

SECTION 42A REPORT

Report on submissions and further submissions

Topic: Chapter 49 – Open Space Zone

Report prepared by: Predrag Draca

Dated: 7 June 2024

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List of submitters and further submitters addressed in this report

Submitter no	Submitter name	Abbreviation
24	Ministry of Education	MOE
16	Fire and Emergency New Zealand	FENZ
47	Royal Forest and Bird protection Society of New Zealand Incorporated	F&B
46	Federated Farmers	FF
17	Waka Kotahi	Waka Kotahi

1. Introduction

1.1 Qualifications and Experience

1. My name is Predrag (PJ) Draca. I am employed by the Waitomo District Council as a Senior Planner.
2. I hold the qualifications of Bachelor of Environmental Planning- Terrestrial Environmental Stream from the University of Waikato.
3. I have been employed in planning roles in both private and local government for almost 10 years. I have been employed by Waitomo District Council as the Senior Planner since September 2020. In this role I am responsible for the administration of the Operative Waitomo District Plan and have been assisting with the drafting of the Proposed Waitomo District Plan when required.

1.2 Code of Conduct

4. I confirm that I have read the Code of Conduct for Expert Witness in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
5. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners.

1.3 Conflict of Interest

6. I confirm that I have no real or perceived conflicts of interest.

1.4 Preparation of this report

7. This report considers the submissions and further submissions that were received in relation to Chapter 49 – Open Space Zone.
8. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. Scope of Report

2.1 Matters addressed by this report

9. This report is prepared in accordance with Section 42A of the Resource Management Act 1991. This report considers submissions and further submissions that were received by the Council in relation to the provisions of Chapter 49 Open Space Zone within the Proposed Waitomo District Plan. Chapter 49 - Open Space Zone manages the effects of activities on reserves and on private and community land used for open space activities. Other effects and activities are addressed in various Section 42A reports, such as temporary activities and ecosystems and indigenous biodiversity chapters.

2.2 Overview of the topic / chapter

10. This chapter manages the effects of activities on reserves and on private and community land used for open space activities. This zone also provides for some community halls, clubrooms, libraries, public toilets and other open space assets which are located on land that is not necessarily classified as a reserve.
11. Activities on Council owned and/or administered reserves are controlled by the provisions of the Reserves Act 1977 and the requirements in any reserve management plan. The intention of the open space zone is to avoid unnecessary duplication of the Reserves Act 1977 functions and processes unless there is potential for significant adverse effects to occur.

2.3 Statutory Requirements

12. The PDP has been prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, national planning standards. Regard has also been given to the relevant regional plans.

2.4 Procedural matters

13. At the time of writing this Section 42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.

3. Consideration of submissions received

3.1 Overview of submissions

14. A total of six submissions and one further submission were received on this Chapter. Two of these submissions supported the retention of provisions as notified. Two submissions were opposed to various provisions as notified and have sought amendments to wording. One submission sought an addition of a new standard, and one submission was a further submission opposed to the wording of the suggested additional new standard.

3.2 Structure of this report

15. Given the relatively low number of submissions and further submissions received on this chapter, the Section 42A report is structured by submissions that have requested retention of the provisions as notified, and then those seeking relief thereafter.

16. The assessment of submissions generally follows the following format: submission information; relief sought by the submitter, the recommendation and if required, any amendments to the plan.

3.3 Submissions seeking retention of existing provisions

17. The submissions below have all sort retention of various provisions as notified, and no other submissions or further submissions have been received on these provisions.

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
24.68	Ministry of Education (MOE)	Support	OSZ-O1	Retain as notified.	Accept
17.145	Waka Kotahi	Support	OSZ-O3	Retain as notified.	Accept

Analysis and recommendation

18. It is considered that the relief sought by the submitters to retain these provisions as notified is accepted.

19. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

3.4 OSZ-P2 - The use and development of the open space zone

20. Two submissions were received on this provision, and two further submissions.

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
47.189	Forest and Bird (F&B)	Oppose	OSZ-P2.2	Amend OSZ-P2.2. as follows: Retain open space and indigenous vegetation as far as practicable <u>and protect and maintain indigenous biodiversity in accordance with the ECO chapter provisions.</u> And Any consequential changes or alternative relief to achieve the relief sought.	Reject
16.75	Fire and Emergency New Zealand (FENZ)	Oppose	OSZ-P2	Amend as follows: OSZ-P2. The use and development of the open space zone must: [...] 8. Ensure there is adequate existing or planned infrastructure to service the activity and/or development, <u>including a firefighting water supply;</u> and	Reject

Analysis and recommendation

21. OSZ-P2.2 seeks to ensure that the use and development of the open space zone maintains open spaces and indigenous vegetation as far as practical. Forest and Bird have requested that the words indigenous vegetation be removed from this Policy, and that the Policy directs an applicant to Chapter 26 - Ecosystems & indigenous biodiversity provisions, which set out the relevant rules and performance standards.
22. It is considered while the clearance of indigenous vegetation is managed through the provisions in Chapter 26, it is appropriate to specify it in this Policy, as this provides the expectation of what is anticipated and expected in this zone.
23. OSZ-P2.8 seeks to ensure that there is adequate existing or planned infrastructure to service the activity and/or development. Fire and Emergency New Zealand has requested that the infrastructure should be amended to include firefighting water supply.

24. It is considered that this amendment is not required as the wording of OSZ-P2.8 specifically requires that there is adequate existing or planned infrastructure to service the activity and or development. It is considered that this would also include infrastructure for firefighting purposes, and as such no amendment to this provision is required.
25. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

3.5 Floodlights

26. One submission and no further submissions were received on this performance standard.

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
17.146	Waka Kotahi (NZTA)	Support in part	OSZ-14	Amend OSZ-14 as follows: 1. Hours of operation must not be outside 7.00am to 9.00pm. <u>Where flood lighting is visible from a state highway, limits are to be identified per Table 3.2 of AS/NZ 4282.2019 Control of the Obtrusive Effects of Outdoor Lighting</u>	Reject

Analysis and recommendation

27. It is considered that the amendment where flood lighting could be 'visible' from the State Highway is too broad, as it could be perceived to include matters such as floodlights on reserves in Te Kuiti that would be visible from Awakino Road (State Highway 3), as traffic descends into Te Kuiti, which would have minimal impact on driver safety. It is considered that this matter should be clarified by Waka Kotahi at the hearing. Specifically, further information including a distance or setback from floodlights would be useful, so that Council is able to have a measurable standard, as opposed to a rule that would be difficult to interpret and implement.
28. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

3.6 New performance standard

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
16.76	Fire and Emergency New Zealand (FENZ)	OSZ – addition of new standard	OSZ	Add new performance standards as follows: OSZ-R16 – Servicing 1. <u>Where a connection to Council's reticulated water supply system compliant with the SNZ PAS 4509:2008 New Zealand Fire</u>	Reject

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
				<p><u>Service Firefighting Water Supplies Code of Practice is not available, or additional level of service is required, water supply and access to water supplies for firefighting shall be in accordance with the alternative firefighting water source provisions of SNZ PAS 4509:2008.</u></p> <p><u>Note: Further advice and information about managing fire risk and storage of water for firefighting purposes can be obtained from Fire and Emergency New Zealand and SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice (refer Table 1 and 2).</u></p>	

Analysis and recommendation

29. OSZ-P2.8 specifically requires that there is adequate existing or planned infrastructure to service the activity and or development. It is considered that the wording 'existing and planned infrastructure' would also include infrastructure for firefighting purposes, and as such, the suggested additional standard is not required to give effect to the relief sought.
30. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

4. Conclusion

Submissions have been received in support of, and in opposition to the notified provisions of the proposed district plan. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, it is recommended that no amendments are required to this Chapter.

For the reasons set out throughout this report, it is considered that the proposed objectives and provisions, are the most appropriate means to:

- Achieve the purpose of the Resource Management Act 1991 where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives; and
- Achieve the relevant objectives of the proposed district plan, in respect to the proposed provisions.

APPENDIX 1 RECOMMENDED AMENDMENTS

No amendments to any of the Chapters or Schedules have been required or requested.

APPENDIX 2 SECTION 32AA EVALUATION

No section 32AA evaluation is required, as no submissions requesting amendments to these chapters have been requested.