretation
 - b) Key Issue 2- Maximum Sign Area and Height
 - c) Key Issue 3 – Temporary Signs
 - d) Key Issue 4 – Temporary Signs
 - e) Key Issue 5 – Exemptions
 - f) Key Issue 6 – Traffic Network Safety
 - g) Key Issue 7 – Other General Matters
5. In order to distinguish between the recommendations made in the s42A Report and my revised recommendations contained in Appendix 1.1 and 1.2 of this report:
 - a) Section 42A Report recommendations are shown in black text (with underline for new text and ~~strikethrough~~ for deleted text); and
 - b) Revised recommendations from this Report are shown in red text (with red underline for new text and ~~strikethrough~~ for deleted text)
6. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Reports.



3.1 Key Issue 1 - Clarification and Interpretation Matters

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 1: Clarification, Interpretation Matters and General Support. From Paragraphs 46 to 60
Waitangi Limited Statement of Evidence from Rochelle Jacobs	Paragraphs 6.9 to 6.10

Analysis

7. Though Waitangi Limited did not make a submission on the signage definitions, in hearing evidence, Ms Jacobs has suggested amendments to the definition of 'Community Sign', as recommended in my S42A Report, to clarify intent and reduce the potential for duplication.
8. The recommended definition of Community Sign reads as follows:

Community Sign means a sign displaying information relating to the location of public facilities, place-names, destinations of historical, cultural, spiritual, sporting, or scenic significance. The advertising of public, sporting, recreation, community, social or cultural events.
9. Waitangi Limited have suggested removing the last sentence from the definition of 'Community Sign' (with reference to events) because it overlaps with a Temporary Sign (which must be associated with a temporary event or activity¹).
10. I agree with Waitangi Limited that the wording of the definition could be improved to remove reference to 'the advertising of public, sporting, recreation, community, social or cultural events', because most (if not all) of these events would be considered 'temporary activities' under the PDP, and the 'Temporary signs' rule (SIGN-R3) applies to signage for temporary activities.
11. Ms Jacobs also suggests that Rule SIGN-R8 is amended to include reference to community sign, so that community signs are permitted in the overlays, subject to limitations on their size and height to manage potential effects on the values of overlays. I agree with this suggested change and recommend it is accepted.

¹ SIGN-R3 (Temporary signs), Standard PER-3 (note: Standard PER-3 should refer to 'Temporary activity' for consistency with defined terms. This change will be made as a clause 16 amendment).



Recommendation

12. I recommend the definition of Community Sign is amended to read as follows:

Community Sign means a sign displaying information relating to the location of:

- (a) public facilities
- (b) place-names; or
- (c) destinations of historical, cultural, spiritual, sporting, or scenic significance.
- (d) ~~The advertising of public, sporting, recreation, community, social or cultural events.~~²

13. For the reasons stated above, I also recommend that Rule SIGN-R8 is amended to include reference to Community Sign.

Section 32AA Evaluation

14. The recommended amendments primarily clarify the intent of the provisions. The recommended changes are appropriate to ensure that community signs are permitted in the overlays (subject to standards). They also reduce the potential for duplication or overlap between provisions, which will improve plan interpretation and implementation, with reduced costs / risks and uncertainty for plan users.

3.2 Key Issue 2 – Maximum sign area and height

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 2: Maximum Sign area and height From Paragraph 95
McDonalds Limited Statement of evidence from David Badham	From paragraph 4
Carbon Neutral NZ Trust, Vision Kerikeri, Our Kerikeri Community Charitable Trust and Kapiro Conservation Trust Evidence Produced at the Hearing	Presentation Material Produced at the Hearing

² Submission S368.085



Analysis

15. McDonalds (S385.014) consider that the notified standards for maximum sign area for the Mixed Use Zone (SIGN-S1) are overly restrictive for a commercial setting, resulting in unnecessary consenting costs for existing and future stores. Mr Badham's evidence does not provide any compelling reason to support such a statement. To the contrary, Carbon Neutral NZ Trust, Vision Kerikeri, Our Kerikeri Community Charitable Trust and Kapiro Conservation Trust consider that the Mixed Use Zone signage provisions are too enabling and may enable excessive signage.
16. I have considered the evidence presented and maintain my position that the Mixed Use Zone signage standards are appropriate for the reasons stated in paragraph 104 of my s42A Report.
17. The evidence of Mr David Badham considers that the recommended amendment to SIGN-S2 to amend the maximum height for freestanding signs to 6 metres is outside the scope of McDonald's Restaurants Ltd original submission point (S385.015).
18. I disagree and consider that the recommended amendment is within scope because:
 - a) Submission point S385.015 sought that the maximum height for freestanding signs is amended from "must not exceed the height of the building" to "must not exceed 12m in height".
 - b) The submission states that freestanding signs are intended to be higher than the building to provide wayfinding assistance and to be visible from a distance, and to provide flexibility, noting that Standard MUZ-S1 permits a building or structure up to 12 m in height in the Mixed Use Zone.
 - c) Though Mr Badham considers that the reporting officer recommends a more "restrictive requirement", I consider that the 6m height limit is more permissive than the notified framework which required freestanding signs to be the same height of the building. In the Far North context, many buildings are single story (see Figures 1-3 below), which means freestanding signs could only be built to approximately 3-4m height. The recommended 6-metre height limit for freestanding signs is more permissive than the notified framework and enables freestanding signs to be higher than the building in many contexts.
19. For clarity, my recommendation is to accept in part submission point S385.015 (as stated in paragraph 116 of the S42A Report), because the 6 metre height goes some way to achieve the relief sought by McDonalds (albeit not to the full 12 m height which would be excessive).



Figure 1 McDonalds Kerikeri



Figure 2 McDonalds Kaikohe



Figure 3 McDonalds Kaitia

Recommendation

20. I maintain my position and recommendations set out in Key Issue 2 of my Section 42A Report for reasons stated above and in paragraphs 95 to 109 of my Section 42A Report.

Section 32AA Evaluation

21. A Section 32AA evaluation for my recommended changes is provided in paragraph 117 of my Section 42A Report.

3.3 Key Issue 3 – Third Party Signs

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 5: Third Party Signs From Paragraph 140
Carbon Neutral NZ Trust, Vision Kerikeri, Our Kerikeri Community Charitable Trust and Kapiro Conservation Trust	Presentation Material Produced at the Hearing



Relevant Document	Relevant Section
Evidence Produced at the Hearing	

22. In support of their submissions, Carbon Neutral NZ Trust, Vision Kerikeri, Our Kerikeri Community Charitable Trust and Kapiro Conservation Trust produced evidence on third-party signs including photos of locations within Kerikeri and Waipapa where they consider that third party signage is excessive, and requires greater control.

23. The current framework (as notified) for third party signage is explained in paragraphs 142 to 143 in my Section 42A Report. The notified framework does not allow third party signs as a permitted activity, rather it requires resource consent for third-party signage, as a restricted discretionary activity in the Mixed Use Zone and a non-complying activity in other zones.

Recommendation

24. I maintain my position on third party signs for the reasons stated in the Section 42A Report (paragraphs 142 to 147).

Section 32AA Evaluation

25. No changes to the third party sign provisions are recommended therefore a Section 32AA evaluation is not necessary.

3.4 Key Issue 4 - Exemptions

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 6: Exemptions From Paragraph 151
Waitangi Limited Statement of Evidence from Rochelle Jacobs	From Paragraph 6.7

26. Waitangi Limited seeks a number of exemptions to signage provisions due to the nature of activities that occur at the Waitangi Estate including Waitangi Treaty Grounds, which are addressed in turn below.

Signs within overlays

27. In paragraph 6.7 of Ms Jacobs evidence, she states that where signs are located within ONF, ONL or Heritage area or scheduled heritage resource, it is not clear which provisions would apply. In my opinion this is clear,



however I have recommended a clause 16 correction is made to Standard SIGN-S1 to use the term “schedule heritage resource” for consistency with the defined term, as opposed to “Scheduled historic resource”.

28. To assist in clarification and ensure consistent interpretation, I recommend an additional ‘note’ being ‘note 2’ is added above the rules to clarify that the rules that apply to signs within overlays will apply over rules addressing Area Specific Matters (i.e. zone rules).

Signs visible from a public place

29. Ms Jacobs also seeks an amendment to Rule SIGN-R8 Standard PER-1 to preclude signs that are not ‘visible from a public place’ from needing to comply with standards for maximum sign area and number of signs. The argument promoted was that Waitangi Limited has many signs, including within a museum that would be caught by the provisions otherwise. I cannot think of any situation in my experience as a planner where signs within an enclosed building have been required to comply with a rule in a district plan. I note that the definition of signs in the Operative District Plan only includes signs visible from public places as set out below:

SIGN Includes every advertising and informative device of whatever nature, whether painted, electronically displayed, written, printed, carved, inscribed, endorsed, illuminated, projected onto or otherwise fixed to or upon any building, wall, pole, structure or erection of any kind whatsoever, or onto any rock, stone, tree or other object, if such device is visible from any public place. For the purposes of this Plan "sign" shall include any hoarding and any tethered inflatable sign. A sign does not include material placed within a window, provided it is non-flashing and does not contain a moving message. However, permanently engraved advertisements on windows are considered a sign. A sign does not include 'official signs'. The area of the sign shall be calculated by measuring the rectangular area which encloses all symbols or letters which make up the sign surface and which are differentiated from its background if affixed to a wall. Where a sign is an uneven shape, the area shall be calculated by measuring a rectangle around all symbols or letters which make up the sign surface to enclose the uneven shape. Support structures or the façade on which the sign is attached/affixed is not included in such calculations.

30. However, there is no consequential definition of ‘public place’. In my view, a public place is anywhere the public has access to, irrespective of ownership. This would include a significant part of the Waitangi Estate; it would also mean the coast line or from CMA. In my opinion this approach is unhelpful as there would be increased ambiguity. For these reasons I do not support the change requested by Waitangi Estate.



Temporary signs

31. Waitangi Estate sought in their submission (503.46) that the 'Waitangi Estate' (as so described in Appendix 2 of their evidence), be precluded from complying with the maximum area for a temporary sign. I note that their evidence given at the hearing for the Temporary Activities that Waitangi Limited now seeks no limit to temporary activities on substantial parts of the Waitangi Estate. This could result in permanent 'temporary signs' being established without a limit on number or size. However, I understand that the author of the Temporary Activities S42A report intends to discuss matters of 'scope' in her Right of Reply.
32. In making my recommendations in response to the submission from Waitangi Estate, I have attempted to balance the wide range of significant and potentially sensitive values of the site, general amenity concerns and the commercial and corporate aspirations of Waitangi Limited. I retain my position set out in my S42A report for the reasons stated in paragraph 159 of that report.

Recommendation

33. For the reasons stated above, I recommend a new note is added above the Signs rules as follows:

In addition to Note 1, any rule in SIGNS that specifically applies to a District Wide Matters chapter for Heritage Area Overlays, Schedule Heritage Resource, Outstanding Natural features, or Outstanding Natural Landscapes will apply over rules addressing Area Specific Matters. Where there is conflict, the most stringent rule applies.

Section 32AA Evaluation

34. The abovementioned advice note is appropriate because they reduce the potential for ambiguity, confusion or overlap between provisions, which will improve plan interpretation and implementation, with reduced costs / risks and uncertainty for plan users.

3.5 Key Issue 5 – Traffic Network Safety

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 7: Transport Network Safety From Paragraph 176
KiwiRail Holdings Limited Evidence of Ms Catherine Heppelthwaite	Paragraph 6.0 (n) to (p), and paragraph 7.21



35. Kiwirail sought and amendment to SIGN-P3 to expressly recognise level crossing sightlines as part of SIGN-P3c. I recommended retaining the policy as is on the basis that Policy TRAN-P3a appropriately addresses safe and efficient 'transport networks' by managing building and structures in relation to sight lines. The evidence of Ms Hepplethwaite stated that the policy does not explicitly address level crossing sightlines and is predominantly focussed on 'roads'. Ms Hepplethwaite recommends the amendment proposed by Kiwirail in its submission. On further review, I also note that SIGN-P3 is similarly worded with regard to the 'transport network', and 'roads' and is not sufficiently clear that it is intended to apply to rail networks.
36. I note that, both TRAN-P3 and SIGN-P3 seek to manage safety of the 'transport network' by managing visual obstructions that may impact on sightlines/location. Therefore, there is an element of duplication. While my preferred approach would be to manage all matters regarding buildings and structures (including signs) in relation to transport safety as part of TRAN-P3, I am mindful that signs present a particular set of risks to transport networks as set out in SIGN-P3 in b and c in particular. Therefore, a particular consideration in the SIGNS chapter would likely be helpful. To improve clarity, I support minor amendments to SIGNS-P3 to ensure that all transport networks are considered, and explicitly the rail network.

Recommendation

37. For the reasons set out above, I recommend amending SIGN-P3 as follows:

Ensure that signs do not compromise the safe and efficient use of the transport network by managing:

- a. the type, scale, design, location and direction of signs having regard to the road type and speed environment;
- b. distraction or confusion for users through the control of proliferation, illumination, flashing and moving images and digital signage;
- c. any obstruction caused by signs projecting over the road boundary or within level crossing sightlines;³ and
- d. signage that does not relate to the activity on-site.

Section 32AA Evaluation

38. The proposed change improves certainty and provides clarity that signs are not appropriate within sightlines for level crossings. This provides a more efficient and effective plan while providing for the health and safety of the community.

³ Submission S416.044



3.6 Key Issue 6 – Other General Matters

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 8: Other General Matters From Paragraph 188
McDonalds Limited and Foodstuffs Statement of evidence from David Badham	From paragraph 4 Presentation Material (page 7)

39. Mr Badham provided evidence on Foodstuffs and McDonalds request to delete "windows, fence or wall" from Rule SIGN-R7 (signs on or attached to a building, window, fence or wall), and considers that Rule SIGN-R7 is overly restrictive.

40. I have considered the written evidence of Mr Badham for Foodstuffs and the matters raised at the hearing. In my view I agree with Mr Badham that signs on windows, walls and fences are commonly used to advertise. As such, I am of the view that this underlines the need for them to be included in the controls set out in Rule SIGN-R7, Standard PER-2, namely the requirement to comply with Standards SIGN-S1 to S5. I see no reason to exclude this type of sign as it could result in a significant and unencumbered increase in total signage.

41. Further, in my opinion, the discussion between Mr Badham and the Panel at the hearing highlighted the additional complexity and confusion excluding some or all of these signs (window, wall or fence) would create.

42. I do however, agree with Mr Badham that that there may be some duplication between Rule SIGN-R7 PER 1 and Standard SIGN-S2(2). However, Rule SIGN-R7 applies to all zones, whereas Standard SIGN-S2 applies only to Mixed Use, Industrial, Hospital, Ngawha, and Airport Zone. I agree that these provisions would duplicate each other in some circumstances but in Rural zones for example, only Rule SIGN-R7, PER-1 would apply. I consider that deleting Standard SIGN-S2, row 2, standard 2 "Signs attached to a building must not protrude above the highest point of the building", would be a more appropriate method to resolve the perceived duplication.

Recommendation

43. For the above reasons, in relation to Rule SIGN-R7, I maintain the position stated in paragraphs 188 to 195 of my Section 42A Report.



44. I recommend Standard SIGN-S2, row 2, standard 2 "Signs attached to a building must not protrude above the highest point of the building" is deleted to resolve a duplication with SIGN-R7 PER 1.

Section 32AA Evaluation

45. The change to delete the SIGN-S2, row 2, standard 2 "Signs attached to a building must not protrude above the highest point of the building" is appropriate to clarify intent, reduce duplication across the rules and standards and achieve the same outcome in a more efficient manner.

4 Conclusion

46. This Report provides my Written Reply to the matters raised by submitters and the Hearing Panel at Hearing 6/7 on the Signs Chapter of the Far North Proposed District Plan.
47. I consider that the submissions on the Signs Chapter Public Access should be accepted, accepted in part, rejected or rejected in part, as set out in **Appendix 2** to this Report.
48. I recommend that provisions for the Signs Chapter are amended as set out in the Public Access Chapter in **Appendix 1.1 and 1.2** to this Report, for the reasons set out in this report and the corresponding Section 42A Report.

Recommended by: James R Witham, District Plan Team Leader, Far North District Council

Approved by: Tammy Wooster – Manager Integrated Planning, Far North District Council.