



Kaipara District Council
32 Hokianga Road
Dargaville 0310

24 March 2023

Attention: Hearing Commissioners for Plan Change 81

Dear Commissioners

Ministry of Education: Response to second direction of the hearing panel for Plan Change 81

The Ministry of Education (the Ministry) lodged a submission on proposed Plan Change 81 (PC81) to the Kaipara District Plan requesting separation of educational facilities from community facilities, and enabling provisions for educational facilities.

The Ministry notes that the s42A reporting officer supported the Ministry's submission in part with regard to a separate definition for educational facilities and a need for specific enabling provisions. In the Ministry's letter to be tabled at the hearing, we have provided a table to provide clarity on the specific relief the Ministry sought and the corresponding reasoning.

This letter is in response to the second direction of the hearing panel requesting where submitters are asking for a change or changes to the wording of the provisions of the notified plan change, that the Panel has the expectation that submitters will provide an RMA Section 32AA-like analysis to justify the request (as appropriate).

The Ministry notes that the proposed changes to the "Trifecta Development Area" plan (TDA) that it has sought are relatively minor, but are important changes to provide clarity and achieve consistency in enabling the establishment of educational facilities where a need is identified. Therefore, in terms of a s32AA assessment, the difference between the applicant's proposed TDA and the Ministry's requested relief will be relatively minor. Notwithstanding this, the specific inclusion of educational facilities in the objective and policy wording will provide greater clarity and consistency in the application of PC81 and better enable the Ministry to establish a school where an operational need is identified.

In response to the Panel's request, we provide below a brief s32AA assessment at a level of detail that is appropriate and corresponds to the scale and significance of the changes requested by the Ministry.

Please contact the undersigned on behalf of the Ministry if you have any questions or require further clarification.

Yours faithfully,



Vicky Hu
Planner

on behalf of

Beca Limited



Section 32 AA Evaluation

Section 32AA of the Resource Management Act 1991 requires a further evaluation to be undertaken in accordance with s32(1)-(4) if any amendment has been made to the proposal (in this case the TDA) since the original s32 evaluation report was completed.

Evaluation of objectives

Section 32(1)(a) (and therefore s32AA(1)(b)) requires an assessment of whether the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA.

The original s32 documents prepared by the applicant considered the objectives of the plan and whether they were the most appropriate way to achieve the sustainable management in the Kaipara District.

The analysis below considers the Ministry's proposed objective in the TDA to satisfy s32AA.

TDA 1.1 Objective 3 recognises that educational facilities have an operational need to be available to support communities. Providing for the establishment of educational facilities will contribute to the social well-being of the local community by providing access to educational as well as some employment opportunities.

Including educational facilities within the objective as a separate activity to community facilities recognises the unique role which educational facilities play in supporting the well-being of a neighbourhood and forming a well-functioning urban environment. For this reason, the proposed TDA 1.1 Objective 3 is considered the most appropriate objective to achieve the Purpose of the Act in accordance with s5(1).

Evaluation of proposed policies, rules and methods

Section 32(1)(b) (and thus s32AA(1)(b)) of the RMA requires an examination of the proposed provisions to ensure that they are the most appropriate way of achieving the relevant objectives.

The following options are considered to be reasonably practicable to achieve the objectives:

- **Option 1:** TDA as originally proposed by the applicant.
- **Option 2:** Apply the Ministry's proposed TDA 1.2 Policy 5 amendment and introduce new rules and matters of discretion (TDA-LLRA-R20, TDA-GRA-R22, TDA-NCA-R19) to create clarity around educational facilities and enable the establishment of educational facilities.

The TDA provisions in Option 1 provide for community facilities, but not specifically for educational facilities. Although educational facilities is nested under community facilities in the nesting table, the inclusion of educational facilities as part of community facilities is not explicit as the definition for community facilities in the TDA does not include or refer to educational facilities. Option 1 does not specifically address and provide for educational facilities in the TDA 1.2 Policy 5.

To maintain consistency with the draft Kaipara District Plan and avoid potential discrepancies in future in the application of the proposed provisions of the TDA, the explicit inclusion of educational facilities in Option 2 is considered to be the most reasonably practicable option to achieve the objective.

The following assessment examines the efficiency and effectiveness of Option 2 and summarises the reasons for deciding on the provisions.



Table 1: Trifecta Development Area – Recommended Amendments Analysis

Provisions most appropriate to achieve the objective	Effectiveness and efficiency	
	Benefits	Costs
<ul style="list-style-type: none"> - Amendments to TDA 1.2 Policy 5; and - New rules and matters of discretion to the Large Lot Residential Area, General Residential Area, and Neighbourhood Centre Area 	<p>Environmental:</p> <ul style="list-style-type: none"> - No material change from the original proposed TDA provisions. <p>Economic:</p> <ul style="list-style-type: none"> - Restricted Discretionary status of educational facilities (Option 2) is anticipated to provide a lesser cost than a Non-Complying status (Option 1) for planning proposals to establish educational facilities. <p>Social:</p> <ul style="list-style-type: none"> - Supports the social-wellbeing of communities by better enabling educational facilities in the Plan Change Area. <p>Cultural:</p> <ul style="list-style-type: none"> - Similar to social benefits, likely some cultural benefit by better enabling educational facilities in the Plan Change Area. 	<p>Environmental:</p> <ul style="list-style-type: none"> - No material change from the original proposed TDA provisions. <p>Economic:</p> <ul style="list-style-type: none"> - No identified economic costs (refer to benefit of Restricted Discretionary status of educational facilities (Option 2)) <p>Social:</p> <ul style="list-style-type: none"> - Potential amenity effects to surrounding land uses through better enabling educational facilities in the Plan Change Area, although these effects will be managed by the proposed matters of discretion. <p>Cultural:</p> <ul style="list-style-type: none"> - No identified cultural costs.
Opportunities for economic growth and employment		
<p>Provision of educational facilities in residential and neighbourhood centre areas will generate direct opportunities for employment for teaching staff. Providing local communities with access to education will also contribute to the future employability of the students in the community.</p>		
Risks of acting or not acting		
<p>The risk of not acting (i.e. not providing explicit reference to educational facilities and not including enabling provisions for educational facilities in the residential and neighbourhood centre areas) is that it will introduce barriers for the Ministry to establish a school in the Plan Change Area where the Ministry identifies a need for one (currently a non-complying activity under Option 1).</p> <p>The current non-complying activity status of educational facilities in the General Residential Area and Large Lot Residential Area is considered to be inconsistent in achieving the objective of the</p>		



TDA. There is an operational need for residential areas to provide for non-residential activities (such as educational facilities) to support the needs of local communities.

Summary

Adopting the proposed amendments to TDA 1.2 Policy 5 and introducing the new rules and matters of discretion (TDA-LLRA-R20, TDA-GRA-R22, TDA-NCA-R19) is the most efficient and effective method of implementing the outcomes sought by the objective (Option 2).

Explicit reference to educational facilities and enabling provisions for educational facilities in residential and neighbourhood centre zones in the Plan Change Area will better enable the Ministry to establish a school where there is an operational need for one.