
Comments from the Chairperson

The panel has just completed the third week of hearing submissions on the Proposed District Plan. Given our experience we thought it opportune to provide some clear direction to potential submitters about our expectations of them.

The need to provide advice is predicated on our observation that the plan hearing implications stemming from recent changes to the Resource Management Act 1991 (RMA) are poorly understood, especially with regard to sections 32, 32A & 32AA of the Act.

The Resource Management Amendment Act 2013 (RMAA 2013) has not changed the overall purpose of section 32, but rather there has been an attempt to improve the quality of section 32 evaluations and provide greater detail about the requirements for undertaking and reporting evaluations, particularly for the assessment of benefits and costs, including anticipated opportunities for economic growth and employment. The evaluation must be undertaken up-front and early in the plan development process.

The Ministry for the Environment's Guide¹ on Section 32 notes:

"Section 32 (and section 32AA) is an important part of ensuring clear, robust decision-making. Section 32 provides a process for critical evaluation of proposals, including the appropriateness of objectives and the efficiency and effectiveness of options generated by the plan development process. It also provides a transparent way to assess the range of risks, costs and benefits of introducing new policies and rules.

Quality section 32 evaluations will show that local authorities have undertaken a rigorous and comprehensive assessment of policy and plan proposals. It is critical that the evaluation is carried out early in the plan development process to inform plan analysis and decision-making. They should provide a strong incentive based on consistent and reliable data for local authorities to make harder calls up-front."

The Thames Coromandel Proposed District Plan is underpinned by a section 32 Report; the veracity of which will be tested by the hearing process.

The Council has an obligation to make a further evaluation under section 32AA as part of the decision-making process in relation to changes to the Proposed Plan since notification. A further evaluation ensures that any changes that are made to the proposal since the initial evaluation are subject to the same analysis and evaluation. To this end the panel has requested that Council staff in preparing each of the section 42A Reports ensures that the Report recommendations meets the further evaluation criteria of section 32AA. We are of the viewpoint that is a cost effective and time effective way of ensuring that the statutory requirements are met.

The Section 42A / Further Evaluation Report on submissions will provide the panel with:

- Sufficient information to satisfy the Panel's section 32 responsibilities;
- Indicate if there are credible challenges² to the provisions;

¹ 2013. *A guide to section 32 of the Resource Management Act 1991: Incorporating changes as a result of the Resource Management Amendment Act 2013, Interim guidance.* Wellington: Ministry for the Environment.

- Endorse submitted new objectives, policies and methods;
- Suggest new objectives, policies and methods;
- Provide additional information on the appropriateness of any provisions proposed by submitters;
- Confirm that a section 32AA further analysis has been completed or that one is required.

The panel has adopted the following strategy in terms of hearing submissions:

1. Lay Submitters who want changes to the Proposed Plan, beyond those recommended in the Council's s42A / Further Evaluation, will need to provide the Panel with:
 - A concise explanation of the change(s) sought;
 - Cogent reasons why the changes should be made;
 - Any commentary on the veracity of the Council's section 32A Report.

If it is deemed that the suggested changes have merit a further evaluation will be undertaken.

2. The panel will expect submissions given by professionals (particularly resource management planning experts) to provide it with one or more of the following:
 - A concise explanation of the change(s) sought;
 - Cogent reasons why the changes should be made;
 - An explanation of why the Council's proposed approach is deficient in terms of the Section 32 Report;
 - An explanation of why the Council's amended approach in the section 42A/Further Evaluation Report is deficient;
 - Demonstrate that any of the proposed objectives, policies and methods are *ultra vires*.
 - Provide the panel with an alternative section 32 Report or Further Analysis that supports the changes sought.

The panel will not engage in the "cherry picking" of *objectives, policies or rules* but rather it will be basing any decision to make a change on sound information provided by the Council or submitters.



For the Panel

² A credible challenge would be predicated on finding a fault, gap or deficiency in the underpinning Section 32A Report or providing their own section 32A analysis.