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**Proposed Thames Coromandel District Plan  
Hearings**

**The Proposed District Plan Hearings Panel**

**Hearings 30 September - 2 October 2014**

**Submitter: K Vernon**

**Evidence / Memorandum (Rev 01)**

**Summary of Submissions**

1. The summary of submissions and further submissions attached to the hearings agenda / order paper has a number of omissions.
2. I lodged Further Submissions covering all aspects of submissions 397, 320, 534 and 1084.2. These further submissions have not been listed.
3. The lack of an online summary of all further submissions is not helpful.

**Submission # 397, Thames Coromandel District Council (TCDC)**

4. The TCDC submission # 397 to its own Proposed Plan seeks to make significant changes (variations) to the plan.
5. The Council's submission includes over 100 change headings and comprises some 46 pages of material. Many of the changes are complex with multiple amendments to the plan. Linkages within the plan add to the difficult of understanding the full impact of the changes.
6. My further submission questioned the validity of initiating variations to the Proposed Plan in this way.
7. Section 73 of the Resource Management Act (RMA) requires a District Plan to be changed in the manner set out in Schedule 1 of the Act. Clearly the intent is that the full procedure of the Schedule shall be used.
8. Under clause 6 of Schedule 1 the local authority may make a submission on its own proposed plan but to use this provision to initiate major changes and variations would essentially circumvent the prime requirements of Section 73 of the Act. The logical conclusion, therefore, is that any submission by a local authority on its own plan must be limited in scope to minor corrections and minor points of clarification only.
9. If a local authority was permitted to make major changes through a submission to its own plan this would allow the local authority to bypass the normal consultation process involved with notification, and to potentially exclude people from participation.
10. There would inevitably be people who did not lodge a primary submission that would have done so if the changes had been included in the original plan.

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11. Similarly, persons that did make primary submissions based on the proposed plan as notified may have made quite different submissions if the changes had been included in the proposed plan from the outset.
12. To secure their right to participate people would firstly have to be aware that such a submission had been made, then identify the issues, then make a further submission within the tight timetable for that, then demonstrate that they qualify under the restricted status, and if they did make a further submission it would then be limited in scope to either being in support or opposition only - they would not have the opportunity to put forward alternatives in the way they would with a primary submission.
13. Essentially people have a reduced opportunity to consider and respond to issues when changes are introduced by Council through a submission to the proposed plan (rather than being included in the plan as notified) and potentially face being disadvantaged as a consequence.
14. Also, there is a requirement under the RMA Section 32AA for a further evaluation if changes are made after the initial Section 32 report is prepared and there is no evidence that Council has complied with this provision for the changes initiated by submission #397.
15. The assertion is that TCDC's use of a submission to its own Proposed Plan to initiate significant changes to the Plan is not a legally valid process. The Hearings Panel should, therefore, exclude Submission # 397 from consideration.

### Settlement and Growth

16. The Section 42A report places some emphasis on giving effect to the provisions of the RPS but this seems to be primarily a reference to the Proposed RPS including the latest consent orders.
17. There may be a question mark over the weight Council is currently giving to the Proposed RPS given the requirements set out in Section 74 (2) (i) and Section 75 (3) (c) of the Act. However, if Council intends to give effect to the Proposed RPS it should be noted that changes arising from consent order clearly envisage that "appropriately scaled development" will occur in places not provided for in the Peninsula Blueprint, and that the District Plan should provide for this.
18. The inference is that the District Plan should not include Objectives and Policies that would effectively preclude such development.
19. This requires the Objectives and Policies to have a level of balance between development and environmental concerns that is currently lacking and which is not addressed by Council's proposed amendments.

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### Definitions

20. The Council report recommends the inclusion of a definition for "Regionally Significant Infrastructure" based on the same term used in the Proposed WRPS. There are, however, some issues with this definition. Firstly, point (c) of the definition "radio apparatus as defined in section 2 (1) of the Radio Communications Act 1989" is a very general term that would include many minor radio installations that are not regionally significant. For instance amateur radio configurations operated as a hobby, local telemetry and RT systems. This may lead to some unusual and unwanted interpretations.
21. The PWRPS originally used the term "strategic radio communication facilities" and under the definition of Infrastructure refers to "a network for the purpose of radiocommunications.." which indicates the intent was to limit the definition to larger radio networks providing critical public functions.
22. The definition of telecommunication in point (b) has similar problems. Pulling definitions out of other legislation and using them in a different context does not always work.
23. Infrastructure is not defined in the Proposed Plan but is in the RMA. A common sense definition of "Regionally Significant Infrastructure" therefore would be infrastructure (as defined in the RMA) that has regional importance. Does it need a list of "includes" which only confuse.
24. In fact the list of "includes" is not stated to be exclusive (it provides some clarifications only) and, therefore, does not limit a more general interpretation of "regionally significant" that would encompass a wider range of infrastructure. This may give some problems with the way Council proposes to use the definition in the Plan, for instance in Policy 2(e). I also note that the revised wording for Policy 2(e), with the word "undue" deleted, actually looks to be overly restrictive.
25. Alternatively, a definition along the lines used in the Proposed Auckland Unitary Plan may suffice for TCDC with appropriate substitution. That is:  
  
(Regionally) Significant Infrastructure  
Existing or proposed infrastructure, or a component of infrastructure, which:
  - Due to its location, function, development or operation, is of strategic (critical) importance to the form, function and/or growth of Auckland (WR), or otherwise has national significance; or
  - If unavailable, would have a serious adverse effect on the social or economic wellbeing of Auckland (WR) or a community within Auckland (WR); or
  - It is a lifeline utility as defined in s.4 of the Civil Defence Emergency Management Act 2002.
26. However, again this is a relatively general definition that would require other changes to Plan wording where the term "Regionally Significant Infrastructure" is used.

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27. In my view the definition of Regional Significant Infrastructure as proposed is not suitable for inclusion in the Proposed Plan (notwithstanding that it has found its way into the PWRPS). Also some of the proposed wording and amendments round its use in the Plan are not appropriate.

**Signature:** *KV*

**Date:** 28 September 2014

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