



Area Specific Matters
Open Space Zone

Section 32 Report for the Proposed Waitomo District Plan

Section 32 Report – Open Space Zone

SUMMARY OF ISSUES	RESOURCE MANAGEMENT ACT 1991	NATIONAL DIRECTION	REGIONAL POLICY STATEMENTS	IWI MANAGEMENT PLANS CONT...
<p>The open space zone addresses the following issues:</p> <ul style="list-style-type: none"> The quality, location or lack of public green space and recreational facilities can reduce opportunities for a community to provide for its health and wellbeing. How to best manage the reserves in the District in the context of the RMA and the Reserves Act 1977 to promote the physical health and well-being of the community and meet the changing needs of the community; while recognising and protecting the natural environment and heritage values. 	<p>Section 6 RMA A number of section 6 matters are relevant to this topic. Including:</p> <p>Section 6(d) which requires council to provide for the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.</p> <p>Section 6(a), (c), (e) and (f) in that reserves, parks and public open space are home to rare and threatened flora and fauna, significant built, archaeological and cultural heritage.</p> <p>Section 6(h) the management of significant risks from natural hazards could be achieved by land being set aside for reserves or esplanade reserves instead of being developed.</p> <p>Section 7 RMA The following clauses are relevant in section 7:</p> <p>Section 7(b) The efficient use and development of natural and physical resources.</p> <p>This matter relates to using public open space land in the best way possible in line with the principles of sustainable management, including ensuring it does not become overused.</p> <p>7(c) The maintenance and enhancement of amenity values.</p> <p>This matter relates to the need to maintain and enhance both open space and recreation amenity values, and those of adjacent zones.</p> <p>7(f) maintenance and enhancement of the quality of the environment</p> <p>This matter relates to a general requirement to maintain and enhance the quality of the open space and recreation environment, and complements the environmental obligations contained within the definition of sustainable management (sections 5(2)(a), (b) and (c)).</p> <p>Section 8 RMA The section 8 matters relate to the management of sites of historic or cultural value within the reserves that are zoned open space</p>	<p>There are six National Policy Statements (NPSs) currently in place:</p> <ul style="list-style-type: none"> New Zealand Coastal Policy Statement 2010 NPS for Electricity Transmission 2008 NPS for Renewable Electricity Generation 2011 NPS for Freshwater Management 2020 NPS on Urban Development 2020 NPS for Highly Productive Land 2022 <p>The NZCPS is relevant in regard to reserves in the coastal environment. There are a number of objectives that are relevant for this topic, but Objective 4 which promotes maintenance and enhancement of public open space qualities and recreation opportunities in the coastal environment is the most directly relevant. In addition, there are a number of policies that address surf breaks of national significance (16); public open space (18) walking access (19) and indirectly vehicle access along beaches (20).</p> <p>There are also 8 National Environmental Standards (NESs) currently in place:</p> <ul style="list-style-type: none"> NES for Air Quality 2004 NES for Sources of Human Drinking Water 2007 NES for Telecommunication Facilities 2016 NES for Electricity Transmission Activities 2009 NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 NES for Plantation Forestry 2017 NES for Freshwater 2020 NES for Storing Tyres Outdoors 2021 <p>There are no NESs relevant to this topic.</p> <p>Relevant case law considered There is no relevant case law relevant to this chapter.</p>	<p>The Waikato Regional Policy Statement (RPS) contains a range of policies with related implementation methods that are directly applicable to the provisions in the District Plan in relation to reserves, parks and open spaces. These include:</p> <ul style="list-style-type: none"> Policy 6.1 seeking to ensure that subdivision, use and development of the built environment, including transport, occurs in a planned and co-ordinated manner which: has regard to the principles in section 6A that guide future development of the built environment within the Waikato region and recognises and addresses potential cumulative effects of subdivision, use and development; Policy 12.3 seeking to maintain and enhance areas of amenity value that include areas within the coastal environment and along inland water bodies; scenic, scientific, recreational or historic areas; areas of spiritual or cultural significance; other landscapes or seascapes or natural features; and areas adjacent to outstanding natural landscapes and features that are visible from a road or other public place. Policy 12.4 seeking to maintain and enhance public access to and along the coastal marine area, lakes, and rivers by requiring district plans to provide direction about where and when additional access should be established; ensuring that subdivision, use and development do not constrain the ability of the land/water edge to adjust over time in response to natural processes, including the effects of climate change; and ensuring subdivision, use and development do not result in inappropriate loss of existing public access. Policy 12.5 that addresses the need to restrict public access to and along the coastal marine area, lakes and rivers where necessary and provide for alternative routes, where practicable In addition there are other policies that seek to require the creation of esplanade reserves and/or strips, or similar for reasons related to enhancing marine water quality (policy 7.2) and managing the effects of activities to maintain or enhance the identified values of fresh water bodies and coastal water (policy 8.3) and to protect and support and enhance indigenous biodiversity values (policy 11.1). <p>The Manawatū-Whanganui One Plan does not contain any especially relevant provisions to the open space zone, although there are objectives and policies concerned with some of the features that may be included in the open space zone such as significant natural areas, outstanding natural landscapes and high natural character in the coastal environment.</p>	<p>The Waikato Tainui Environment Management (WTEP) Plan 2018 the following sections contain issues, objectives and policies apply more specifically to the use, development and acquisition of reserves in relation to the district plan:</p> <ul style="list-style-type: none"> Section 14 (Customary Activities) promotes access to riparian areas through the acquisition of esplanade reserves. It also promotes establishing permitted or controlled activities for Customary Activities and the protection of customary activities and resources from competing needs. Section 29 promotes the management of adverse effect of tourism and recreation to a level acceptable to Waikato-Tainui and that such activities do not damage or intrude upon customary activities, waahi tapu, spiritual, or cultural sites. Section 25.3.3 encourages positive environmental effects through development such as reserve acquisition to protect water bodies, provide access, increase biodiversity and enhance ecosystems. Section 25.3.3 further promotes revision of local authority documents to reflect the principles mentioned above and others contained in the WTEMP. <p>It is considered that the proposed provisions take into account the relevant provisions in the WTEP.</p>
<p>OPERATIVE WAITOMO DISTRICT PLAN</p>			<p>IWI MANAGEMENT PLANS</p>	<p>OTHER RELEVANT PLANS OR LEGISLATION</p>
<p>There is no open space zone in the Operative Waitomo District Plan (ODP). However, a number of reserves are zoned conservation, and Waitomo District Council does not currently have operative reserve management plans for its reserves under its control and management.</p>			<p>We are required to take into account planning documents recognised by an iwi authority and lodged with the territorial authority, and there are many provisions in these documents relevant to the management of the open space zone.</p> <p>A summary of the provisions in the Maniapoto Environment Management Plan (MEMP) 2018 relevant to the surface of water are as follows:</p>	<ul style="list-style-type: none"> The Reserves Act 1977 applies to all public land that has been vested or gazetted under the Act. Reserve Management Plans, required under the Reserves Act 1977 provide a framework for future management decisions relating to their maintenance, use and development. The Reserves Act 1977 specifies in general terms the purpose of each class of reserve and requires that each reserve be managed in accordance with this purpose.

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			<ul style="list-style-type: none"> • Freshwater: This section highlights that modifications to riparian areas can have significant effects on Ngaa Wai o Maniapoto. This section also promotes avoiding restricting customary practices and uses of waterways and riparian zone. • Recreation: This section highlights the importance for Maniapoto to access sites and resources and to carry out practices and traditions and promotes working with landowners/managers and improving facilities and information on public land (e.g gates, stiles, cycleways/walkways, identification of paper roads that are suitable for access and forming roads where appropriate. 	<ul style="list-style-type: none"> • The RMA also requires that Council complete a process of public notification for the leasing of areas of reserve (covered by the Act) where it is not in accordance with the management plan.
<p>SCALE & SIGNIFICANCE s32(1)(c)</p>			<p>STRATEGIC DIRECTION</p>	
<p>The assessment is based on eight factors outlined in Ministry for the Environment’s guidance on Section 32 reports. Each factor is scored in terms of its scale and significance (where 1 is low and 5 is high).</p> <p>Reason for Change: 2 Problem / Issue: 1 Degree of Shift from Status Quo: 3 Who and How Many Affected, Geographic Scale of Effects: 2 Degree of Impact on or Interest from Maori: 2 Timing and Duration of Effects: 1 Type of Effect: 1 Degree of Risk or Uncertainty: 1</p> <p>Total (out of 40): 13</p>			<p>It is considered that the proposed provisions take into account the relevant provisions in the MEMP.</p>	<p>The following objective from the Strategic Directions chapter of the PDP are relevant to this topic:</p> <p>SD-05: Compatible activities with similar effects and functions are zoned together and new development is directed towards the appropriate zones to ensure that land use and subdivision:</p> <ol style="list-style-type: none"> 1. Are consistent with the anticipated character and amenity values of the areas where they are located; and 2. Efficiently use natural and physical resources in order to meet the community’s and the environment’s needs both now and in the future; and 3. Recognise existing lawful activities and protect their ongoing operation from incompatible activities.
			<p>UNCERTAINTIES AND RISKS s32(2)(c)</p>	
			<p>The degree of risk and uncertainty is low risk as areas are well managed by legislation.</p>	

<p>OBJECTIVE(S) s32(1)(a)</p>
<p>Relevance – Consistent with section 31(1)(a) of the RMA, the management of the effects of use, development or protection of land. Consistent with the National Planning Standards, and with the purpose and principles of the RMA. In general terms and within the context of this review, these objectives are met by providing the open space zones to provide for recreational activities for people’s wellbeing while protecting natural and cultural values, as well open space character and amenity. This is also consistent with objectives 4, 6 and Policy 18 of the NZCPS (maintaining and enhancing public open space in the coastal environment).</p> <p>Usefulness – The objectives will guide decision making when considering a resource consent application under section 104.</p> <p>Reasonableness – It is considered that the district plan provides a framework that recognises and aligns with other legislation where appropriate and will addresses all reserves in an integrated manner. The objectives do not create unjustifiably high costs on the community. The likely impact on people, communities, amenity and other physical resources is likely to be limited.</p> <p>Achievability – The provisions are consistent with the strategic objectives and will be consistent with the Waitomo District Comprehensive Reserve Management Plan.</p> <p>Are the objectives the most appropriate way to achieve the Purpose of the Act? The proposed objectives are considered to meet the tests of relevance, usefulness, reasonableness and achievability. The objectives are the most appropriate way to achieve the purpose of the RMA because they:</p> <ul style="list-style-type: none"> • Provide for a wide range of recreational activities within this zone. Recreational activities are fundamental to the wellbeing of the District. • Explicitly stating character and amenity values of the zone in an objective allows the objectives to be considered and provided for through decision making i.e. when potentially inappropriate activities are considered through the resource consent process.

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PROVISIONS s32(1)(b)	
EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)	ALTERNATIVES s32(1)(b)(i)
<p>Benefits Anticipated</p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> These provisions provide for a low level of development and built form, while retaining the recreational values and the natural/biodiversity values within the zone. They provide appropriate controls over built form and the location of buildings to facilitate the maintenance and enhancement of the character and amenity values within the zone. Potentially inappropriate activities will be managed through the resource consent process to ensure adverse environmental effects are avoided, remedied or mitigated. The provisions recognise the potential for, and seek to avoid, reverse sensitivity effects through setbacks from sensitive activities. <p><u>Economic</u></p> <ul style="list-style-type: none"> Reduced consenting costs by providing for a wide range of activities in the open space zone. Enabling commercial activities and tourism facilities on reserves as a discretionary activity in the open space zone may result in sustainable economic growth and employment opportunities (provided the necessary consents are obtained). <p><u>Social</u></p> <ul style="list-style-type: none"> There is community benefit from sustainably managed open space. These provisions provide for a range of leisure and recreational activities, along with a limited number of facilities and structures. There is also explicit provision for community facilities. <p><u>Cultural</u></p> <ul style="list-style-type: none"> Many open space zoned areas contain sites of significance to mana whenua, as well as traditional resources for customary activities. These sites and areas of significance will be appropriately protected through the relevant provisions in the District Plan for these sites. <p>Costs Anticipated</p> <p><u>Environmental</u></p> <ul style="list-style-type: none"> There are no anticipated costs. <p><u>Economic</u></p> <ul style="list-style-type: none"> There will be increased short term costs to plan users and council consent processing team as they build familiarity with the new provisions. There will continue to be consenting costs where applicants want to undertake an activity that does not meet permitted standards. This includes applicants who want to undertake commercial activities in public places, which may result in administrative costs which could have a minor indirect impact on economic growth and employment. <p><u>Social</u></p> <ul style="list-style-type: none"> It is unlikely there will be a social cost to these provisions, aside from consenting costs where applicants (i.e. community group or sports club) want to undertake an activity that does not meet permitted standards. <p><u>Cultural</u></p> <ul style="list-style-type: none"> It is unlikely there will be a cultural cost to these provisions. 	<p>For the purpose of this evaluation, the Council has considered the following potential options:</p> <ol style="list-style-type: none"> The proposed provisions; and The status quo. <p>The ODP provisions are not considered to be efficient or effective in achieving the objectives.</p> <p>In order to identify other reasonably practicable options, the Council has undertaken the following:</p> <ul style="list-style-type: none"> Reviewed other relevant district plan provisions for activities within an open space or relevant reserve zone; Reviewed the provisions against the Proposed Waitomo District Reserve Management Plan; and Sought feedback from Council asset managers in terms of infrastructure. Collated feedback from discussions with iwi. <p>Status quo: There is currently no open space zone in the ODP. Currently the ODP has a conversation zone, but this zone relies on the Waitomo District Council having an operative reserve management plan to enable a number of activities on reserves. There is currently no operative reserve management plan.</p> <p>It is considered that the proposed objectives are the most relevant, useful, reasonable and achievable option. It will also give effect to the purpose and principles of the RMA.</p>
QUANTIFICATION OF BENEFITS & COSTS s32(2)(b)	
Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified. Given the assessment of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to this topic.	
EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii)	REASONS FOR PROVISIONS s32(1)(b)(iii)
<p>Section 32(1)(b)(ii) requires assessing the efficiency and effectiveness of the provisions in achieving the objectives:</p> <p><u>Efficiency</u> The proposed provisions are the most effective method of meeting the objectives given that they align with and support the Waitomo District Comprehensive Reserve Management Plan.</p> <p><u>Effectiveness</u> The proposed provisions are the most efficient method of meeting the objectives given the benefits identified above. They will reduce costs associated with the existing provisions that were identified through consultation.</p>	<p>Section 32(1)(b)(iii) requires a summary of the reasons for deciding on the provisions:</p> <p>The proposed provisions are considered to be the most appropriate approach to achieve the objective of this Chapter. The provisions appropriately give effect to higher order policy documents, including being consistent with the purpose and principles of the RMA, particularly section 7(b), (c) and (f). They are considered to be efficient and effective, as the identified costs are acceptable, while providing benefits, particularly indirect social and economic benefits. They best recognise and provide for the positive effects of recreation activities, while managing their potential adverse environmental effects. The provisions provide certainty for applicants and the community. This is achieved through a regulatory regime with clear policy direction and appropriate activity status settings that aligns with the activities and outcomes anticipated through the Waitomo District Comprehensive Reserve Management Plan.</p>