

SECTION 42A REPORT

Report on submissions and further submissions

Topics:

- Chapter 21 – Contaminated Land**
- Chapter 22 – Hazardous Substances**
- Chapter 31 – Amateur Radio**
- Chapter 34 – Financial Contributions**
- Chapter 53 – Amenity Precinct**
- Chapter 54 – Te Maika Precinct**
- Schedule 10 – Areas of Outstanding Natural Character**
- Schedule 11 – Areas of High / Very High Natural Character**
- Schedule 13 – Coastal Environment Overlay**

Report prepared by: Alex Bell

Dated: 7 June 2024

TABLE OF CONTENTS

1.	Introduction	4
1.1	Qualifications and Experience	4
1.2	Code of Conduct.....	4
1.3	Conflict of Interest.....	4
1.4	Preparation of this report.....	4
2	Scope of Report	5
2.1	Matters addressed by this report.....	5
2.2	Overview of the topic / chapter	5
2.3	Statutory Requirements.....	7
2.4	Procedural matters	7
3	Consideration of submissions received	7
3.1	Overview of submissions	7
3.2	Structure of this report.....	8
4	Analysis and recommendations	8
	Topic 1: Chapter 21 – Contaminated Land.....	8
	Topic 2: Chapter 22 – Hazardous substances	8
	Topic 3: Chapter 31 – Amateur Radio	9
	Topic 4: Chapter 34 – Financial contributions	10
	Topic 5: Chapter 53 – Amenity precinct	10
	Topic 6: Chapter 54 – Te Maika precinct.....	10
	Topic 7: Schedules 10, 11 and 13	12
5	Conclusion	12
	APPENDIX 1 RECOMMENDED AMENDMENTS.....	13
	APPENDIX 2 SECTION 32AA EVALUATION	14

List of submitters and further submitters addressed in this report

Chapter 21 Contaminated land

Submitter No	Submitter Name	Abbreviation
43	Graymont (NZ) Limited	GL
46	Federated Farmers	FF
56	The Fuel Companies	TFC

Chapter 22 Hazardous substances

Submitter No	Submitter Name	Abbreviation
43	Graymont (NZ) Limited	GL
46	Federated Farmers	FF
56	The Fuel Companies	TFC
16	Fire and Emergency New Zealand	FENZ
27	Horticulture New Zealand	Hort NZ
31	Transpower New Zealand Limited	Transpower

Chapter 31 Amateur Radio

Nil

Chapter 34 Financial Contributions

Submitter No	Submitter Name	Abbreviation
17	Waka Kotahi NZ Transport Agency	Waka Kotahi

Chapter 53 Amenity Precinct

Submitter No	Submitter Name	Abbreviation
17	Waka Kotahi NZ Transport Agency	Waka Kotahi

Chapter 54 Te Maika Precinct

Submitter No	Submitter Name	Abbreviation
35	Te Ruunanga o Ngaati Mahuta ki te Hauaauru	TRNMTH
16	Fire and Emergency New Zealand	FENZ
24	Ministry of Education	MoE
3	Heritage New Zealand Pouhere Taonga	NZHPT
FS20	Sheryl Paekau	Sheryl Paekau

Schedule 10 – Areas of Outstanding Natural Character

Schedule 11 – Areas of High / Very High Natural Character

Schedule 13 - Coastal Environment Overlay

Submitter No	Submitter Name	Abbreviation
53	Department of Conservation	DOC

1. Introduction

1.1 Qualifications and Experience

1. My name is Alex Bell. I am employed by the Waitomo District Council as the General Manager – Strategy and Environment.
2. I hold the qualifications of Bachelor of Laws, Graduate Diploma in Environmental Planning and am completing my Post Graduate Diploma in Environmental Planning from the University of Waikato.
3. I have been employed in legal and planning roles in private practice, central government and local government for approximately 10 years. I have been employed by Council as the General Manager – Strategy and Environment since June 2021. In this role I am responsible for the Proposed Waitomo District Plan proceeding through the process under Schedule 1 of the RMA and the administration of the Operative Waitomo District Plan.

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 21 – Contaminated Land, Chapter 22 – Hazardous Substances, Chapter 31 - Amateur Radio, Chapter 34 – Financial Contributions, Chapter 53 – Amenity Precinct, Chapter 54 – Te Maika Precinct, Schedule 10 – Areas of Outstanding Natural Character, Schedule 11 – Areas of High / Very High Natural Character, Schedule 13 Coastal Environment Overlay.

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 21 – Contaminated Land, Chapter 22 – Hazardous Substances Chapter 31 - Amateur Radio, Chapter 34 – Financial Contributions, Chapter 53 – Amenity Precinct, Chapter 54 – Te Maika Precinct, Schedule 10 – Areas of Outstanding Natural Character, Schedule 11 – Areas of High / Very High Natural Character, Schedule 13 coastal environment overlay within the Proposed Waitomo District Plan. Other effects and activities are addressed in various Section 42A reports.

2.2 Overview of the topic / chapter

10. An overview of the various chapters and schedule is set out below.
11. Chapter 21 - The contaminated land provisions in this Chapter acknowledge that it is important that land in the district that is contaminated or potentially contaminated is investigated and managed as required. This is to ensure that people are not exposed to substances that may endanger their health, and that property is not unduly affected by issues such as corrosion, which may threaten buildings and limit land use options. This Chapter acknowledges that the primary legislation for managing contaminated soil is the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESC), which provides a national standard for activities on land where soil is known to be or may be contaminated in such a way as to be a risk to human health.
12. Chapter 22 - The hazardous substances provisions in this Chapter seek to avoid any duplication of regulation with Hazardous Substances and New Organisms Act 1996 (HSNO) and Health and Safety at Work Act 2015 (HSW) and only apply to significant hazardous facilities which are defined in this plan. Most existing significant hazardous facilities are located in the industrial and rural production zones and the aerodrome precinct (PREC3). The rules in this chapter provide an allowance for existing significant

hazardous facilities, recognising both the role of HSNO and HSW in managing effects, and the significance of these industries to the district's economic and social wellbeing. Facilities which exceed this allowance will need to demonstrate through a resource consent process, that the expanded facility is appropriately located, designed and constructed. The increased sensitivity of the receiving environments in some zones means that no allowance has been made for the expansion of significant hazardous facilities in these locations.

13. Chapter 31 – The amateur radio chapter seeks to provide a stand alone chapter for personal recreational and technical activity that encourages experimentation in radio technology and personal communications worldwide. While most communication today is via cellular network, amateur radio operators can play an important role in facilitating communications at the time of emergencies and/or when the cellular network is not available.
14. Chapter 34 – The financial contributions chapter uses financial contributions to build into the cost of the activity, development or subdivision any physical, environmental, or social costs that can be identified. It does this by ensuring that the developer avoids, remedies, mitigates or compensates for any adverse effects.
15. Chapter 53 – The Amenity Precinct provides for the corridor along State Highway 37 between Hangatiki and Waitomo Caves Village, and between Hangatiki along State Highway 3 to the northern boundary of the district, which is a key strategic corridor to the Waitomo Caves Village. This was identified as part of an extensive landscape policy area in the previous district plan. The PDP does not identify the same extensive area, instead prioritising the State Highway corridors (outside of the tourism zones) as important connecting routes which have a rural character requiring maintenance and enhancement.
16. This precinct applies to land zoned general rural, Māori purpose, natural open space and settlement. The plan adds additional controls in respect of signs, relocated buildings and shipping containers. It also controls tourism facilities and retail activities within the general rural zone. In addition to managing signs, the precinct also protects the safe functioning and efficiency of the State Highway network by signalling that development outside of the identified tourism zones should only proceed in specified circumstances.
17. Chapter 54 – The Te Maika Precinct is situated on the northern point of the Te Maika peninsula. The majority of the land is administered by the Te Maika Trust who exercise mana whenua and kaitiakitanga over the area on behalf of the beneficial owner, the Māori King. The precinct contains a

number of unique and significant natural features. These include a significant natural area of national importance which is a wetland habitat for endangered coastal wetland plant species and migratory birds. Te Maika is remote and wild, offering visitors peaceful respite from the busy pace of life. There are no permanent residents and no reticulated electricity, water or wastewater services on the peninsula, although the cellular network coverage is good. While public roads have been surveyed, they remain unformed and there is no intention to provide physical road access to this community. The entire precinct is surrounded by public lands in the form of either esplanade reserves or public roads.

18. Schedule 10 contains the areas of outstanding natural character, Schedule 11 contains the areas of high/very high natural character and Schedule 13 coastal environment overlay, which outlines the locations of the coastal environment in the district.

2.3 Statutory Requirements

19. The PDP has been prepared in accordance with the Council's functions under the RMA, specifically section 31, Part 2 and the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32. The section 32 report which addresses each of these chapters and sets out how the relevant national policy statements, national environmental standards, provisions of the Waikato Regional Policy Statement, the Manawatū-Whanganui One Plan, the Maniapoto Environmental Management Plan, the Waikato Tainui Environment Management Plan 2018 and Te Ture Whaimana o Te Awa o Waikato - The Vision and Strategy for the Waikato River have been assessed and considered.

2.4 Procedural matters

20. 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

21. A total of 29 submissions and 1 further submission were received on the various chapters.

3.2 Structure of this report

22. Given that either no submissions or a relatively low number of submissions and further submissions were received on various chapters, this Section 42A report is structured by Chapter.
23. 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.

4 Analysis and recommendations

Topic 1: Chapter 21 – Contaminated Land

24. All six of the submissions received on this Chapter sought the provisions as notified be retained.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
43.13	GL	Support	CL-O1	Retain CL-O1 as notified.	Accept
43.14	GL	Support	CL-P1	Retain CL-P1 as notified.	Accept
43.15	GL	Support	CL-P2	Retain CL-P2 as notified.	Accept
46.28	FF	Support	Entire chapter	Retain chapter 21 Contaminated Land as notified.	Accept
43.13	GL	Support	CL-O1	Retain CL-O1 as notified.	Accept
56.12	The Fuel Companies	Support	Overview, CL-O1, CL-P1 and CL-P2	Retain the Contaminated Land Chapter overview, Objective CL-O1, and Policies CL-P1 and CL-P2 as notified.	Accept

25. It is considered that the relief sought by the submitters to retain these provisions as notified is accepted.
26. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

Topic 2: Chapter 22 – Hazardous substances

27. All ten of the submissions received on this Chapter sought the provisions as notified be retained.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
16.17	FENZ	Support	HS – Table 1 - Activities Rules	Retain as notified.	Accept
27.38	Hort NZ	Support	HS- Hazardous substances	Retain Chapter 22 Hazardous substances as notified.	Accept
31.61	Transpower	Support	HS-R2	Retain HS-R2.	Accept
43.16	GL	Support	HS-P2	Retain HS-P2 as notified.	Accept
43.17	GL	Support	HS-P3	Retain HS-P3 as notified.	Accept
43.18	GL	Support	HS-P4	Retain HS-P4 as notified.	Accept
43.19	GL	Support	HS-R1	Retain HS-R1 as notified.	Accept
43.20	GL	Support	HS-R2	Retain HS-R2 as notified.	Accept
46.29	FF	support	Entire chapter	Retain chapter 22 Hazardous substances as notified.	Accept
56.01	BP Oil New Zealand Limited and Z Energy Limited (The Fuel Companies)	Support	Overview, HS-O1, HS-P1 to HS-P4 and HS-R1 to HS-R2	The following relief is sought: a. Retain the Hazardous Substances Chapter overview, objectives, policies and rules as notified.	Accept
16.17	FENZ	Support	HS – Table 1 -Activities Rules	Retain as notified.	Accept

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

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

Topic 3: Chapter 31 – Amateur Radio

30. No submissions were received on Chapter 31 – Amateur Radio. It is considered that this Chapter can be adopted as notified.

Topic 4: Chapter 34 – Financial contributions

31. Five submissions were received from Waka Kotahi, and they all requested that provisions as notified be retained.

Submission No	Submitter	Support/ in part /oppose	Plan Provision	Relief sought	Recommendation
17.79	Waka Kotahi	Support	FC-O1 FC-O2 FC-O3	Retain as notified.	Accept
17.80	Waka Kotahi	Support	FC-P2	Retain as notified.	Accept
17.81	Waka Kotahi	Support	FC-P7	Retain as notified.	Accept
17.82	Waka Kotahi	Support	FR-R4.1(c)	Retain as notified.	Accept
17.83	Waka Kotahi	Support	FC-R5.1(d)	Retain as notified.	Accept

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

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

Topic 5: Chapter 53 – Amenity precinct

34. One submission was received from Waka Kotahi requesting that the provision as notified be retained.

Submission No	Submitter	Support/ in part /oppose	Plan Provision	Relief sought	Recommendation
17.159	Waka Kotahi	Support	PREC6-P1	Retain as notified.	Accept

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

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

Topic 6: Chapter 54 – Te Maika precinct

37. Six submissions and one further submission were received on this chapter.

Submission No	Submitter	Support/ in part /oppose	Plan Provision	Relief Sought	Recommendation
35.23	Te Ruunanga o Ngaati Mahuta ki te Hauaauru	Support with amendment	Zones Precincts/ Te Maika Precincts PREC7	Retain intent of PREC7 in supporting Mana whenua aspirations.	Accept

Submission No	Submitter	Support/ in part /oppose	Plan Provision	Relief Sought	Recommendation
FS20.23	Sheryl Paekau	Support		I seek that the whole of all submissions provided by the Ruuananga be allowed	Accept
24.75	Ministry of Education (MoE)	Support	PREC-O1	Retain PREC7-O1 as notified.	Accept
24.76	MoE	Support	PREC-P6	Retain PREC-P6 as notified.	Accept
16.85	Fire and Emergency New Zealand (FENZ)	Support	PREC-R8	Retain as notified.	Accept
16.84	FENZ	Support	PREC7-P9	Retain as notified.	Accept
03.158	Heritage New Zealand Pouhere Taonga	Support in part	PREC7	That the impact of proposed development levels on the overall archaeological values/landscape of the Te Maika precinct are reviewed to ensure impacts are reduced to a minimum. This may be assisted by a master planning or similar exercise.	Reject

38. It is considered that the relief sought by the submitters to retain these provisions as notified is accepted.
39. Heritage New Zealand Pouhere Taonga has requested that the impact of proposed development levels on the overall archaeological values/landscape of the Te Maika precinct are reviewed to ensure impacts are reduced to a minimum. This may be assisted by a master planning or similar exercise. It is not clear what relief the submitter is seeking. It is considered that the submitter may wish to provide more clarity on their submission at the hearing.
40. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

Topic 7: Schedules 10, 11 and 13

41. One submission was received on these schedules.

Submission No	Submitter	Support/ in part /oppose	Plan Provision	Relief Sought	Recommendation
53.71	DOC	Support in part	<p>SCHEd 6 Significant Natural Areas, SCHEd 7 Outstanding Natural Features, SCHEd 8 Outstanding Natural Landscapes, SCHEd 9 Landscapes of high amenity value SCHEd 10 Areas of outstanding natural character (SCHEd 11 Areas of high/very high natural character), SCHEd12 Karst overlay, (SCHEd13 Coastal environment overlay)</p>	Amend as required.	Reject

42. It is not clear from this submission what relief is sought by the submitter. The submitter may wish to provide clarification at the hearing. Therefore, as it is not clear what specific relief to the Schedules is requested, this submission is rejected.

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

5 Conclusion

44. Submissions have been received in support of, and in opposition to the notified provisions of the PDP on the various chapters that this report covers. However, in the case of some chapters, no submissions have been received, and those chapters are therefore considered to not require amendment. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, it is recommended that no changes are made to the PDP as notified based on the analysis above.

45. For the reasons set out above no 32AA evaluation is required for these chapters.

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.