

WAIMAKARIRI DISTRICT COUNCIL
MEMO

FILE NO AND TRIM NO: 230809121744

DATE: 11 August 2023

MEMO TO: District Plan Review Hearing Panel

FROM: Mark Buckley
Principal Policy Planner

SUBJECT: Strategic Directions (SD) Objectives – Response to Minute 6 of the Hearing Panel

1. This memo is drafted in response to questions from the Hearing Panel arising from Hearing Stream 1 concerning:
 - Whether the Strategic Directions (SD) objectives have or should have primacy over other objectives and, if they have or are to be given primacy, what would be the impact (if any) on the ability of the District Plan to achieve the requirements of s75 of the RMA?
 - If no primacy is to be given, what is the value of the SD objectives?
 - What are the advantages and disadvantages of the SD objectives having primacy?
2. For reference, the issue of strategic directions having primacy was addressed in the s42A report for Stream 1. In section 3.2 of that report, I considered the submissions of Mainpower and Kainga Ora in relation to the matter of primacy. In that report I relied on the s32 evaluation of the chapter and the framework of the plan authoring. This is captured in the notified version of the Proposed District Plan SD chapter Introduction, which states:

“This chapter provides the overarching objectives to provide high level direction for the District Plan. The matters covered in the strategic directions are addressed in more detail by the district wide and area specific objectives and policies in other chapters of the District Plan.... the relevant objectives and policies of the District Plan, including strategic objectives in this chapter, are to be considered together and no hierarchy exists between them.”

Description of the options

3. For clarity, and to assist; my definition of the options are:

SD Directions have Primacy (Primacy): Under this option, I consider that the strategic directions would be ‘elevated’ above the objectives that sit within the relevant zone chapters. In practical terms, I consider that this would mean that the framework of the plan would anticipate that objectives that sit within the SD chapter would likely be given a greater weighting in consent assessments where the plan user considers that there is tension between the thrust and direction of an objective in the SD Chapter and other zone chapters.

SD Directions do not have Primacy (Non-Primary): With this option, consideration of all provisions within higher order documents would be achieved across the entire plan without directive provisions being subjugated by

(potentially) non-directive strategic direction objectives. On this basis, all objectives would be given equal weight and considered based on their intent, through language used, rather than whether they are considered a strategic issue for the district.

4. By comparison, the operative Waimakariri District Plan does not have a strategic directions chapter specifically. However, Chapter 13 of that plan does contain a number of objectives relating to a 'Resource Management Framework'. This chapter for example contains reference to 'higher level' patterns of development (such as the districts relationship with Christchurch City) and sets the basis for the zoning framework of the Plan. The operative plan does not specifically reference any statement of 'primacy' for these provisions. For reference, I therefore consider that this approach would represent a hybrid approach between 'primacy' and 'non-primacy'.

Advantages and Disadvantages of Approach

5. Prior to considering the question of primacy I consider that an assessment of advantages and disadvantages of approaches would be appropriate. In table 1 below I have provided an analysis, based on the status of the review:

Option	Advantage	Disadvantage
'Primacy'	<ul style="list-style-type: none"> • If appropriately drafted, would potentially provide a mechanism to resolve conflicts between issue specific provisions (if 'tension' is determined to exist). 	<ul style="list-style-type: none"> • Interpretation issues may arise if more general objectives in the SD chapter are given greater weight than more directive and focused provisions within issue-based chapters.
'Non-Primacy'	<ul style="list-style-type: none"> • Enables complete assessment of all issues without potentially marginalising relevant considerations. • Ensures that all provisions are considered equally without having to establish a hierarchy across the objectives. • Enables a wider range of policy considerations across matters that may be identified in part within the SD objective. 	<ul style="list-style-type: none"> • There is a risk that the SD provisions would lack 'value' if they are worded to be generic and general. • May lead to strategic issues being constrained by marginal issues.

Table 1: Advantages and Disadvantages of Primacy vs Non-Primacy

6. As referenced above, I consider that the advantages and disadvantages of the options are greatly informed by the quality of drafting and evaluation of the provisions themselves.

Evaluation

7. In my opinion, District Plan objectives represent the outcomes intended to be achieved from implementation of the plan. The SD objectives contain a collective 'snapshot' of the outcomes intended by the District Plan for the district and provide an overarching basis for the direction provided by the more detailed district wide and area specific objectives and policies in subsequent chapters. Whether primacy is given to the SD objectives or not, I consider the District Plan is already drafted to give achieve the council's requirements under s75 of the RMA, and my recommendation is unchanged from the s42A report (noting the amendments discussed in paragraph 13 below that clarify my position).
8. As alluded to in paragraph 6 above, I consider that if primacy is to be given, from a precautionary perspective there would merit in undertaking a wider assessment to determine, for example, whether revisions are required to the scope and structure of SD objectives, and district wide and zone objectives and policies, to better achieve this; or to identify whether there are any areas where objectives and policies need to be more directive or whether additional objectives and policies are required. This would in my opinion require a 'gap analysis' of provisions to be undertaken.
9. Further to this point, I note that the notified version of the SD chapter was not specifically evaluated as to the extent that the SD provisions would provide full and complete coverage of issues that would be expected to be covered in an overarching chapter, without *complementary* recourse to specific objectives within the other plan chapters.
10. A wider assessment would provide an opportunity to consider more fully whether, if no primacy was to be given to SD objectives and without primacy SD objectives were seen as offering little or no value; would deleting the SD chapter weaken the District Plan to the extent that its ability to achieve s75 of the RMA was threatened? Conversely, a wider assessment may identify that all is required is a more fulsome explanation of the intent and relevance of the SD chapter that could be enhanced within the plan itself.
11. Given timing of the memo I have not had a chance to fully consider whether submissions would provide scope for any such amendments, although I do note that there are submissions that give scope to consider elevating the primacy of SD objectives.
12. The above considerations may have more relevance in the context of a full and complete picture of the evidence presented at the end of the hearing process, therefore I consider this may be better addressed in a 'wrap-up' hearing at the end of the hearing process.

Response to specific statements in the s42A Report

13. In addition to the above questions the panel also asked me to address specific sections of my s42A report where there is an inconsistency of wording and clarity in respect of my recommendation. I have addressed these points in Appendix 1 below.

Response to specific statements within the Section 42A Strategic Directions Officer Report

Para 28 Reply Report “subservient provisions”

The paragraph [28] states that “*if a decision was made to give the Strategic Direction objectives primacy over other objectives*”, that those objectives and “*subservient provisions*” being policies and rule, would need to be reassessed to check to whether they gave affect to higher order documents. The emphasis being that “*if*” this was to occur, then Council would need to consider whether the higher order planning documents are adequately addressed within SD and how any potential tension is resolved within the remaining provisions of the Proposed Plan.

Table 4B S42A Report Forest and Bird submission point 192.31 “The benefits of infrastructure are recognised in policy EI-P1 and is not considered to be a strategic direction matter that is required to provide “high level direction” for the District Plan.

This statement refers to the fact that the Proposed Plan has been written on the basis that the SD Objectives provide guidance to the rest of the plan, and do not have primacy. Therefore, intent of Policy EI-P1 and all other associated policies, do not have to be reflected in SD-O3. That the policies would link to EI-O1 to O3 and that those objectives would be guided by the intent of SD-O3.

Table 4B S42A Report CIAL submission point 254.19 “The proposed change to SDO3(3) is inconsistent with other objectives and policy within the district plan and would result in the provision of infrastructure having dominance over all over parts of the district”

The submission by CIAL used “*avoid*” with regards to incompatible activities and noise sensitive activities. If the strategic direction objectives were given primacy with the proposed amendments, then there would potentially be tension with other objectives within other chapters of the Proposed Plan. Other policy provisions rely on effects being managed.

Page 4 Answers to Panel Preliminary questions in response to Para 65 question:

“While I consider the purpose of the Strategic Objectives is to provide direction for the development of more detailed provisions relating to strategic issues”.

The statement reflects that the Strategic Directions objectives guide the general direction of the plan, and that more specific objective outcomes and policies would provide issue specific direction, rather than that being given in the Strategic Directions objectives.

A handwritten signature in black ink, appearing to read 'Mr Kelly', is positioned in the lower-left area of the page.