

Reply to Minute #22 in relation to clarification on Objectives O42, O44 and O45 (17 November 2017)

Hearing Stream 2

Barry Loe and Paul Denton

1. This is the joint statement from Mr Denton and Mr Loe in reply to Minute #22.
2. Mr Denton and Mr Loe have examined the issues raised by the Panel in Minute #22 in relation to the Right of Reply for Hearing 2. We summarise our consideration of these matters and our conclusions below.

Objective O42

3. Objective O42 is, as described in the review of the proposed Plan objectives undertaken by Mr Willis from Enfocus, a 'foundation' objective setting the outcome to be achieved by the Plan for soils. Removing this objective from the proposed Plan would undermine the objective framework and remove the outcome expected from the Plan for the function of a regional council under s30(c)(i) of the RMA.
4. We are agreed that Objective O42 should revert to the version in Mr Denton's s42A officer's report recommendation.
5. The recommendation in Mr Denton's RoR (Soil conservation) to incorporate elements of Objective O44 into Objective O42 inadvertently removed the focus of Objective O42 on outcomes for the management of soils. As such, we recommend reversing that recommendation.
6. We consider the s32AA recommendation below is more appropriate in giving effect to Objective 30 of the Regional Policy Statement.

Objective O44

7. Objective O44 is described by Mr Willis as a 'utilitarian' objective. The objective's purpose is to help guide decisions to achieve the outcome. For Objective O44, this relates to Council's function under RMA s30(1)(c)(ii) and RMA s30(1)(c)(iii) that is to manage land use activities for the maintenance and enhancement of the quality of water, and ecosystems, in water bodies and coastal water.
8. We are agreed that Objective O44 should be retained but with its purpose being to describe the outcomes expected from managing land use activities that impact on water quality and ecosystems, while Objective O42 is focused on the soil related elements of RMA s30(1)(c).

Objective O44, as notified, could be amended to even more clearly state those outcomes than the original recommendations in the s42A report.

9. We consider the amended recommendation provided here is more appropriate in giving effect to Objectives 6, 12 and 13 of the Regional Policy Statement

Objective O45

10. Objective O45 relates to a specific land use activity – livestock access to surface water bodies and the coastal marine area. Mr Loe recommended in his s42A officer's report that Objective O45 be deleted. The main reason for this is that stock access is only one of a range of land use activities that are to be managed under the provisions of the proposed Plan. This recommendation is still supported. The new recommended Objective O44 sets outcomes for the management of all land use activities that are addressed in the proposed Plan.

Mr Percy's evidence for Objective O42 and O44

11. Mr Percy provided an assessment of Objectives O42 and O44. Mr Percy was of the opinion that Mr Denton's s42A recommendation for Objective O42 did not go far enough and further amendments were required to give better effect to Objective 30 of the RPS. However, accepting Mr Percy's position would go against the concept that Objective O42 is a foundation objective for soils.
12. Mr Percy's amendment changes the focus of Objective O42 from soils to land uses which duplicates elements of Objective O44, and leads to his suggestion to amalgamate Objectives O42 and O44, and delete Objective O44.
13. We consider the matters raised in Mr Percy's evidence are sufficient addressed in our recommended amendments to Objective O44 provided below.

Conclusion and Recommendations

14. Mr Denton and Mr Loe are of the view that both Objective O42 and Objective O44 are necessary, as they relate to different functions of the Council, and each Objective should clearly express the outcomes sought by the Plan for those respective functions.
15. Mr Loe and Mr Denton now recommend the following amendments to Objective O42 and Objective O45 as set out in the attached s32AA assessment.

Section 32AA assessment

Additions to the notified text are in underline and deletions are ~~strike-through~~ text. The section 32AA assessment follows alongside for each of the provisions where amendments have been recommended by the officers.

Red text amendments = recommendations from the officer's s42A report

Blue text amendments = updated recommendations from the officer's Right of Reply

Orange text amendments = updated recommendations from the officer's response to Hearing Minute #22

Amendment no./Submission no.	Chapter	Provision	Text of provision with any recommended amendments	Evaluation of amendment (section 32AA assessment)
	3 Objectives	3.9 Soil		
A2 (S307/024)	3 Objectives	Objective O42: Soil health and erosion	<p>Soils are healthy, and productive, retain a range of uses, and accelerated soil erosion is reduced.</p> <p><u>Land use activities, including those that occur on, or involve the use or disturbance of soil, are managed to:</u></p> <ul style="list-style-type: none"> (a) <u>safeguard the life-supporting capacity of soil,</u> (b) <u>maintain, and where they have been degraded, enhance the desirable physical, chemical and biological characteristics of soil that enables a ranges of uses,</u> (c) <u>reduce accelerated soil erosion; and</u> (d) <u>contribute to safeguarding the life-supporting capacity and preserving the natural character of interconnected surface water bodies and their margins, groundwater and the coastal marine area.</u> 	<p><u>Effectiveness and efficiency</u></p> <p>This amendment gives effect to the RMA s5, and RPS Objective 30, which is to ensure soils are healthy and retain a range of uses.</p> <p>By ensuring soils remain healthy, means in-effect that there is a wide range of uses that soils can be used for. This ensures the life supporting capacity of soils is maintained.</p> <p><u>Costs: (numerical and potential costs)</u></p> <p>There are no costs associated with these recommendations.</p> <p><u>Benefits: (environmental, cultural, economic and social)</u></p> <p>There is potentially an increased environmental benefit by giving effect to high order documents (RPS, Objective 30) and improving the effectiveness of this provision.</p> <p><u>Risk of acting or not acting</u></p> <p>There is a moderate risk of not acting, that the decisions version will not provide clear outcomes.</p> <p><u>Decision about most appropriate option</u></p> <p>This is an important matter that requires recognition by the proposed Plan and provides useful clarification for plan users. There was potential confusion about how the provisions where intended to operate and this proposed change will ensure greater effectiveness of the provisions.</p> <p>In my opinion the proposed amendment is the most appropriate way to achieve the purpose of the RMA and the objectives of the proposed Plan, will have cultural, social, environmental and economic benefits, and will not reduce opportunities for economic growth or have a negative effect on employment.</p>

			<u>Soils are healthy and retain a range of uses, and accelerated soil erosion is reduced.</u>	
A9/(S29/008) (S55/007) (S120/008) (S125/008) (S146/063) (S276/008) (S279/054) (S282/019) (S302/023) (S307/026) (S308/034) (S310/017) (S352/099) Refer to Issue 2.2	3 Objectives	Objective O44: Land use impacts on soil and water	<p>The adverse effects on soil and water from land use activities are minimised</p> <p><u>Land use activities are to maintain or enhance soil conservation and contribute to maintaining and improving water quality and the health of aquatic ecosystems.</u></p> <p><u>Land use activities are managed to:</u></p> <ul style="list-style-type: none"> (i) <u>safeguard the life-supporting capacity of soil, water and ecosystems; and</u> (ii) <u>maintain and where degraded, contribute to improving the quality of water and aquatic ecosystem health.</u> 	<p><u>Effectiveness and efficiency</u></p> <p>This amendment gives effect to the RMA s5, and RPS Objectives 6, 12 and 13 which seek that water quality is maintained or enhanced, and the region's water bodies support healthy ecosystems.</p> <p>Managing land use activities that impact on water quality and ecosystems is an efficient and effective way for the proposed Plan to achieve the relevant outcomes of the RPS.</p> <p><u>Costs</u></p> <p>There are no costs associated with these recommendations.</p> <p><u>Benefits: (environmental, cultural, economic and social)</u></p> <p>There are environmental, cultural, economic and social benefits from more clearly describing the outcomes sought by the proposed Plan.</p> <p><u>Risk of acting or not acting</u></p> <p>The risk of not acting is that the decision version will not provide clear outcomes.</p> <p><u>Decision about most appropriate option</u></p> <p>In my opinion the proposed amendment is the most appropriate way to address omissions and inaccuracies in Section 3.10 of the proposed Plan, identified in submissions and assessed in Issue 2.2 of the Section 42A report: Land use in riparian margins and stock access to surface water bodies and coastal marine area.</p>
A10/(S75/037) (S112/027) (S279/055) (S308/037) (S352/100) (S353/039)	3 Objectives	Objective O45: Livestock access to waterbodies	<p>Objective O45</p> <p>The adverse effects of livestock access on surface water bodies are reduced.</p> <p><u>Objective O44</u></p>	<p><u>Effectiveness and efficiency</u></p> <p>The recommendation to delete Objective O45, and amend Objective O44 to combine the outcome intended by Objective O45 will provide for clearer, more coherent outcomes thus increasing the effectiveness and efficiency of the proposed Plan. The recommended amendments maintain the intent of the proposed Plan and none of them would alter the meaning or any outcome of the proposed Plan.</p> <p><u>Costs</u></p>

Refer Issue 2.3			<p>The adverse effects on soil and water from land use activities are minimised</p> <p>Land use activities, including stock access to a surface water body or the coastal marine area, maintain or enhance soil conservation and contribute to maintaining and improving water quality and the health of aquatic ecosystems.</p>	<p>There are no costs associated with these recommendations.</p> <p><u>Benefits: (environmental, cultural, economic and social)</u></p> <p>There are environmental, cultural, economic and social benefits from more clearly and coherently describing the outcomes sought by the proposed Plan.</p> <p><u>Risk of acting or not acting</u></p> <p>The risk of not acting is that the decision version will not provide clear coherent outcomes.</p> <p><u>Decision about most appropriate option</u></p> <p>In my opinion the proposed amendments are the most appropriate way to address omissions and inaccuracies in Section 3.6 of the proposed Plan, identified in submissions and assessed in Issue 2.3 of the Section 42A report: Land use in riparian margins and stock access to surface water bodies and coastal marine area.</p>
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