

Waitomo District Council

Hearing on submissions on the Proposed Waitomo District Plan

Report and Decisions of the Independent Hearing Commissioners

Decision Report:

Chapter 49. Open Space Zone

19 June 2025

Commissioners

Greg Hill (Chair)

Wikitōria Tāne

Allan Goddard

Phil Brodie

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1. Introduction

1. This Decision Report relates to all the submissions received by the Waitomo District Council (Council) on Chapter 49 – Open Space Zone. This includes related provisions within the Proposed Waitomo District Plan (PDP) such as Definitions (Chapter 9).
2. The 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.

2. Hearing arrangements

3. The hearing was held in person and online **on 16 and 17 July 2024 in Council's** offices at 15 Queen Street, Te Kuiti. All of the relevant information pertaining to this hearing (i.e., Section 42A Reports, legal submissions and evidence) is **contained on Council's website**.
4. The following parties submitted on this Chapter.

Submission No	Submitter
24	Ministry of Education
16	Fire and Emergency New Zealand
47	Royal Forest and Bird protection Society of New Zealand Incorporated
46	Federated Farmers
17	Waka Kotahi
24	Ministry of Education

5. The Panel did not hear any evidence at the hearing in relation to this Chapter at the hearings on 16 and 17 July 2024.

3. Submitter evidence

6. No evidence was presented to the Panel. However, submitter evidence was tabled by Alec Duncan on behalf of Fire and Emergency New Zealand (FENZ). The evidence submitted by FENZ requested an additional performance standard – OSZ-R16 that requires new buildings located in the OSZ to provide a firefighting water supply to manage fire risk. The amendment seeks to ensure that firefighting water supply is provided for in accordance with SNZ PAS 4509: 2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.

4. Panel decision

7. Having considered the analysis in the submissions and evidence presented, the **Panel acknowledged the general support for the PDP's amended provisions**.

8. The Panel agreed with the aim of chapter, which is to manage the effects of activities on reserves and on private and community land used for open space activities. The Panel found that:
- It is appropriate to permit the use and development of reserves in the Open Space zone that are consistent with the allowed and authorised activities in the Waitomo District Comprehensive Reserve Management Plan.
 - It is necessary to recognise the community health and wellbeing benefits of good access to open space and recreational opportunities and provide for these where appropriate.
 - It is appropriate to permit the Open Space zone to be used and developed for a range of recreational and community purposes provided they do not have an adverse effect on adjacent properties and the roading network.
9. The Panel acknowledges the evidence submitted by FENZ and considers that the amendment sought to OSZ-R16 should be approved, as it is consistent with the **approach taken in other zones (i.e. General Rural Zone, Māori Purposes Zone)**, and will ensure a consistent approach across the Plan.
10. Otherwise, unless stated in the Panel decision above, the Panel has elected to adopt the recommendations in the Section 42A Report and the Section 42A Addendum Report on this chapter.

5. Conclusion

11. The Panel accepts the recommendations in the section 42A reports and where noted above, the evidence filed by the submitters. The reasons for this are those set out in the section 42A reports, the evidence, and provided in this Decision; collectively forming the section 32AA assessment informing this Decision.
12. Overall, the Panel is satisfied that the provisions of the chapter, as amended, will provide a suitable framework for managing activities in the Open Space zone, while managing any adverse effects.
13. The Panel accepts, accepts in part, or rejects the submissions as set out in the Section 42A Reports.

For the Hearing Panel



Greg Hill, Chair

Dated: 19 June 2025

6. Appendix 1 – Submission Table

Open Space Zone – Submission points in order of s42A report

Submission no	Submitter	Support /in part /oppose	Plan provision	Relief sought	Recommendation
24.68	Ministry of Education (MOE)	Support	OSZ-01	Retain as notified.	Accept
17.145	Waka Kotahi	Support	OSZ-03	Retain as notified.	Accept
47.189	Forest and Bird (F&B)	Oppose	OSZ-P2.2	<p>Amend OSZ-P2.2. as follows:</p> <p>Retain open space and indigenous vegetation as far as practicable and protect and maintain indigenous biodiversity in accordance with the ECO chapter provisions.</p> <p>And</p> <p>Any consequential changes or alternative relief to achieve the relief sought.</p>	Reject
16.75	Fire and Emergency	Oppose	OSZ-P2	Amend as follows:	Reject

Submission no	Submitter	Support /in part /oppose	Plan provision	Relief sought	Recommendation
	New Zealand (FENZ)			<p>OSZ-P2. The use and development of the open space zone must: [...]</p> <p>8. Ensure there is adequate existing or planned infrastructure to service the activity and/or development, including a firefighting water supply; and</p>	
17.146	Waka Kotahi (NZTA)	Support in part	OSZ-14	<p>Amend OSZ-14 as follows:</p> <p>Hours of operation must not be outside 7.00am to 9.00pm.</p> <p>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</p>	Reject
16.76	Fire and Emergency New Zealand (FENZ)	OSZ – addition of new standard	OSZ	<p>Add new performance standards as follows: OSZ-R16 – Servicing</p> <p>Where a connection to Council’s reticulated water supply system compliant with the SNZ PAS 4509: 2008 New Zealand Fire Service</p>	Accept

Submission no	Submitter	Support /in part /oppose	Plan provision	Relief sought	Recommendation
				<p>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.</p> <p>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).</p>	

7. Appendix 2 – Decisions Version of the Chapter

Overview

Land classified as reserves under the Reserves Act 1977 and the Conservation Act 1987, fee simple land and endowment land administered by Waitomo District Council are located in the open space zone. This chapter manages the effects of activities on reserves and on private and community land used for open space activities.

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.

The Waitomo District Comprehensive Reserve Management Plan identifies those reserves which are appropriately located and sized to host large scale temporary public and private events such as fairs, circuses, galas, markets and fireworks displays. Commercial activities other than those associated with temporary, recreational or sporting events are not envisaged as appropriate in this zone.

Unclassified reserves are generally more associated with passive recreational use, including walkways, cycleways and bridleways. Some unclassified reserves, are managed through the Waitomo District Comprehensive Reserve Management Plan as **'Reserve Concept Plans'**. Although Reserve Concept Plans are developed in a slightly different manner, they still involve a formal community consultation process and as such, they have the same status as Reserve Management Plans under this plan.

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. Accordingly, this plan contains provisions to enable the use and development of these open space areas provided that the effects and scale are appropriate for the receiving environment. Additionally, the majority of cemeteries in the district are zoned as open space, but these are subject to the specific provisions of their individual designations.

Objectives

Refer also to the relevant objectives in Part 2 District - Wide Matters

- OSZ-O1. Enable the open space zone to be used and developed for a range of recreational and community purposes.
- OSZ-O2. Maintain the open space nature and/or community use character and amenity of the zone.
- OSZ-O3. Ensure the use and development of land does not adversely affect ecological, cultural, landscape or historic heritage values.

- OSZ-O4. Avoid, remedy or mitigate adverse effects on adjacent properties and the roading network arising from the use and development of the open space zone.
- OSZ-O5. Recognise the community health and wellbeing benefits of good access to open space and recreational opportunities.
- OSZ-O6. The appropriate use and development of reserves is guided by the Waitomo District Comprehensive Reserve Management Plan.

Policies

Refer also to the relevant policies in Part 2 District - Wide Matters

OSZ-P1. Only allow activities within the open space zone where these:

1. Support a recreational or community activity; and
2. Are appropriately sized and located; and
3. Do not constrain established and planned open space activities; and
4. Are appropriately serviced; and
5. Facilitate public access;

And additionally, where the site is a reserve identified in the Waitomo District Comprehensive Reserve Management Plan, ensure that activities:

6. Are ancillary and subordinate to the primary purpose of the reserve; and
7. Maintain the predominant character and amenity values of the reserve; and
8. Are consistent with the Waitomo District Comprehensive Reserve Management Plan.

OSZ-P2. The use and development of the open space zone must:

1. Maintain and where possible, enhance public access to open space; and
2. Retain open space and indigenous vegetation as far as practicable; and
3. Not detract from the character and values of scheduled heritage items; and
4. Maintain the privacy of adjoining properties; and
5. Ensure access to sunlight and daylight by adjoining properties; and
6. Ensure structures are designed in a manner that is sensitive to the location and the environment; and
7. Ensure any conflict with and/or reverse sensitivity effects on adjacent sensitive activities can be appropriately avoided, remedied or mitigated; and
8. Ensure there is adequate existing or planned infrastructure to service the activity and/or development; and
9. Consider and provide for the key moves in any relevant Town Concept Plan.

OSZ-P3. The use and development of reserves must:

1. Be consistent with the purpose of the reserve; and
2. **Not compromise cultural and spiritual relationships that Māori have with the reserve; and**
3. Ensure a predominance of open space; and
4. Be located and sized to ensure integration with existing built form and other existing uses; and

5. Meet immediate and foreseeable future community needs; and
6. Ensure personal, pedestrian and vehicular safety; and
7. Maintain the amenity values of the reserve and the wider area; and
8. Promote the efficient use of reserve land through measures such as the cooperative use of buildings.

- OSZ-P4. On reserves or parts of reserves that are identified in the Waitomo District Comprehensive Reserve Management Plan, the scale, type and extent of commercial activities (including mobile commercial activities) and tourism facilities are restricted to those activities which are ancillary to the reserve's purpose, and/or those activities which are ancillary to temporary events.
- OSZ-P5. On private land, outdoor education activities and community facilities may be enabled where any adverse effects on adjacent properties and on the safe and efficient operation of the adjacent roading network is minimised.
- OSZ-P6. Enable activities providing improved public access to esplanade areas and reserves.
- OSZ-P7. Floodlights must be located, designed and operated so they do not adversely affect amenity, the health and safety of people, and the safe operation of the transport network.
- OSZ-P8. Ensure the flightpath height restrictions shown on the planning maps are complied with to enable the safe operation of **the Te Kūiti Aerodrome**.
- OSZ-P9. Appropriately recognise and protect those reserves or parts of reserves that are identified in the Waitomo District Comprehensive Reserve Management Plan as wāhi taonga or as having important associations with tribal history, events and narratives.

Rules

The rules that apply to the open space zone are contained in the tables listed below. To undertake any activity, it must comply with the rules listed in:

- OSZ - Table 1 - Activities Rules; and
- OSZ - Table 2 - Performance Standards; and
- Any relevant provision in Part 2 District-Wide Matters; and

Where an activity breaches more than one rule, the most restrictive status shall apply to the activity.

[Refer to Part 1 - How the Plan Works](#) for an explanation of how to use this plan, including activity status abbreviations.

OSZ - Table 1 - Activities Rules

OSZ-R1.	Park furniture and park facilities	
OSZ-R2.	Any activity qualifying as an “Allowed Activity” under the Waitomo District Comprehensive Reserve Management Plan	
OSZ-R3.	On public conservation land, any activity permitted by the Waikato or Wanganui Conservation Management Strategy	
OSZ-R4.	Construction, alteration or extension of buildings or structures for any permitted activity	
<p>Activity status: PER</p> <p>Where:</p> <p>1. All of the performance standards in OSZ - Table 2 are complied with.</p> <p><i>Note: Where the activity is a temporary event, see the temporary activities chapter.</i></p> <p><i>Note: Where the building is listed in SCHED1 - Heritage Buildings and Structures, also see the historic heritage chapter.</i></p>		<p>Activity status where compliance is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>(a) The matters of discretion associated with any performance standard which cannot be complied with in OSZ - Table 2.</p>
OSZ-R5.	Floodlights in all zones	
<p>Activity status: PER</p> <p>Where:</p> <p>1. This rule applies to floodlights in all zones where the floodlights are associated with recreational or sporting activities. For floodlights not associated with recreation or sporting activities see the light chapter; and</p> <p>2. All of the performance standards in OSZ - Table 2 are complied with.</p>		<p>Activity status where compliance is not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>(a) The matters of discretion associated with any performance standard which cannot be complied with in OSZ - Table 2.</p>
OSZ-R6.	Permitted activities on private land	
<p>Activity status: PER</p> <p>Where:</p> <p>1. Non-commercial recreational activities; and</p> <p>2. Community facilities including clubrooms; and</p> <p>3. Outdoor education activities;</p> <p>AND</p> <p>4. All of the performance standards in OSZ - Table 2 are complied with.</p> <p><i>Note: Where the recreational activity is for commercial gain it becomes a commercial activity - see OSZ-R8.</i></p>		<p>Activity status where compliance is not achieved: DIS</p>

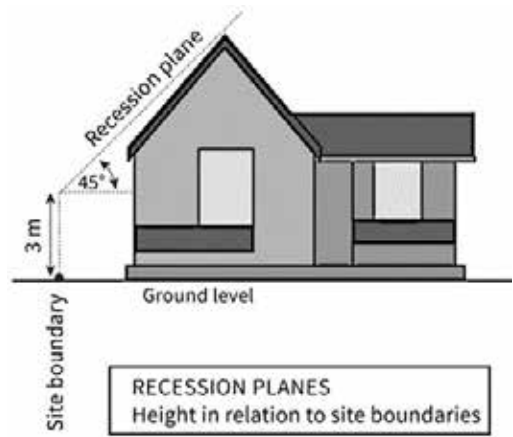
OSZ-R7.	Demolition and / or removal of buildings and structures	
Activity status: PER <i>Note: Where the building is listed in SCHED1 - Heritage Buildings and Structures, see the historic heritage chapter.</i>		Activity status where compliance is not achieved: N/A
OSZ-R8.	Commercial activities and tourism facilities	
Activity status: DIS <i>Note: Where the commercial activity is ancillary to a temporary event, see the temporary activities chapter.</i> <i>Note: If the commercial activity is on a reserve, authorisation is also likely to be required by the Waitomo District Comprehensive Reserve Management Plan.</i>		Activity status where compliance is not achieved: N/A
OSZ-R9.	Activities not otherwise listed in OSZ - Table 1	
Activity status: DIS		Activity status where compliance is not achieved: N/A
OSZ-R10.	Non-compliance with the Te Kūiti Aerodrome Flightpath height restrictions shown on the Planning Maps	
Activity status: PR		Activity status where compliance is not achieved: N/A

OSZ - Table 2 - Performance Standards

OSZ-S1.	Minimum setback from road boundaries	
<ol style="list-style-type: none"> The minimum setback from road boundaries for any building adjacent to any road must be at least 5 m; and The minimum setback for park facilities, car parking areas or electric vehicle charging points must be at least 2.5 m; and The minimum setback from road boundaries for park furniture must be at least 3 m; and The minimum setback from road boundaries for floodlights must be at least 10 m; and The minimum setback from road boundaries for sound stages and amphitheatres must be at least 50 m; and There is no setback requirement for public walkways and cycleways, stormwater 		Matters over which discretion is restricted: <ol style="list-style-type: none"> The safety and efficiency of traffic flow; and Visual effects including bulk, scale and location of the structure; and Effects on the character and amenity values of the surrounding properties, adjacent zone or road; and The extent to which landscaping is able to mitigate potential effects; and The extent to which the reduction in the setback is necessary due to the shape or natural and physical features of the site; and Effects on public access and recreational opportunities; and

	management systems, fences, signs, gardens, landscaping and planting and bridleways.	(g) Potential reverse sensitivity effects on any adjoining activities.
OSZ-S2.	Minimum setback from internal boundaries	
	<ol style="list-style-type: none"> 1. The minimum setback from internal boundaries for structures, other than those listed below, must be at least 10 m; and 2. The minimum setback from internal site boundaries for park furniture, park facilities, car parking areas or electric vehicle charging points must be at least 5 m; and 3. The minimum setback from internal site boundaries for floodlights must be at least 10 m; and 4. The minimum setback from internal boundaries for sound stages and amphitheatres must be at least 50 m; and 5. There is no setback requirement for public walkways and cycleways, stormwater management systems, fences, signs, gardens, landscaping and planting and bridleways. 	<p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> (a) The provision of daylight and sunlight into neighbouring buildings; and (b) Visual effects including bulk, scale and location of the structure; and (c) Effects on the character and amenity values of the surrounding properties; and (d) Effects on the visual and aural privacy of adjoining properties; and (e) The extent to which landscaping is able to mitigate potential effects; and (f) The extent to which the reduction in the setback is necessary due to the shape or natural and physical features of the site; and (g) Effects on public access and recreational opportunities; and (h) Potential reverse sensitivity effects on any adjoining activities.
OSZ-S3.	Height and height in relation to boundary	
	<ol style="list-style-type: none"> 1. The maximum height of structures must not exceed 10 m in height as measured from ground level; and 2. No structure shall penetrate a recession plane at right angles to a boundary included inwards and upwards at an angle of 45° from 3 m above the ground level of the front, side or rear boundaries of a site. See Figure - OSZ 1; and 3. This rule does not apply to floodlights and rugby goal posts. 	<p>Matters over which discretion is restricted:</p> <ol style="list-style-type: none"> (a) The provision of daylight and sunlight into neighbouring buildings; and (b) Visual effects including bulk, scale and location of the structure; and (c) Effects on the character and amenity values of the surrounding properties; and (d) Effects on the visual and aural privacy of adjoining properties; and (e) The extent to which landscaping is able to mitigate potential effects; and (f) Effects on public access and recreational opportunities; and (g) Potential reverse sensitivity effects on any adjoining activities.

Figure - OSZ 1 – Height in relation to boundary



OSZ-S4.	Floodlights
1. Hours of operation must not be outside 7.00am to 9.00pm.	<p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> (a) Potential reverse sensitivity effects on any adjoining activities; and (b) Visual effects including the number, placement, location, design, height, colour, orientation and screening of the floodlights; and (c) The extent and effect of the duration, hours of operation and frequency of the activity on the amenity values and sleep quality experienced in adjoining properties; and (d) Effects on the character and amenity values of the surrounding properties, adjacent zone or road; and (e) The need for floodlighting, and whether or not the opportunities for joint use of other appropriately floodlit facilities has been investigated; and (f) Measures to ensure that the natural light sky is preserved where practicable in the tourism zone of Waitomo Caves Village; and (g) Effects on the safety and efficiency of the transport network associated with the light spill and/or glare generated by floodlights.
OSZ-S5.	Community facilities and outdoor education activities
1. One building per site of less than 150 m ² gross floor area is permitted for the purpose of an outdoor education activity; or	<p>Matters over which discretion is restricted:</p> <ul style="list-style-type: none"> (a) The layout, design and location of activities on the site, including parking areas, loading areas and outdoor seating areas; and

<p>2. One building per site of less than 450 m² gross floor area is permitted for the purpose of a community facility including clubrooms;</p> <p>AND</p> <p>3. Hours of operation must not be outside 7.00am to 9.00pm, including the loading and unloading of goods.</p>	<p>(b) The time and duration of the noise effect and the anticipated noise level; and</p> <p>(c) Effects on surrounding properties, character and amenity; and</p> <p>(d) Whether the scale, intensity and character of the activity is appropriate in the context of the site and receiving environment; and</p> <p>(e) The extent to which topographical and geographical features, landscaping and screening on the site will assist in the management of effects.</p>
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OSZ-S6.	Servicing
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<p>1. Where a connection to Council's reticulated water supply system compliant with the SNZ PAS 4509:2008 New Zealand Fire 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.</p> <p><i>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).</i></p> <p><i>Note: Stormwater and wastewater disposal, and ground and surface water takes may require a resource consent from the Waikato Regional Council or the Manawatū Whanganui Regional Council.</i></p>	<p>Activity status when compliance is not achieved: DIS</p>
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Advice notes

Accidental discovery protocol

In the event that an unidentified archaeological site or a wāhi tapu site is located during works, the following applies:

- *Work must cease immediately at that place and within 20m around the site;*
- *Heritage New Zealand Regional Archaeologist must be notified and apply for the appropriate authority if required;*

- *Notify the appropriate iwi groups or kaitiaki representative of the discovery and ensure site access to enable appropriate cultural procedures and tikanga to be undertaken, as long as all statutory requirements under legislation are met (New Zealand Pouhere Taonga Act 2014);*
- *If human remains (koiwi) are uncovered then the Heritage New Zealand Regional Archaeologist, NZ Police and the appropriate iwi groups or kaitiaki representative must be notified. Remains are not to be moved until such time as iwi and Heritage New Zealand have responded;*
- *Works affecting the archaeological site and any human remains (koiwi) must not resume until appropriate authority and protocols are completed.*

If the protocol is not adhered to then Heritage New Zealand can take out prosecution proceedings under the New Zealand Pouhere Taonga Act 2014.

Contaminated land

If the site is contaminated or potentially contaminated refer to the contaminated land chapter and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) 2011.

Regional Council consents

*A resource consent for some earthworks may also be required from the **Waikato Regional Council** or **Manawātū-Whanganui Regional Council**.*

Works in close proximity to any electricity line

Works in close proximity to any electricity line can be dangerous. Compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 is mandatory for all buildings, earthworks and mobile plant within close proximity to all electric lines. Compliance with the Plan does not ensure compliance with the Code.

Landscaping

Where the site is adjacent to a State Highway, consultation with the New Zealand Transport Agency on appropriate tree species and the location of planting is advisable.

8. Appendix 3 – Section 32AA Evaluation

14. A Section 32AA evaluation is only required for any changes that are proposed to the provisions of this plan since the original Section 32 evaluation report for the proposal was completed. The Section 32AA evaluation must be undertaken at a level of detail that corresponds to the scale and significance of the changes.

Amendments

<u>OSZ-S6.</u>	<u>Servicing</u>
<p>1. <u>Where a connection to Council's reticulated water supply system compliant with the SNZ PAS 4509:2008 New Zealand Fire 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>	<p><u>Activity status when compliance is not achieved: DIS</u></p>

Effectiveness and efficiency

15. The new performance standard will ensure where new buildings and structures cannot be connected to a Council reticulated water supply system, which is compliant with the SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice, 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. This will ensure that new buildings and structures provide firefighting water supply to manage fire risk. This will ensure that the health and safety of people and property can be managed for new buildings and structures in this zone.

Costs and benefits

16. On balance it is considered that there will be an increase in costs due to additional infrastructure being required for firefighting purposes for new buildings and structures. However, it will decrease the risk to property through a sufficient water supply for firefighting purposes, which will provide a benefit to the owners of the building and in terms of the environment will reduce the risk of fire spreading.

Risk of acting or not acting

17. It is considered that there is sufficient information to justify the changes above. The new performance standard will ensure development can be appropriately serviced. The new performance standard ensures the health and safety of people and property with sufficient water for firefighting.

Decision about most appropriate option

18. The proposed amendment is considered to be the most effective means of achieving the objectives as it will
- Give effect to higher order policy documents.
 - Enable the Council to fulfil its statutory obligations, including by supporting the health and safety of people.