



Te Kaunihera-ā-Rohe o Ngāmotu

New Plymouth District Council

PROPOSED NEW PLYMOUTH DISTRICT PLAN MINUTE 9 OF INDEPENDENT HEARINGS PANEL

Interim Guidance

Strategic Direction Objectives (Hearing No. 1) and Part 1 Introduction and General Provisions (Hearing No. 2)

Background and Context

1. Clause 44 of the Hearings Procedures dated 27 May 2021 sets out that:

“The Hearings Panel will not be issuing interim or staged decisions on each topic but may release interim guidance on the Strategic Directions topic.”

2. In Minute 5 dated 8 July 2021 we stated:

“As signalled at Clause 44 of the Hearing Procedures, and after hearing on this matter from the parties attending the hearing on 5th and 6th July 2021 the Hearing Panel has decided that we will issue Interim Guidance regarding the Strategic Direction Objectives topic.”

3. After the completion of Hearing No. 2 (Part 1 Introduction and General Provisions), the Panel signalled it would also issue interim guidance on matters of general significance to the overall structure of the New Plymouth Proposed District Plan.

Interim Guidance only and not Final Recommendation or Decision

4. It is critical that all submitters understand that the content of this Minute 9 is intended only as interim guidance. It is issued to assist submitters in preparing for hearings on the other District-wide Matters and Area Specific Matters, appreciating that the proposed provisions the subject of submissions and evidence in Hearings 1 and 2 are relevant to the implementation of the proposed plan as a whole.
5. This interim guidance does not constitute a recommendation from the Panel to the Council, or a Decision of the Council. It is not binding on submitters, the Council, or on the Panel.

6. The Panel does not invite any further evidence in relation to Hearing topics 1 and 2 at this time and we will not enter into correspondence on this interim guidance. However, and as identified in paragraph 11 below, the Panel welcomes reference to this interim guidance through legal submissions, expert evidence, and other submitter representations throughout the balance of the hearings on the other relevant District-wide and Area Specific chapters.
7. The Panel records that this interim guidance has been provided after canvassing the views of submitters involved in Hearings 1 and 2. For the record, most submitters considered that they would be assisted by interim guidance. Only Bluehaven Commercial Limited opposed the issuing of interim guidance. We have accommodated the concern raised by this submitter with this approach within the guidance that follows.

Interim Guidance on Strategic Direction Objectives

8. We would like to acknowledge the contributions of all submitters, expert witnesses, counsel and the Council's Section 42A reporting team to Hearing 1 and their careful and considered advice on the scope, general content, and detailed wording of the Strategic Direction Objectives.
9. To assist submitters, we have recorded our current thinking as to the content of the Strategic Direction Objectives in the attached Table. The Table is based on Appendix 1 of the 16 July Section 42A Right of Reply materials filed by the Council. We have retained the 'tracking' so that the evolution of the objectives through the hearing processes remains evident. In the Table we have identified by **turquoise highlighting** where we presently prefer slightly different wording within some of the proposed objectives. We have noted our current rationale for that by way of footnotes and the highlighted matters below.
10. We wish to highlight the following:
 - (a) **Strategic Direction / HC – Historic and Cultural:** We are generally comfortable with the three objectives in this section, but have suggested the word "kaitiakitanga" is probably an unnecessary addition to HC-3, with the active roles associated with kaitiakitanga already captured more specifically in three other strategic objectives.
 - (b) **Strategic Direction / NE – Natural Environment:** We suggest a more simplified wording for NE-5 as the final version we were presented was endeavouring to address too many concepts and had 'lost its way' as a

meaningful outcome statement. We record our expectation that the ways in which this simplified objective are referenced in a more nuanced manner should be in the topic chapters (i.e., where and how “*protected, restored, improved and or sustained*” is selected as the appropriate approach for a given resource). This would be outlined in the relevant topic chapter’s objectives, policies, rules and other methods (e.g., through the mapping of sites and areas, and in assessment criteria). These aspects can be addressed in detail in future hearings on those relevant chapters.

- (c) **Strategic Direction / NE – Natural Environment:** We record that we are satisfied that we have scope to include proposed NE-NEW1 and support its inclusion within the Strategic Direction Objectives chapters.
- (d) **Strategic Direction / TW - Tangata Whenua:** We generally support the direction and principles of these objectives as presented to us in revised form on 16 July 2021. We have suggested no further amendments at this stage. However, we consider that there is potential for further refinement to the wording to ensure the objectives are expressed as clear outcome statements as intended, as well as for clarification within and between the Strategic Objectives and how they relate to chapter-based objectives, policies, rules and other methods. We intend to explore these opportunities for refinement and clarification in future relevant hearings.
- (e) **Strategic Direction / UFD – Urban Form and Development:** We support inclusion of “social infrastructure” within UFD-13 (and UFD-19), as well as reference to the concept of anticipated change in urban environments referenced in the NPS-UD (Objective 4, Policy 6) in UFD-13. We have suggested tentative revisions to capture both matters.
- (f) **Strategic Direction / UFD – Urban Form and Development:** The Panel has decided not to provide interim guidance at this stage regarding the wording of UFD-16, 17, 18 and 22 pending further exploration of more detailed evidence in the relevant area specific chapter hearings to come concerning the Bluehaven site and the Fitzroy shopping areas.
- (g) **(New) Strategic Direction / RE – Rural Environment:** We support the creation of a new Strategic Direction chapter focussed on the Rural Environment, comprising former UFD23 and 24.
- (h) **(New) Strategic Direction / IE – Infrastructure and Energy:** We support the creation of a new Strategic Direction chapter focussed on infrastructure

and Energy. In this regard two objectives appear to be appropriate to us. Firstly, a revised version of the previous UFD23 New which incorporates avoidance of reverse sensitivity effects and secondly, a new strategic objective that recognises the wide range of energy resources, related investment and potential new energy sources within New Plymouth District.

11. By way of guidance for submitters, in all future hearings the Panel will be particularly interested in understanding how the objectives of the other District-wide and Area Specific chapters integrate with the proposed Strategic Direction objectives, and which policies and methods in those chapters specifically work to achieve the Strategic Direction objectives.

Interim Guidance on Status and Effect of Strategic Direction Objectives

12. At the initial hearing for Hearing 1 - Strategic Direction on 5 and 6 July 2021, several submitters presented legal submissions to us on the general role of the Strategic Direction Objectives within the proposed plan.¹
13. At the conclusion of the hearing, we issued Minute 5 on 8 July 2021 directing as follows:

“Request for Further Legal Submissions from the Parties

The Hearing Panel has determined that it would be assisted by further, focussed legal submissions on the role of the Strategic Direction chapters of the proposed District Plan (PDP) and the Strategic Objectives they propose. The need for further legal assistance is due to the fact that in this case the PDP has not stated “the significant resource management issues for the district”, as it is entitled to under s.75(2)(a) of the Act; rather, it has simply identified “objectives that address key strategic matters for the district” per the discretion to do so in in cl.7(1)(b) of the National Planning Standards (Standards). The following questions arise:

- a) What is the scope of this provision and the lawful reach of objectives that may be included in the Strategic Direction chapter of the PDP?*
- b) Is there an evidential burden on the Council as plan promoter to establish that its proposed strategic objectives come within this scope? Is it satisfied by the assessment required under s.32 of the Act?*

¹ Kāinga ora – Homes and Communities, Transpower New Zealand Limited, Greymouth Petroleum Limited, Todd Energy Limited and Todd Generation Limited, Bluehaven Commercial Limited

c) *Is there an evidential burden on a submitter advocating for additional strategic objectives? If so, what would need to be proven as a matter of fact?*

Clause 7(1)(b) of the Standards confirms that the purpose of any strategic objectives included in a Strategic Direction chapter of a District Plan is to “guide decision making at a strategic level”. What does this phrase mean? Is it achieved by ensuring that all other objectives and policies in the PDP are “read and achieved in a manner consistent with the strategic objectives”, as is proposed by the PDP? Does it need to be more directive (e.g., “give effect to”); or less so (e.g., “have regard to”?). Legal submissions on these questions would also assist the Hearing Panel.

14. We received further legal submissions on this request from Kāinga Ora – Homes and Communities, Transpower New Zealand Limited and Ara Poutama Aotearoa – The Department of Corrections. Counsel for the New Plymouth District Council also provided us with legal submissions on the questions we raised.²

15. After considering the legal submissions, our interim view is that the additional wording suggested by Counsel for the Council best reflects our understanding of the purpose and role of the Strategic Direction Objectives within the proposed District Plan, and describes how they will guide decision making in relation to the natural and physical resources of the district over the life of this plan. For example, and as set out above, we have indicated support for the inclusion of additional chapters within the Strategic Direction Objectives relating to Infrastructure and Energy and the Rural Environment, which reflects our interim view that these matters are worthy of recognition at this strategic level of the plan.

16. For ease of reference we set out the wording that we are likely to recommend be incorporated into the plan as follows:

“Strategic Objectives: The strategic objectives address key strategic and/or significant matters for the district and provide district-wide strategic considerations to guide decision making at a strategic level.

All other objectives and policies in the District Plan are to be read and achieved in a manner consistent with the strategic objectives. The strategic objectives are not repeated in the other chapters in the District Plan but are given effect to by policies within those relevant chapters

² All of the original and further written legal submissions, planning evidence, section 42A Reporters original evidence and rights of reply and other submitter written representations are available on the Council website and can be referred to there.

For the purpose of plan development, including plan changes, the Strategic Objectives provide guidance on the key strategic or significant matters for the district that are relevant when developing District Plan provisions.

For the purpose of plan implementation (including in the determination of resource consent applications and notices of requirement), the Strategic Objectives provide guidance on what the related objectives and policies in other chapters of the Plan are seeking to achieve in relation to key strategic or significant matters for the district.”³

17. We also support the inclusion at the outset of other chapters, under the heading “Cross references to other relevant District Plan provisions”, the following wording:

“Strategic Objectives – All objectives and policies in this chapter are to be read and achieved in a manner consistent with the strategic objectives.”

18. This statement will helpfully draw to the attention of plan users the existence and potential relevance of the Strategic Direction Objectives – such cross referencing becomes even more important given the compartmentalism that can inadvertently occur with e-Plans.

Form of Proposed District Plan

19. Part 1 - Introduction and General Provisions sets out general introductory matters relevant to the proposed district plan as a whole.
20. The Panel is generally supportive of the final Council officer right of reply amendments as set out in Appendix 1: Officer’s recommended amendments Part 1: Introduction and General Provisions, 2 August 2021.
21. This indication should not be seen as a determination on the final content and form of these specific aspects of the district plan. The Panel will reflect back on these provisions at the conclusion of hearings to ensure the matters expressed in this part are consistent with all other recommendations on the district plan.
22. The Panel provides guidance on the following aspects of General Approach – Classes of activities and Activities subject to multiple district-wide matters and/or multiple area specific matters chapters. The Panel supports the intention of these provisions to assist plan users to determine whether they may

³ From Legal Submissions on behalf of the New Plymouth District Council in Response to Minute 5, 30 July 2021, paragraph 2.20.

require a resource consent for a proposed activity or activities, how to determine the status of that activity and how to deal with situations where multiple provisions at different 'layers' of the plan apply.

23. In this respect, the Panel is supportive of drafting which clarifies:

- (a) That where an activity is not the subject of a rule in the plan, or is only subject to permitted activity rules, the activity will be permitted (provided any standards required to be met for the activity to be permitted are met).
- (b) That where an activity requires consent under both District-wide and Area Specific rules, then the status of the activity will be the most restrictive that applies to the activity, unless the specific effects of the activities do not overlap.
- (c) That where the effects of activities requiring multiple consents do not overlap, then each of the specific activities requiring consent will be considered according to its specific status, rather than to the whole activity with a 'bundled' status.

24. The Panel will reflect on the final wording to be incorporated to ensure these general provisions are clear once it has considered the submissions on all provisions on the plan.

DATED this 20th day of August 2021



Stephen Daysh
Hearings Panel Chairperson

For and on behalf of:
Commissioner Antoine Coffin (Deputy Chair)
Commissioner Kitt Littlejohn
Commissioner David McMahon

Base Document from Reporting Officer's Rights of Reply Appendix 1 – 16 July 2021

Strategic Direction / HC – Historic and Cultural (Interim Guidance Version)

For the purposes of preparing, changing, interpreting and implementing the District Plan all other objectives and policies in all other chapters of this District Plan are to be read and achieved in a manner consistent with these strategic objectives.

Strategic Objectives	
HC-1	The district's <u>historic</u> heritage and cultural values and sites contributes to the district's a sense of place and identity <u>and social and cultural well-being</u> , and is are recognis ¹ ed and provided for protected.
HC-2	The cultural, spiritual and or historical values <u>and sites</u> associated with historic heritage, and <u>including</u> sites and areas of significance to Māori, are protected <u>from inappropriate activities</u> .
HC-3	Tangata whenua's relationships, interests, kaitiakitanga ² <u>practices</u> and associations with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes, and other taonga of significance, are recognised and provided for.

¹ Minor edit to reflect UK English spelling.

² Recognition of and participation in Kaitiakitanga as an outcome is provided in TW-8, TW-10 and NE-7 and better reflected there.

Strategic Direction / NE - Natural Environment (Interim Guidance Version)

For the purposes of preparing, changing, interpreting and implementing the District Plan all other objectives and policies in all other chapters of this District Plan are to be read and achieved in a manner consistent with these strategic objectives.

Strategic Objectives	
NE-4	The district's natural environment contributes to a <u>our district's</u> ³ sense of place and identity and is recognised and provided for.
NE-5	A well-functioning <u>and resilient</u> natural environment is protected, restored, improved and or sustained that <u>provides for the social, economic and cultural well-being of communities and for the needs of future generations enables all people to provide for their social, economic and cultural well-being, now and into the future, including being resilient to the effects of climate change</u>
NE-6	An integrated management approach is taken where land-use activities impact on waterbodies and the coastal environment, in collaboration with government, councils and tangata whenua.
NE-7	Tangata whenua are able to exercise their customary responsibilities as mana whenua and kaitiaki in the protection and management of the natural environment.
NE-NEW1	<u>Te mana o te wai, intrinsic values of ecosystems and the life supporting capacity of the district's natural resources are recognised and provided for.</u>

³ Duplication of "District" in this objective considered unnecessary.

Strategic Direction / TW – Tangata Whenua (Interim Guidance Version)

For the purposes of preparing, changing, interpreting and implementing the District Plan all other objectives and policies in all other chapters of this District Plan are to be read and achieved in a manner consistent with these strategic objectives.

Strategic Objectives	
TW-8	<p>Tangata whenua are able to exercise kaitiakitanga and engaged and actively participate in resource management processes and decision-making of the management of the District's natural and physical resources. in a way that provides for the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori;</p> <p>a) — shares responsibility for making decisions;</p> <p>b) — provides for cultural well-being through nourishing connections to the natural and physical environment; and</p> <p>c) — builds unity and partnerships and reaches outcomes.</p>
TW-9	<p>Timely, effective and meaningful engagement with Tangata Whenua is encouraged and supported.</p>
TW-9 <u>10</u>	<p>Recognise that only tangata whenua:</p> <p>a) are kaitiaki;</p> <p>b) hold unique expertise in Matauranga Maori and tikanga;</p> <p>c) are the only people who can identify impacts on their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori.</p>
TW- 10 <u>11</u>	<p>Tangata whenua are able to protect, develop and use Māori land, and Treaty Settlement Land, in a way which is consistent with their culture and traditions and their social, cultural and economic aspirations.</p>
TW-11	<p>Provide for the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance to Māori.</p>
TW- 12 <u>12</u>	<p>Recognise the contribution that tangata whenua and their relationship with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes, and other taonga of significance make to the district's identity and sense of belonging.</p>

Strategic Direction / UFD – Urban Form and Development (Interim Guidance Version)

For the purposes of preparing, changing, interpreting and implementing the District Plan all other objectives and policies in all other chapters of this District Plan are to be read and achieved in a manner consistent with these strategic objectives.

Strategic Objectives – Urban Form and Development	
UFD-13	<p>The district develops <u>and changes over time</u>⁴ in a cohesive, compact and structured way that:</p> <ol style="list-style-type: none"> 1. Maintains <u>Recognises that existing urban environments may change over time to</u> delivers a compact, <u>well-functioning</u> urban form that provides for connected, liveable communities; 2. Recognises that existing urban environments may change over time; 3. manages impacts on the natural and cultural environment; 4. recognises and <u>provides for</u> the relationship of tangata whenua with their culture, traditions, ancestral lands, waterbodies, sites, areas and landscapes and other taonga of significance; 5. enables greater productivity and economic growth; 6. enables greater social and cultural <u>vitality wellbeing</u>; 7. takes into account the short, medium and long-term potential impacts of climate change and the associated uncertainty; 8. utilises existing infrastructure <u>and social infrastructure</u> and/or can be efficiently serviced with new infrastructure <u>and social infrastructure</u>⁵; <u>and</u> 9. meets the community's short, medium and long-term housing and industrial needs; <u>and</u> 10. <u>may detract from amenity values appreciated by existing communities but improve such values for new communities by providing increased and varied housing densities and types.</u>
UFD-14	<p>There is sufficient land <u>available</u> to meet the short, medium and long-term housing demands of the district, <u>that provides feasible development capacity for 10,919 dwellings</u>, as follows:</p> <ol style="list-style-type: none"> 1. <u>4,441 dwellings in</u> In the short to medium-term <u>(in no particular time priority order)</u>⁶: <ul style="list-style-type: none"> a) Infill; b) undeveloped residential zones areas, particularly in Bell Block and the Structure Plan Development Areas residential southern growth areas; and c) Residential intensification in and around the city centre, town centres, local centres and around transport nodes where there will be increased housing densities.

⁴ This insertion, the removal of previously proposed sub-objective 2 and the inclusion of new sub-objective 10 (to be renumbered) are intended to ensure the concept of anticipated change in urban environments referenced in the NPS-UD (Objective 4, Policy 6) is captured in UFD-13.

⁵ After considering the evidence our interim view is that Social Infrastructure should be specifically included in the Strategic Directions Objectives and note this addition would require the addition to the Plan of the Definition requested in the Southern Cross Healthcare submission

⁶ Insertion needed to leave no doubt from a Plan interpretation perspective that the outcome specified is to be achieved using all three methods in the list in the short to medium term.

	<p>2. 6,479 dwellings <u>In addition to the above</u>, in the long-term in:</p> <ul style="list-style-type: none"> e) the Cowling Road and Smart Road growth area; and Rezoned Future Urban Zones with approved Structure Plans the city centre, town centres, local centres and around transport nodes where there will be greater housing densities.
UFD-15	<p>A variety of housing types, sizes and tenures are available across the district in quality living environments to meet the community's diverse social and economic housing needs in the following locations:</p> <ol style="list-style-type: none"> suburban housing forms in established residential neighbourhoods; a mix of housing densities in and around the city centre, town centres and transport nodes, including multi-unit housing; opportunities for increased medium and high-density housing in the city centre, town centres and local centres that will assist to contribute to a vibrant, mixed-use environment; a range of densities and housing forms in new subdivisions and areas identified as appropriate for growth; and papakāinga housing that provides for the ongoing relationship of tangata whenua with <u>their culture and traditions and with their</u> ancestral land and for their cultural, environmental, social and economic well-being.
UFD-16	<p>The district has a hierarchy of vibrant and viable centres that are the location for shopping, leisure, cultural, entertainment, <u>residential</u> and social interaction experiences and provide for the community's employment and economic needs.</p>
UFD-17	<p>The hierarchy of centres in the district is maintained in accordance with the following hierarchy:</p> <ol style="list-style-type: none"> The city centre is the principal centre that provides a wide range of retail and business service activities, living activities, community facilities, and visitor accommodation that serve the district and the Taranaki region; Waitara and Inglewood are town centres that provide a range of business, retail and entertainment activities that serve the needs of each town centre's community and surrounding rural areas and; Local centres are made up of rural service centres, village centres, suburban shopping centres and neighbourhood shops that provide convenience-based business and retail <u>and business service</u> activities which serve the needs of each local centres community and surrounding areas.
UFD-18	<p>Business <u>service activities, commercial service activities</u> and retail activities located outside of centres do not undermine the role and function of the district's centres and/or the hierarchy of centres.</p>
UFD-19	<p>Urban environments are <u>well-designed</u>, livable, connected, accessible, <u>safe and safe well-designed</u> spaces for the community to live, work and play, which:</p> <ol style="list-style-type: none"> integrate and enhance natural features and topography into the design of development to minimise environmental impacts; recognise the local context and <u>planned</u> character of an area; reduce opportunities for crime and perceptions of crime through design solutions; create ease of movement in communities through connected transport networks, a range of transport modes and reduced reliance on private motorised vehicles; incorporate matauranga <u>Māori</u> principles by involving tangata whenua in the design, construction and development of the built environment; use low impact design solutions and/or healthy, accessible, energy efficient buildings; and

	7. are adequately serviced by utilising and/or upgrading existing infrastructure and social infrastructure or with new infrastructure and social infrastructure. ⁷
UFD-20	The benefits of activities that reduce greenhouse gas emissions are recognised and supported.
UFD-21	Airport, port, major facilities, major healthcare activities and large scale industrial activities are able to operate efficiently and effectively and the contribution they make to the economic and social well-being and prosperity of the district is recognised.
UFD-22	There is sufficient land for industrial activities in the short, medium and long term in appropriate locations, including: <ol style="list-style-type: none"> 1. along key transport routes to ensure efficient transportation of products and minimisation of heavy vehicles and high traffic volumes on local roads; and/or 2. areas that are separated from sensitive activities through distance and/or topography to ensure risk and/or conflict between incompatible activities is minimised.
(New Chapter) Strategic Objectives- Urban Form and Development – District Wide Infrastructure and Energy⁸	
UFD-23 (new) IE-1	The benefits of infrastructure across the district are recognised, while ensuring their adverse effects are well managed and reverse sensitivity effects are avoided
IE-2	The contribution that energy activities, including technologies that enable the transition to a low emissions economy, make to the economic and social well-being and prosperity of the District is recognised, while ensuring their adverse effects are well managed.
(New chapter) Strategic Objectives - Rural Environment	
UFD-23 RE-1	Primary production and rural industry activities are able to operate efficiently and effectively and the contribution they make to the economic and social well-being and prosperity of the district is recognised.
UFD-24 RE-2	Productive, versatile Highly productive land and natural, physical and cultural resources located within rural areas that are of significance to the district are protected and maintained from inappropriate activities.

⁷ ibid

⁸ After considering the range of evidence presented and recognising the fact that both Infrastructure and Energy matters have strategic values across the whole of New Plymouth District, and not just the urban areas our interim view is that a new and distinct section covering both Infrastructure and Energy is justified.