

Proposed District Plan (PDP) decisions:

- As requested by the Commissioner in Minute 11 I respond to the Decisions Version of the PDP.
- The Decisions Version of the Proposed New Plymouth District Plan (PDP) was notified on 13 May 2023. Under S86B of the RMA the Proposed Plan decision version has legal effect.
- This application was lodged prior to 13 May 2023 and therefore is protected by S88A (1) and therefore no resource consent is required under the PDP for the RPROZ as it was lodged prior to the PDP decisions being made.
- The RMA does not specify the respective weight to relevant provisions of the Operative and Proposed Plan. However, a weighting exercise is required where the consent authority inclination is to grant consent under one plan and refuse it under the other.
- From my review of the PDP decisions version relevant to this application the relevant objectives and policies remain as assessed under my latest S42A. Some minor changes to wording have occurred through the decisions process but nothing of consequence that would alter the conclusions reached in my S42A.
- As my determination made in the S42A differs under the ODP from the PDP, I am required to carry out a weighting exercise. Acknowledging that my conclusion differs because the PDP more appropriately addresses and seek to protect highly productive land in the Rural Production Zone (RPROZ).
- A weighting exercise must be carried out on a case by case basis. I have concluded that **more** weight should be placed on the provisions of the ODP as I believe there is a potential injustice for this application with placing more weight of the PDP given that this application was lodged in 2021 and this hearing has been delayed for reasons outside of the control of the applicant.
- However, I acknowledge that the ODP does not given effect to the NPS-HPL and the PDP gives effect to some aspects of this NPS-HPL. I also acknowledge the following:
 - The Proposed District Plan has been exposed to testing and independent decision making through the submissions, further submissions, and hearings process.
 - The Proposed District Plan has progressed significantly through the Schedule 1 process, with Decisions notified under clause 10 and 11 of Schedule 1 on 13 May 2023.
 - The Proposed District Plan provisions represent a significant shift in council policy.
 - I consider that the relevant provisions of the Proposed District Plan in relation to the protection of highly productive land give a coherent pattern of objectives and policies and **are** in accordance with Part 2 of the RMA.
- I believe that given that the NPS-HPL has been issued by the Government it is safe to conclude that it is giving effect to Part 2 of the RMA. The NPS-HPL is a higher order document and as per the Davidson case you don't need to refer back to Part 2 as you can conclude that the NPS-HPL is in keeping with Part 2.