SECTION 42A REPORT

Officer's written right of reply 15 December 2025

Hearing 17 – Sweep Up (Interpretation, Mapping, Plan Variation 1 and other matters)

---

1 Introduction 2

1.1 Background 2

2 Purpose of Report 2

3 Consideration of evidence recieved 2

4 Procedural Matters 4

4.1 Verbal Evidence 4

4.1.1 Doug's Opua Boatyard 4

4.1.2 VKK, Kapiro Community Charitable Trust, Carbon Neutral Trust and Our Kerikeri Trust – the Community Groups 7

4.1.3 Bentzen Farm Limited, Setar Thirty Six Limited and Matauri Trustee Limited 8

4.2 Hearing Statements 9

4.2.1 Ara Poutama Aotearoa the Department of Corrections 9

4.2.2 KiwiRail Holdings Limited 10

4.2.3 McDonalds Restaurants (NZ) Limited 12

4.2.4 Top Energy Limited 16

4.2.5 Transpower New Zealand Ltd 17

4.2.6 Foodstuffs, McDonald's and Top Energy Limited 18

4.3 Other Matters 20

4.3.1 Helicopter Movements and Helicopter Landing Areas 20

5 Conclusion 23

Appendix 1.1: Master Definitions Set

Appendix 1.2: Officers Recommended Amendments to Overlay Chapters

Appendix 1.3: Officers Recommended Amendments to Temporary Activities Chapter

Appendix 2: Officers Recommended Decisions on Submissions (Interpretation)

Appendix 3: Record of Plan-Wide Consequential Amendments

1 Introduction

1.1 Background

1. The original Section 42A report on the Proposed District Plan: Sweep Up (Interpretation, Mapping, Plan Variation 1 and other matters) topic for Hearing 17 was prepared by Chloe Mackay, Jaimee Cannon and Lynette Morgan. Ms Mackay was the author of Key Issues 1 to 7 (Sections 5.3 to 5.5). Ms Cannon is the author of Key Issues 8 to 11 (Sections 5.6), and Ms Morgan is the author of Section 5.7 Designations.

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. This report has been prepared by Ms Chloe Mackay as the matters raised at the hearing primarily relate to matters that are relevant to Key Issues 1 to 7 of the S42A Report. 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 raised during the hearing, under the relevant heading.

3 Consideration of evidence recieved

4. Only those sections and pieces of evidence requiring further comment have been addressed. These matters have been grouped under the following headings:

    a) Submitter Evidence Presented at the Hearing

        a. Doug's Opua Boatyard

        b. VKK, Kapiro Community Charitable Trust, Carbon Neutral Trust and Our Kerikeri Trust – the 'Community Groups'

        c. Bentzen Farm Limited, Setar Thirty Six Limited and Matauri Trustee Limited

    b) Hearing Statement Evidence (Submitters who did not appear)

        a. Ara Poutama Aotearoa the Department of Corrections

        b. KiwiRail Holdings Limited

        c. McDonalds Restaurants (NZ) Limited

        d. Top Energy Limited

        e. Transpower New Zealand Ltd

f. Foodstuffs, McDonald's and Top Energy Limited

c) Other Matters

a. Helicopter Movements and Helicopter Landing Areas

5. Unlike previous Section 42A reports, which were topic or chapter based, Sweep Up S42A Report for Hearing 17 covered interpretation (submissions on the definitions and glossary) and mapping matters where these matters were not addressed as part of the topic / chapter hearings. It also covered consequential amendments as a result of earlier recommendations and a summary of designation matters not addressed at Hearing 10.

6. The track changed version of recommended amendments to the definitions and chapters, is appended to this report, which includes:

a) Appendix 1.1 – Master Definitions Set

b) Appendix 1.2 – Officer's Recommended Amendments to Overlay Chapters

c) Appendix 1.3 – Officer's Recommended Amendments to Temporary Activities Chapter

7. As stated above the definitions that clearly sat within a specific reporting topic were considered at the relevant topic hearing. For consistency with recommendations made on other topics, these documents also include the recommendations (to date) on definitions made by other reporting officers, as follows:

a) Recommendations associated with the Sweep Up S42A Report on definitions are shown in black text (with underline for new text and ~~strikethrough~~ for deleted text).

b) Section s42A recommendations to definitions associated with other topics (including officers written replies) are shown in blue text (with blue underline for new text and ~~blue strikethrough~~ for deleted text). A footnote explains the source of the recommended amendment from earlier hearings.

c) Revised recommendations from this (Written Reply) Report are shown in red text (with red underline for new text and ~~strikethrough~~ for deleted text).

8. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.

9. **Appendix 2** provides an overview of the updated Recommended Decisions on Submissions.

10. **Appendix 3** provides a record of plan-wide consequential amendments[1].

4 Procedural Matters

Update on proposed national direction changes

11. Previously the Government has indicated that it intends to have the national direction changes confirmed by the end of 2025. In the Sweep Up S42A report we indicated that changes to national direction were expected to be gazetted early December. At the time of writing this reply (due online 15 December 2025) the Government has released the proposed Natural Environment and Planning Bills (on 9 December 2025) however timeframes for gazettal of national direction changes remain unknown. As stated in the opening submissions on behalf of the Council for Hearing 15D, it is premature to comment on how changes to national directions could affect the PDP decision-making process until the final form of any changes and the transitional arrangements are known. The Hearing Panel may wish to consider implications for the PDP process once the details and timing of the changes have been confirmed.

Other procedural matters

12. Waiaua Bay Farm Limited has acknowledged that the Section 42A Report incorrectly attributed their further submission FS534.048 to Ballance Agriculture's submission point S143.001, which relates to definitions. It is noted that FS534.048 relates to Ballance's submission point S143.013, concerning Objective RPROZ-O3, which was addressed under Hearing Topic 9. This clarification does not affect any of the recommendations made in the Section 42A Report.

13. It has come to my attention that from page 106 onwards of the S42A Report, there is a duplication in the numbering of Key Issues, with two sections both labelled as Key Issue 8. I can confirm that the correct Key Issue 8 is *Airport Protection Surface Area Rules.* The section currently titled *Policy Direction and Refinements Overview* should be renumbered as Key Issue 9. The numbering of all remaining Key Issues that follow, should be adjusted to align with this correction.

4.1 Verbal Evidence

4.1.1 Doug's Opua Boatyard

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 7: CMA/Esplanade Reserves From Page 102 – 105

[1] References within The Hearing 17 Sweep Up Section 42A Report. It is noted that this is not a complete list and the Hearing panel should refer to other Section 42A reports for other consequential amendments recommended for specific topics.

Relevant Document	Relevant Section
Evidence in chief [Brett Hood on behalf of Doug's Opua Boatyard]	From page 2 – 5 (in relation to *zoning within the CMA and of esplanade reserves)*

Matters raised in evidence

14. Doug's Opua Boatyard (S21 & S185) raises two key concerns in their evidence. Firstly, they argue that the District Plan has incorrectly applied zoning within the CMA, which lies outside the jurisdiction of the Council under the RMA. Although this error is acknowledged in the S42A report, the submitter considers the failure to correct it, undermines statutory accuracy and the integrity of the Plan. Secondly, they highlight inconsistent zoning of esplanade reserves across the district, noting that reliance on potential Treaty settlements to justify Natural Open Space zoning is misplaced. The submitter requests the following relief (as shown on Figure 1):

    a. The removal of the zoning of the CMA adjacent to the Boatyard at 1 Richardson Street, because Council has no jurisdiction over the CMA; and

    b. The rezoning of the local purpose reserve in front of the Boatyard from Natural Open Space to Open Space zone or;

    c. The removal of reference to Treaty Settlements within the Overview of the Natural Open Space zone.

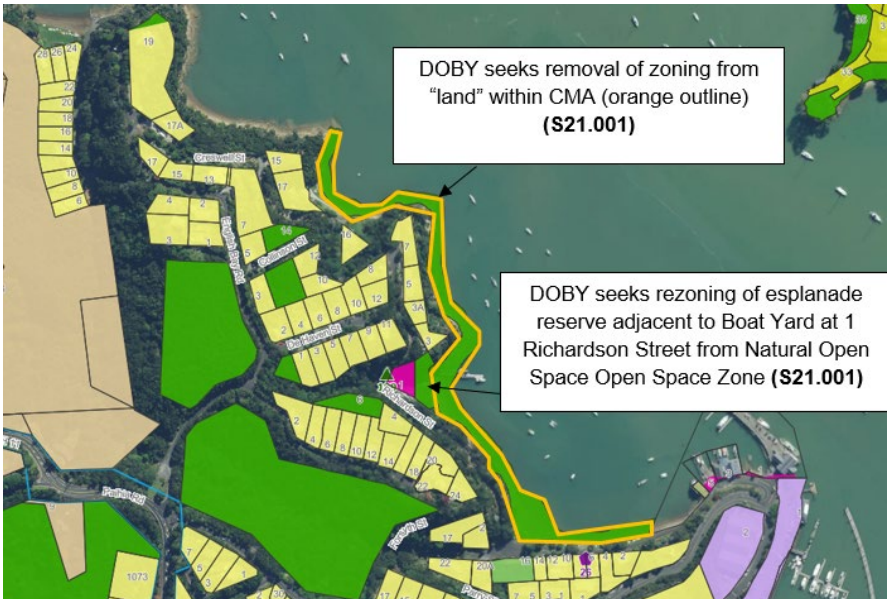

Figure 1: Doug's Opua Boatyards request

Analysis

15. Regarding the request to remove zoning from land within the Coastal Marine Area (CMA), I note that zoning in this area is inappropriate. The District

Council does not have jurisdiction over the CMA that is below the MHWS. Accordingly, I support the removal of zoning over the CMA in front of Doug's Opua Boatyard so that it does not have any zone shown on the PDP maps.

16. The request to rezone the local purpose reserve in front of Doug's Opua Boatyard from Natural Open Space to Open Space is not supported because:

    - The land is owned and administered by FNDC. Its existing use aligns with the purpose and values of the Natural Open Space Zone, which is specifically intended to apply to local purpose reserves adjacent to the coast.

    - Historically, the site was zoned Conservation in the ODP and as part of the PDP zoning transition, all Conservation-zoned land was rolled over to Natural Open Space Zone, unless a mapping error was identified. There is no indication that such an error applies in this case.

    - The submitter has not provided substantive planning rationale for why the Natural Open Space Zone is inappropriate or constraining in this context.

17. Furthermore, the reference to Treaty settlement in the zone overview relates to Crown-owned land that may be subject to future Treaty settlement legislation. This reference is not applicable to the FNDC-administered reserve in front of 1 Richardson Street, Opua. While it is not uncommon for Local Authorities to return reserve land, in my view the language has the potential to be unnecessarily confusing.

18. I support the submitters alternative relief to remove Treaty Settlement references from the Overview of the Natural Open Space Zone Chapter, as this clause introduces unnecessary uncertainty.

Recommendation

19. I recommend accepting submission S21.001 in part. Specifically, I support the removal of zoning over the CMA in front of Doug's Opua Boatyard.

20. Additionally, I recommend removing the following reference to Treaty Settlements in the Natural Open Space Zone Overview as follows:

    '… ~~Some Natural Open Space land may be subject to treaty settlement claims and may be returned to tangata whenua. If this occurs Council will initiate a plan change to amend the zoning~~…'

Section 32AA Evaluation

21. The recommended amendments are considered appropriate under s32AA, as removing the proposed zoning from the planning maps within the CMA is both more effective and efficient given that Council has no jurisdiction below MHWS. The recommended amendment to delete the Treaty Settlement reference from the Natural Open Space Zone Overview is appropriate

because it removes the potential for uncertainty and reduces confusion. In particular the intent of the note, as drafted, is not clear because it does not specify which zoning would be applied via a plan change and in which circumstances a plan change would by initiated. Removing the advice note does not mean that the process to initiate a plan change will not occur in future, it means that this would occur on a case-by-case basis.

4.1.2 VKK, Kapiro Community Charitable Trust, Carbon Neutral Trust and Our Kerikeri Trust – the Community Groups

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 3: Other Definitions (Development Infrastructure) From Page 40 – 42
Evidence in chief [Community Groups - VKK, Kapiro Community Charitable Trust, Carbon Neutral Trust and Our Kerikeri Trust]	From page 1 – 12 (in relation to *Infrastructure-ready)*

Matters raised in Evidence

22. VKK, Kapiro Community Charitable Trust, Carbon Neutral Trust and Our Kerikeri Trust (Community Groups), raised concerns about Council infrastructure not having sufficient capacity to accommodate development. This relates to the definition of development infrastructure, as outlined in the S42A report (paragraphs 139 – 141), which provides a detailed summary of how the terms 'infrastructure' and 'development infrastructure' are used in the plan.

Analysis

23. In response, the PDP uses the terms *'Infrastructure'* and *'Development Infrastructure'* and includes a range of objectives and policies that require adequate development infrastructure to be established prior to subdivision and/or development. This approach aligns with the NPS-UD, as outlined in paragraphs 139 – 141 of the S42A Report. Additionally, there is no scope for the relief sought by the submitters in their evidence, which was to insert a new definition or clarification of the term 'existing or planned development infrastructure' when referring to public infrastructure, particularly wastewater treatment systems and other 3-waters infrastructure. However, they have indicated support for the definitions in their submission points (refer to Key Issue 1: Definitions with Support and Key Issue 3: Other Definitions).

24. Furthermore, while the District Plan sets the framework for land use planning, it is acknowledged that a future three waters entity will assume responsibility for implementing planned upgrade programmes and

connection polices. Council has also recently adopted a new development contributions policy to recover some of the costs for growth-related infrastructure. These will support the integration of land use planning with infrastructure provisions and build on existing projects and funding in the future.

Recommendation

25. For the above reasons, I do not recommend any amendments and maintain the positions outlined in the S42A Report.

Section 32AA Evaluation

26. No section 32AA evaluation is required as no changes are being recommended.

4.1.3 Bentzen Farm Limited, Setar Thirty Six Limited and Matauri Trustee Limited

Overview

Relevant Document	Relevant Section
Evidence in chief [Peter Hall on behalf of Bentzen Farm Limited, Setar Thirty Six Limited and Matauri Trustee Limited]	From page 3 – 6 *(in relation to Building Platform)*

Matters raised in Evidence

27. Bentzen Farm Limited, Setar Thirty Six Limited and Matauri Trustee Limited attended Hearing 17 and acknowledged that a consequential amendment arising from Hearing 4 had not been carried through (as a result of submission point S168.074 and others). This amendment is directly associated with their submission points, where if Mr Wyeth's recommended wording for rules in the Natural Features and Landscapes and Coastal environment chapters from Hearing 4 are adopted by the panel, the submitter seeks the inclusion of a definition for *'Building Platform'.* The requested definition is as follows:

    'Building Platform

    A location or an area of land identified as being suitable for building'

Analysis

28. At Hearing 4, Mr Wyeth recommended the inclusion of controlled activity rules (Rules NFL-R1 and CE-R1) to provide for the construction of buildings and extension and alterations in the Coastal Environment and ONL. This was subject to the condition that a building is *'a residential unit on a defined building platform, where the defined building platform has been identified through an expert landscape assessment and approved as part of an existing subdivision consent'.* This recommendation was made subject to further

analysis regarding its consistency with the use of similar terminology elsewhere in the PDP.

29. In evidence presented at Hearing 17, Mr Hall expressed a preference for the term *'Defined building platform or buildable area'* to be used in the controlled activity rules NFL-R1 and CE-R1, rather than the wording proposed by Mr Wyeth. Upon reconsideration, and discussion with Mr Wyeth, the terminology suggested by Mr Hall, specifically the use of *'buildable area',* is considered appropriate. It aligns with terminology commonly used in resource consents and removes the need to separately define *'building platform'* within the PDP.

Recommendation

30. I recommend accepting the submission in part and propose the following revised wording for Rules NFL-R1 and CE-R1:

    'CON-1

    The building is a residential unit on a defined building platform or buildable area, where the defined building platform or buildable area has been identified through an expert landscape assessment and approved as part of an existing subdivision consents…'

31. For completeness the appendix 2 table provided with this report has been undated to include S168.074 and equivalent submission points which are recommended to be accepted in part. It is expected the hearing panel for hearing 4 would take note of this amended recommendation.

Section 32AA Evaluation

32. The recommended change to the rules is minor and is consistent with the resource consent applications granted for the sites in question. The wording better supports the intended interpretation and implementation of the PDP.

4.2 Hearing Statements

4.2.1 Ara Poutama Aotearoa the Department of Corrections

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 4: New Definitions/Terms From Paragraph 301 – 303
Evidence in chief [Andrea Millar on behalf of Ara Poutama Aotearoa the Department of Corrections]	From page 1 – 2 (in relation to *Definition of 'non-custodial rehabilitation activity')*

Matters raised in evidence

33. Department of Corrections (S158.003) has clarified through their hearing statement that *'non-custodial rehabilitation activities'* are distinct from *'community corrections activities.'* The submitter reinforces the need for a standalone definition to ensure these activities are appropriately captured and enabled within the Corrections Special Purpose Zone. This distinction aligns with the intent of provisions CORZ-P2(b) and CORZ-R3, as recommended in Hearing 15B. The submitter has provided the following wording:

    'Non-custodial Rehabilitation Activity

    Means the use of land and buildings for non-custodial rehabilitative and reintegration activities and programmes undertaken by, or on behalf of, Ara Poutama Aotearoa the Department of Corrections.'

Analysis

34. It is acknowledged that, for consistency with recommendations made in Hearing 15B, specifically those relating to activities within the new Corrections Special Purpose Zone under Policy CORZ-P2 and Rule CORZ-R3, the inclusion of a new definition within the PDP is necessary. The addition will enhance clarity, ensure consistency across the plan and improve ease of interpretation for plan users.

Recommendation

35. I recommend accepting submission S158.003 and including a new definition for *'Non-custodial Rehabilitation Activity'* as follows:

    'Non-custodial Rehabilitation Activity

    Means the use of land and buildings for non-custodial rehabilitative and reintegration activities and programmes undertaken by, or on behalf of, Ara Poutama Aotearoa the Department of Corrections.'

Section 32AA Evaluation

36. The inclusion of a new definition within the PDP is recommended to improve clarity, consistency, and ease of interpretation for plan users. This addition supports the accessibility and effectiveness of the PDP without altering the intent of the provisions.

4.2.2 KiwiRail Holdings Limited

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 4: New Definitions/Terms From Paragraph 288 – 292

Relevant Document	Relevant Section
Evidence in chief [Michelle Grinlinton-Hancock on behalf of KiwiRail Holdings Limited]	From page 1 – 2 (in relation to *Definition of 'Reverse Sensitivity')*

Matters raised in evidence

37. KiwiRail (S416.008) highlights within their hearing statement that the term *'Reverse Sensitivity'* is referenced across multiple provisions in the PDP, yet no definition is currently provided within the Plan itself. While the Regional Policy Statement (RPS) includes a definition, KiwiRail expresses that definitions vary across plans nationally and it is important for plan users to have direct access to a consistent and clear definition within the PDP. The submitter considers that including a definition will improve usability, support consistent administration of the plan and strengthen the protection of critical infrastructure, from reverse sensitivity effects. KiwiRail propose the following definition for inclusion in the PDP:

    'Reverse sensitivity means the potential for the development, upgrading, operation and maintenance of an existing lawfully established activity to be comprised, constrained or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived environmental effects generated by the existing activity.'

Analysis

38. The definition of *'Reverse Sensitivity'* is already defined in an RPS, as follows:

    'Reverse Sensitivity occurs when occupants of a new development (for example, a lifestyle block) complain about the effects of an existing, lawfully established activity (for example, noise or smell from industry or farming). This can have the effect of imposing economic burdens or operational limitations on the existing activity thereby reducing their viability.'

39. Introducing a separate definition into the PDP risks creating unnecessary duplication, inconsistency and confusion, particularly if future amendments are made to the RPS or other higher order direction. The PDP already contains provisions and polices that effectively manage reverse sensitivity effects.

Recommendation

40. I maintain my original recommendation and do not support the inclusion of a new definition for *'Reverse Sensitivity'* in the PDP. Accordingly, I recommend rejecting submission S416.008.

Section 32AA Evaluation

41. A Section 32AA evaluation is not required, as the term *'Reverse Sensitivity'* is not recommended for inclusion in the PDP.

4.2.3 McDonalds Restaurants (NZ) Limited

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 5: Other Interpretation Matters From Paragraph 384(b) – 391
Evidence in chief [David Badham on behalf of McDonalds Restaurants (NZ) Limited]	From page 2 (in relation to *Definition of 'Restaurant and café activity' and 'Large Format Retail')*

Matters raised in evidence

Definitions – Restaurants, cafes and food outlets

42. McDonald's continues to seek the inclusion of a new definition for *'Restaurants, cafes and takeaway food outlets',* noting that these terms are referenced in the Transport Chapter under 'food and beverage' and within the Light Industrial Zone, yet remains undefined in the PDP. The submitter considers this lack of definition creates ambiguity for plan users and undermines clarity in interpretation.

43. In addition, McDonalds also seeks amendments to the definition of *'Large Format Retail',* specifically the removal of the Gross Floor Area threshold. They argue that reliance on a performance standard within the definition is inappropriate in the context of a predominantly activity-based plan. The submitter considers this approach to be unnecessarily complex and incompatible with other activities-based definitions.

Analysis

44. In response to the submitters seeking a definition for *'Restaurants, cafes and takeaway food outlets',* I acknowledge the concerns raised and agree that consistent terminology across the PDP is essential for clarity and effective implementation. Upon review, I consider it appropriate to reconcile the use of overlapping terms to ensure alignment throughout the PDP.

45. The term *'Food and Beverage'* is already embedded within the Transport and Mixed Use Chapters and is commonly understood to encompass activities such as restaurants, cafes and takeaway food outlets. Introducing a separate definition at this stage risks unnecessary duplication and potential confusion, particularly where similar terms are used inconsistently across chapters.

46. As outlined within the Hearing 14 S42A report, *'Food and beverage'* activities are already captured within the broader definition of *'Commercial Activity',* which is defined as:

'means any activity trading in goods, equipment or services. It includes any ancillary activity to the commercial activity (for example administrative or head offices).'

47. This definition is intentionally broad to include the sale of food and drink as a commercial service. Therefore, *Food and beverage* is a subset of *Commercial activity,* and specific uses like *restaurants, cafes and takeaway food outlets* are a "Food and Beverage" activity.

48. To provide clarity and avoid duplication, I recommend retaining *'Food and beverage'* as the preferred terminology and replacing more specific references such as *'restaurants, cafes and takeaway food outlets'* when used in the PDP provisions with the term "Food and Beverage". This approach achieves consistency and avoids duplication or ambiguity.

49. Table 1 demonstrates where the terms *'Restaurants, cafes or takeaway food outlets'* are used throughout the PDP and needs to be replaced with "Food and Beverage"[2].

Table 1

Zone / Precinct	**Reference within PDP**
Light Industrial Zone	LIZ-R5 **Convenience stores, restaurants, cafes and takeaway food outlets** Activity status: Permitted PER-1 The **convenience store, restaurant, café or takeaway food** outlet does not exceed a GFA of ~~2~~300m^2.[3]
Transport	TRAN-Table 11 – Trip generation **Restaurants/bars/cafes** 200m^2 GFA

50. Table 2 demonstrates the provisions that include *'Food and beverage'* within the PDP.

Table 2

Zone / Precinct	**Reference**
Transport	TRAN-Table 1 – Minimum number of parking spaces (Deleted by Hearing 11 in advance of FNDC becoming and 'Urban authority' under the

[2] This table does not include TRAN-Table 1 Minimum Number of parking spaces which will be removed from the PDP to give effect to the NPS-UD.
[3] Hearing 14 Urban recommended amendment to the Light Industrial Zone Chapter.

	NPS-UD and replaced with Bicycle parking requirements still using the term Food and Beverage) **Food and beverage** *Fast food with drive-thru takeaway* 1 per 10m^2 GBA *Restaurants/bars/cafes* 1 per 20m^2 GFA and outdoor seating area or 1 space for every 4 persons the activity is designed to accommodate, whichever is greater. *1 per 15 employees, plus 1 per 350m^2 GFA.*
Mixed Use	Overview The district's urban business centres have traditionally been zoned commercial and contrail retail activities, commercial services, **food and beverage** establishments as well as social and educational services, with limited residential activities…
Sport and active recreation	Overview The Sport and Active Recreation zone may also include commercial activities associated with sport and recreation, such as the retail of merchandise and equipment and providing **food and beverages** to players and supporters…
Definitions	
Airport Activity	Means the use of land and/or buildings where the principle activities relate to the function and operation of the Kaitaia, Kaikohe and Kerikeri Airports. These include, but are not limited to: a. Aircraft operations, including landing, taxiing and take off, freight, luggage and passenger facilities; b. Airport navigational, control and safety equipment; c. Aviation, educational and training an recreational facilities and activities; d. Maintenance and serving of aircraft; e. Fuel installations and fuel servicing facilities; f. Warehousing and storage; g. Catering and preparation of food; h. Access roads, car parking, walkways and cycleways; i. Emergency services; and j. Grazing

	They may include ancillary activities such as the sale of **food and beverage** which are ancillary to the principle activity.

51. I also note that the Ngawha Innovation Enterprise Park uses the term 'café and takeaway food outlet' within NIEP-P3 and rule NIEP-R10 and have considered whether a change to food and beverage would be more appropriate. For the NIEP, I consider that the reference to takeaway food outlets is more appropriate as a bespoke policy and rule that is more specific to the nature of food and beverage enabled by the provisions in this context.

Definition - Large Format Retail

52. In response to McDonald's submission regarding the definition of *'Large Format Retail'*, I consider it appropriate to retain the inclusion of a size threshold within the definition. The absence of a defined threshold risks broad interpretation, whereby all retail activities, regardless of scale, could be captured under the term *'Large Format Retail'.* its essence the differentiating factor is the size (footprint) of the activity. This would necessitate consequential amendments to multiple rules and standards throughout the PDP, resulting in unnecessary complexity and limited benefit.

53. The 250m² threshold currently proposed is consistent with definitions adopted in other second-generation district plans, including those of New Plymouth and Timaru. Its inclusion provides clarity for plan users and supports consistent interpretation. Additionally, the definition was discussed and addressed further in Hearing 14 Urban.

Recommendation

54. I recommend amending the relevant provisions (listed in Table 1 above) to replace the term *'Restaurant, café and takeaway food outlet'* with *'Food and beverage'* to ensure consistency across the PDP. Therefore, accepting submissions S385.001, S385.002 and S385.005 in part. The changes need to be made to the following provisions:

    - Transport Table 11 – Trip generation
    - LIZ-R5 Convenience stores, restaurants, cafés and takeaway food outlets

55. For the reasons outlined above, I recommend rejecting the inclusion of the definition of *'Large Format Retail'.*

Section 32AA Evaluation

56. The recommended amendment to replace references to *'Restaurants, cafes and takeaway foot outlets'* with the term *'Food and beverage'* improves consistency and clarity across the PDP. This change avoids duplication and

aligns with terminology already embedded in key chapters, while maintaining the intent of the provisions.

4.2.4 Top Energy Limited

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 4: New Definitions/Terms From Paragraph 349 – 353
Evidence in chief [David Badham on behalf of Top Energy]	From page 2 (in relation to *Definition of 'Footprint')*

Matters raised in evidence

57. Top Energy (S483.019) states that the term *'Footprint'* is used across multiple provisions in the PDP but remains undefined, resulting in interpretive ambiguity. The submitter considers that introducing a clear definition is necessary to support consistent application of the plan. Furthermore, they maintain that *'Footprint'* is a more appropriate term for use in rules relating specifically to structures.

Analysis

58. In response to Top Energy's request, I note that the term *'Footprint'* is used to describe the base area of structures that are not classified as buildings, such as telecommunications poles or other vertical infrastructure. The meaning of the term is well understood and accepted in this context and does not require a formal definition. Introducing a definition could lead to unintended complexity, unnecessary duplication and confusion, particularly if future amendments are made to the RPS or other higher order documents.

Recommendation

59. I maintain my original recommendation and do not support the inclusion of a new definition for *'Footprint'* in the PDP. Accordingly, I recommend rejecting submission S416.008.

Section 32AA Evaluation

60. A Section 32AA evaluation is not required, as the term *'Footprint'* is not recommended for inclusion in the PDP. As such, there is no impact on the existing provisions of the plan.

4.2.5 Transpower New Zealand Ltd

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 3: Other Definitions From Paragraph 207 – 225
Evidence in chief [Daniel Hamilton on behalf of Transpower New Zealand Ltd]	From page 2 (in relation to *Definition of 'Sensitive Activities')*

Matters raised in evidence

61. Transpower (S454.013) seeks an amendment to the definition of *'Sensitive Activities'* by removing the explicit reference to activities listed in the National Policy Statement on Electricity Transmission, such as schools, residential buildings and hospitals. In light of anticipated changes to the national direction, Transpower considers the following amendment necessary to 'future proof' the PDP. The submitter supports replacing the current references with a more flexible reference to any applicable or replacement National Policy Statement.

    'Sensitive activity

    1. Means:

        a. Residential activities;

        b. Educational facilities and preschools;

        c. Guest and visitor accommodation;

        d. Health care facilities which include accommodation for overnight care;

        e. Hospital;

        f. Marae; or

        g. Place of assembly.

        Except that;

            i. Subclause f. above is not applicable in relation to electronic transmission.

            ii. Subclause g. above is not applicable in relation to noise or electronic transmission

2. *In relation to electricity transmission, has the same meaning as sensitive activities in the National Policy Statement on Electricity Transmission (2008)~~: includes schools, residential buildings and hospitals~~ or its replacement.*'

Analysis

62. In response to the submitter's request, I consider it appropriate to remove the activities listed in clause 2 of the definition. These activities are already referenced earlier in the definition, and their removal does not alter the overall intent or application of the definition.

Recommendation

63. I recommend accepting submission S454.013 and amending the definition of *'Sensitive Activities'* as follows:

'… 2. *In relation to electricity transmission, has the same meaning as sensitive activities in the National Policy Statement on Electricity Transmission (2008)~~: includes schools, residential buildings and hospitals~~ or its replacement.*'

Section 32AA Evaluation

64. The recommendation to the definition is minor and does not alter the scope, intent, or application of the associated provisions, but instead refines the wording to better support interpretation and implementation. No further substantive evaluation is required.

4.2.6 Foodstuffs, McDonald's and Top Energy Limited

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 5: Other Interpretation Matters From Paragraph 384(e) - 390
Evidence in chief [David Badham on behalf of Foodstuffs North Island Limited]	From page 1 – 3 (in relation to *Nesting Tables)*
Evidence in chief [David Badham on behalf of McDonalds Restaurants (NZ) Limited]	From page 1 – 3 (in relation to *Nesting Tables)*
Evidence in chief [David Badham on behalf of Top Energy Limited]	From page 2 – 4 (in relation to *Nesting Tables)*

Matters raised in evidence

65. Foodstuffs (S363.004), McDonalds (S385.001 and S385.005) and Top Energy Limited (S483.003) collectively oppose the recommendation in the S42A Report and consider the inclusion of nesting tables within the PDP necessary. Their evidence outlines three key points:

    a) The PDP is structured as a hybrid activity and effects-based plan, with a strong emphasis on activity-based provisions. As such, the submitters argue that consistent use of activity-based definitions is essential to ensure clarity and coherence in the application of provisions across zones.

    b) While nesting tables are not mandated by national direction, they are commonly used in second-generation District Plans under the RMA. Submitters consider nesting tables to be a practical tool that provides clear guidance when broader activity terms are referenced, thereby reducing ambiguity and improving interpretive consistency for plan users.

    c) The justification that nesting tables are difficult to incorporate at this stage of the plan-making process is considered inadequate. The submitters argue that a thorough review of definitions and inclusion of nesting tables should have occurred earlier to avoid misinterpretation or unintended scope. They maintain that inclusion of nesting tables would enhance the efficiency and effectiveness of the PDP and consider the reasoning for their exclusion at this stage to be insufficient.

Analysis

66. In relation to use of nesting tables, I note that the most specific rule will apply to an activity, as outlined in the Hearing 14 Urban Zones written reply (paragraphs 66-72).

67. While nesting tables can be a useful mechanism, they were not embedded at the outset of the start of the plan development process. Incorporating nesting tables at this stage introduces a risk of altering the original intent of provisions or undermining the integrity of the rule framework. It may also create unintended inconsistencies or undermine integrity of the provisions and create a disconnect with the rule framework.

68. Furthermore, several operative district plans function effectively without nesting tables, demonstrating that their absence does not compromise plan usability or implementation.

Recommendation

69. For the reasons outlined above, I do not recommend the inclusion of nesting tables within the PDP and maintain my position as outlined in the S42A report.

Section 32AA Evaluation

70. A section 32AA evaluation is not required, as nesting tables are not recommended for inclusion in the PDP. As such, there is no impact on the existing provisions of the plan.

4.3 Other Matters

4.3.1 Helicopter Movements and Helicopter Landing Areas

Overview

Relevant Document	Relevant Section
Evidence in chief [James Hook on behalf of Paradise Found Developments]	From page 7 – 10 *(in relation rules relating to Helicopter movements)*

Helicopter landing areas

Summary

71. At Hearing 6/7, Mr Baxter recommended a new definition of Helicopter Landing Areas as follows:

    Helicopter Landing Area: *means any location where helicopters land or depart. A helicopter landing area includes permanently established helicopter bases.*

72. Paradise Found Developments Ltd requests a new rule (PRECX-R4) to retain permitted activity status for helicopter landings at Wiroa Station, consistent with the ODP. They state that the PDP introduces new noise standards for helicopter movements and landing areas within the Noise chapter (summarised in more detail below) but omits helicopter landing areas as a listed "land use activity" in the Rural Production Zone, meaning this would default to Discretionary (activities not otherwise listed). The submitter seeks a new rule, PRECX-R4 for helicopter movements landing and takeoff areas at Wiroa Station Precinct as a permitted activity. The submitter considers that this rule will address this gap by allowing one landing area with noise and operational controls, which mirrors provisions in other special zones or precincts (Carrington Estate and Kauri Cliffs zones), and is consistent with the ODP approach to permit helicopter landing areas, subject to noise standards.

Analysis

73. To manage noise effects, there are maximum limits on noise from helicopters included in the Noise chapter under NOISE-S4 Helicopter landing areas (and corresponding rule NOISE-R7). The noise limits for permitted helicopter landing areas were intentionally set at a low threshold but this does not imply that any activity exceeding these limits is inherently unreasonable. Within certain zones, helicopter landing areas complying with

the 50dB Ldn limit are classified as restricted discretionary activities. Where noise exceeds 50dB Ldn within those zones, the activity becomes discretionary.

74. The submitter has correctly highlighted that land use rules (as distinct from noise standards) permitting helicopter landing areas are found in some zones / precincts in the PDP but not others. For example, a new Rule (PRECX-R5) was recommended by Mr Baxter at Hearing 15B to permit up to 5 helicopter movements per day within the Motukiekie Island precinct. Table 3 below sets out the rules for helicopter landing areas across the PDP (as amended by officers recommended amendments from S42A reports and written replies). Where a specific activity rule is not provided in a zone / precinct chapter, I agree that the land use component of the activity (being the construction and formation of a helicopter landing area) could be interpreted by a processing planner as defaulting to a discretionary activity under the catch all rule for the relevant zone chapter, despite the noise associated with the helicopter movements and landings being permitted in the Noise chapter. An alternative interpretation is that the helicopter landing area is managed under the impermeable surface coverage rule (just like driveways, storage etc. that are used by vehicles in a temporary way) and therefore no consent is required. However, this is ambiguous.

Table 3 Rules relating to helicopter landing areas in recommended version of PDP chapters

PDP Chapter	**Activity status**	**Rule reference**
NOISE	Permitted	NOISE-R7 and NOISE-S4 Helicopter landing areas
Carrington Estate Special Purpose Zone	Permitted	CAR-R5 Helicopter landing area
Kauri Cliffs Special Purpose Zone	Permitted	KCZ-R9 Helicopter landing area
Motukiekie Island Precinct	Permitted	PRECX-R5 Helicopter movements
Waitangi Estate Special Purpose Zone	Permitted	WEZ-R9[4] Helicopter landing area

75. In discussions with other reporting officers, including Mr Wyeth and Mrs Pearson, I have considered whether it is appropriate to permit helicopter landing areas in the RPROZ zone (the same approach as the ODP) or whether the rules should be specific to certain areas where helicopter landing areas are anticipated and where their effects can be managed

[4] Referred to as WS-R9 in the WEZ recommended provisions (a typo which needs to be corrected to WEZ-R9)

through standards (e.g. limits on location and scale). However, upon review, there are no submissions that provide broad scope to amend the activity status for the land use component of helicopter landing areas within the Rural Production Zone across the District. On this basis, there is only scope to make recommendations to permit the formation and construction of helicopter landing areas in specific zones or precincts, where the submissions provide clear scope to do so, rather than a blanket permitted activity status across the RPROZ. Mr Wyeth addresses this issue specifically in relation to the relief sought by Paradise Found Development Limited for a land use rule for helicopter landing area within Wiroa Station Precinct.

Helicopter movements – discrepancy

76. As a result of a review of the provisions, while considering the above submission and evidence, it has come to the officer's attention that there is conflict between recommendations relating to rules for helicopter movements from Hearing 6/7 in that:

    - Rule TA-R5, for temporary activities, where recommended amendments would only permit helicopter movements associated with emergency and military operations or they default to Discretionary activity; however
    - Rule NOISE-R7 permits noise generated by the operation of helicopters, associated with use of helicopter landing areas, subject to standards to manage noise effects.

77. The conflict is that the Temporary activity rule TA-R5 contradicts and undermines the permitted activity status for helicopter **movements** (my emphasis added) under the Noise chapter because all helicopter movements not associated with emergency and military operations default to discretionary. To rectify this issue, I recommend that amendments are made to Rule TA-R5 to permit helicopter movements that comply with the noise limits in the Noise chapter (Rule NOISE-R7) as shown below. This amendment to resolve the discrepancy can be made as a consequential amendment to achieve consistency with the Noise chapter recommendations.

Recommendation

78. For the reasons above, I recommend the following amendments to rule TA-R5:

TA-R5	Aircraft and helicopter movements (landings and take-off)	
All zones	Activity status: Permitted Where: PER-1	Activity status where compliance not achieved with PER-1: Discretionary unless there is a rule in a zone **<u>or precinct</u>** permitting

	The movement is: a. For emergency services (including civil defence) and military ~~or conservation~~[5] activities **or** b. **Permitted by Rule NOISE-R7**	this activity **or Restricted Discretionary status applies under Rule NOISE-R7.**

Section 32AA evaluation

79. The recommended amendment to Rule TA-R5 is a necessary change to ensure consistency and integration across the PDP, and to ensure the provisions work as intended without conflict. If the change is not made, then all helicopter movements will require resource consent which was not the intention and would come at a high cost. This clarification provides for effective integration between the rules and supports effective management of helicopter activity and associated noise effects.

5 Conclusion

80. The report provides my Written Reply to matters raised by submitters and the Hearing Panel at Hearing 17 Sweep Up (Interpretation, Mapping, Plan Variation 1 and other matters).

81. I consider that the submissions on Interpretation should be accepted, accepted in part, rejected or rejected in part, as set out in **Appendix2** of this report.

82. I recommend that provisions for Interpretation and Definitions are set out in **Appendix 1.1, 1,2 & 1.3 and Appendix 3** to this report, for the reasons set out in this report and the corresponding Section 42A Report.

Recommended by: Chloe Mackay, Policy Planner, Far North District Council.

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

[5] Officers recommended amendment from Hearing 6/7