

SECTION 42A REPORT

Report on submissions and further submissions

Topic: Chapter 50 - Future Urban Zone

Report prepared by: Carolyn Wratt

Dated: 7 June 2024

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List of submitters and further submitters addressed in this report

Submission no	Submitter
10	Waikato Regional Council
17	Waka Kotahi
47	Forest and Bird
FS03	Director-General of Conservation

1 Introduction

1.1 Qualifications and Experience

1. My name is Carolyn Wratt. I am a Principal Policy Planner and Director of the consultancy firm Wratt Resource Management Planning Ltd. I am contracted by Waitomo District Council (**WDC**) to assist with the Proposed Waitomo District Plan
2. I hold the degrees of Bachelor of Science (Geography and Resource Management) (1997) and Masters of Science (Hons) in Coastal Geomorphology and Resource Management (1999), both from the University of Auckland. I am a full member of the New Zealand Planning Institute and an accredited Resource Management Commissioner under the Ministry for the Environment programme Making Good Decisions.
3. I have over 25 years experience in planning – both regulatory and policy, including working primarily for local and regional authorities around New Zealand. In my capacity as both a consultant and council planner, I have provided policy advice to a number of clients. Of most relevance I have assisted various councils with their district plan reviews including Hamilton City Council, Auckland Council, Kapiti Coast District Council, Selwyn District Council, Taupo District Council, Kaipara District Council and Christchurch City Council. Most recently I have been involved in all of the processes associated with the Proposed Waikato District Council, which has now progressed to the stage of working through appeals.

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 conflict of interest.

1.4 Preparation of this report

7. I am the author of this report.

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.
9. In preparing this report I rely on expert advice provided by Tonkin and Taylor in the following reports in regards to hazards and how these impact on the Future Urban Zone (**FUZ**) as well as modelling scenarios provided from Council's Geographical Information System.
 - a. Flood Modelling Report (December 2019)
 - b. Landslide susceptibility report - Phase 1 (Sept 2019)
 - c. Landslide susceptibility report - Phase 2 (Feb 2020)

2 Scope of Report

2.1 Matters addressed by this report

10. The scope of this report is to consider the submissions and further submissions made in respect of the provisions in the FUZ chapter of the Waitomo Proposed District Plan (**PDP**) and make recommendations.
11. This report is prepared in accordance with section 42A of the RMA. The purpose of a section 42A report such as this is to guide submitters and the independent hearings panel, but the contents are just the recommendations of the author. The decision ultimately lies with the independent hearings panel.
12. Provisions relating to management of the FUZ are primarily objectives and policies and are addressed in this report. Activities may be addressed in other section 42A reports such as general rural zone, earthworks and subdivision.

2.2 Overview of the chapter

13. The FUZ is a special purpose zone that applies to greenfield land identified as potentially suitable for urbanisation. It is a transitional zone where land may be used for a range of rural activities that would not compromise the future use of the land for urban or rural lifestyle use. This ensures the land is appropriately managed until a plan change is prepared which identifies the appropriate form of development.
14. In the interim, land use and development for non-farming related industry and commercial activities are discouraged in the zone to ensure current development and land use activities do not conflict with the intended future land use. Development is restricted to limit fragmentation of land before urbanisation and to maintain the land's productive capability in the

short term. Structure planning will determine if alternative uses can be accommodated in the future, but farming is expected to remain the dominant activity until rezoning is appropriate. The structure plan must be comprehensively designed and coordinate with infrastructure where this is available. Appendix 5 details the requirements for structure plans prior to any change of zoning.

15. Nine individual future urban zones are provided for in four townships – Te Kūiti, Awakino, Mokau and Waitomo Caves Village. Te Kūiti will provide for additional residential and rural lifestyle expansion:
 - a. Mangarino Road South;
 - b. Mangarino Road North;
 - c. Pukenui Road; and
 - d. William Street
16. Mokau will provide for additional rural lifestyle and in part, to assist with the provision of land for dwellings which might require relocation as a result of coastal erosion:
 - a. State Highway 3; and
 - b. Te Mahoe Road
17. Awakino similarly will provide for additional rural lifestyle, and in part assist with the provision of land for dwellings which might require relocation as a result of coastal erosion.
18. The chapter is unique in that it does not contain rules of its own; it cross references and adopts the rules of the General rural zone.

2.3 Statutory Requirements

19. The PDP has been prepared in accordance with the Council's functions under the Resource Management Act (**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 this zone 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.
20. There are provisions in the Waikato Regional Policy Statement (**RPS**) which are particularly relevant to the management of growth areas. UFD-O1 seeks for the built environment to be developed in an integrated, sustainable and planned manner. The Urban form and development

section and UFD-P1 in particular refers to subdivision, use and development occurring in a planned and co-ordinated manner. UFD-P18 applies to new urban development in Tier 3 local authority areas outside the Future Proof Strategy and of note is clause (3) which seeks to focus new urban development in and around existing settlements. A number of the development principles in APP11 are relevant to the FUZ including:

- a) Supporting existing urban areas in preference to creating new ones;
- b) Occurs in a manner that provides clear delineation between urban areas and rural areas;
- e) Connect well with existing and planned development and infrastructure;
- h) Be directed away from significant mineral resources and their access routes, natural hazards areas, energy and transmission corridors and locations identified as likely renewable energy generation sites; and
- i) Promote compact urban form design and location.

21. APP11 also sets out eight principles for new rural-residential development.

22. The PDP was notified on 20 October 2022, which was just after the National Policy Statement for Highly Productive Land (**NPS-HPL**) was gazetted.¹ This means that there may be areas of the PDP which need to be reconsidered in light of the requirements of section 75(3)(a) of the RMA to give effect to any national policy statement. While WDC does not have large tracts of LUC 1, 2 or 3, there are pockets of highly productive soils in discrete areas.

2.4 Procedural matters

23. No submitter, prehearing or Clause 8AA meetings have been undertaken.

24. There has been no further consultation undertaken since notification.

3 Consideration of submissions received

3.1 Overview of submissions

25. Nine primary submission points were received on FUZ and one further submission. These covered the following matters:

¹ The policy was gazetted on Monday 19 September 2022 and was in effect from Monday 17 October 2022.

- a. The extent and application of the FUZ;
 - b. Request for a new policy setting out the matters to be considered for future development;
 - c. An amendment to a policy recognising the timeframe in which the area is expected to develop;
 - d. Inclusion of mechanisms / triggers for when the FUZ is developed;
 - e. Ensuring the area zoned as FUZ is proportionate with growth demands; and
 - f. New objectives and policies to protect indigenous biodiversity.
26. Two submission points were received relating to the objectives, and one of those supported the objectives as notified. Seven submissions related to policies, of which two submission points supported the policies as notified.
27. Because of the unique approach of the FUZ to rules, it needs to be recognised that, by association, any submissions on the General rural zone rules will affect activities in the FUZ. Where there is only support for a provision with no contrary view expressed by any other submitters, that provision is not discussed further in this report.

3.2 Structure of this report

28. While there are only nine submission points, they address very different matters. I have therefore addressed each submission point individually, but have grouped them where it makes sense to. I have structured the Section 42A report as follows:

Topic 1: Application and extent of the FUZ; and

Topic 2: Objectives and policies.

29. See Appendix 2 for the corresponding section 32AA evaluation for any recommended amendments to provisions.

4 Topic 1: Application and extent of the FUZ

30. Waikato Regional Council (**WRC**) [10.147] sought that any area subject to the following should not be zoned as FUZ:
- a. natural hazards risks;
 - b. areas that could represent potential losses of biodiversity; or

- c. areas that could represent potential losses of highly productive land.

4.1 Analysis and recommendations

- 31. The submission from WRC is broad, and in order to address it I firstly set out how the FUZ is intended to work and then address each of the FUZ areas and the constraints and opportunities each area presents.

4.1.1 Purpose of the FUZ

- 32. The FUZ is a new zone to WDC and is basically intended as a holding pattern until such time as a structure plan is developed and a plan change is notified to change the zone. Eighteen requirements for each structure plan are set out in Appendix 5. Most of the requirements apply to all the FUZ areas, but some are specific to particular locations such as Mokau and Awakino (clauses 16 and 17). First and foremost, the structure plan must be comprehensively designed and coordinate with infrastructure where this is available. Clause (2) of Appendix 5 sets out the intended zone for each area:
 - a. Mangarino Road South, Te Kūiti – rural lifestyle zone
 - b. Mangarino Road North, Te Kūiti – rural lifestyle zone
 - c. Pukenui Road, Te Kūiti – residential zone
 - d. William Street, Te Kūiti – residential zone
 - e. State Highway 3, Mokau – rural lifestyle zone
 - f. Te Mahoe Road, Mokau – rural lifestyle zone
 - g. North Street, Mokau - settlement zone
 - h. Awakino - settlement zone
 - i. Waitomo Caves Village – tourism zone
- 33. Structure plans must be informed by detailed technical assessments. No FUZ area is completely free of any constraints; the overview of FUZ acknowledges that the majority of land identified for FUZ has some kind of constraint which precludes live zoning. However, it is considered that the detailed investigations and structure planning process will provide detailed information on these constraints. The structure plan can then respond to that constraint, depending on the severity. That response may take the form of a lower density of development, modification of the layout or limitations applied to the built form such as a lower height limit.
- 34. A plan change progressed under Schedule 1 of the RMA will enable the zone to change and development to occur consequently.

4.1.2 Natural hazards

35. It is acknowledged that while large areas of land have been identified for future urban use and that generally due to the land tenure and physical constraints to development, the development of the entire block may not be possible. With this in mind further analysis has been undertaken by council's GIS team and is outlined below so that submitters and the Panel can better understand the location, size and natural hazard overlays that apply. It should be noted that this analysis does not contain enough detail to fully understand all the risks and constraints however it does provide a simple calculation at present of the amount of land available and the area of land covered by a natural hazard overlay.
36. The PDP has identified four areas around Te Kuiti for rezoning as FUZ (see Figure 1). The approach to identifying these areas is that it provides Te Kuiti space to grow if and when required. The land parcels of FUZ have been made deliberately large to recognise that a large portion of the land will not be suitable for residential development.

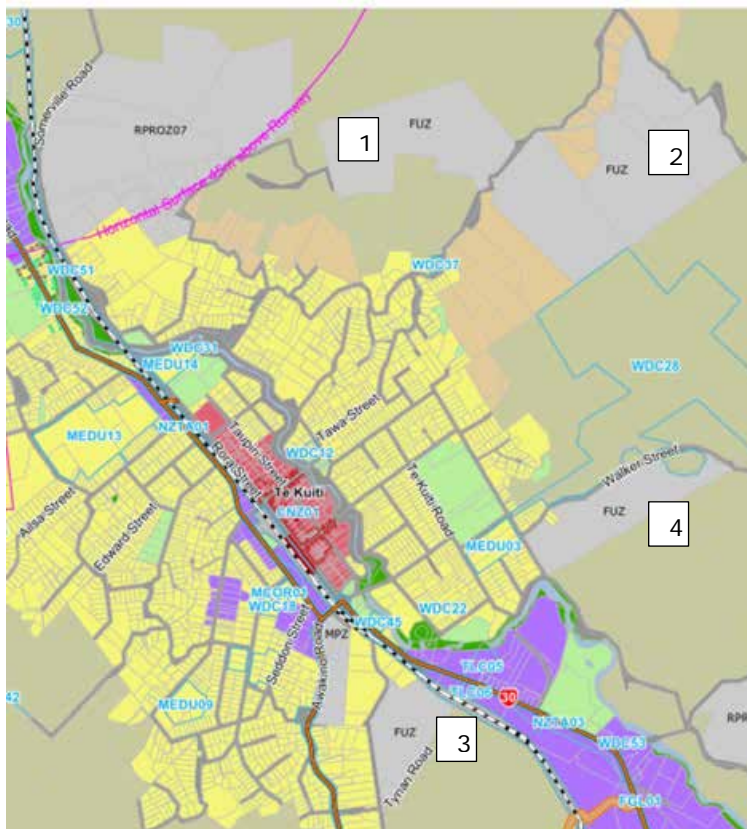


Figure 1: FUZ around the edges of Te Kuiti

37. Areas 1 and 2 lie alongside Mangarino Road (see Figure 2).

Location	Land area	Natural hazard area	Type of natural hazard	Intended future zone
Te Kuiti Mangarino Road (1)	22.25 ha	6.85 ha	Building Platform Suitability Area A has a high propensity to either generate, or be affected (inundated) by landsliding. Building Platform Suitability Area B has a medium propensity to either generate, or be affected (inundated) by landsliding	Rural lifestyle zone
Te Kuiti Mangarino Road (2)	44.67 ha	29.13 ha		

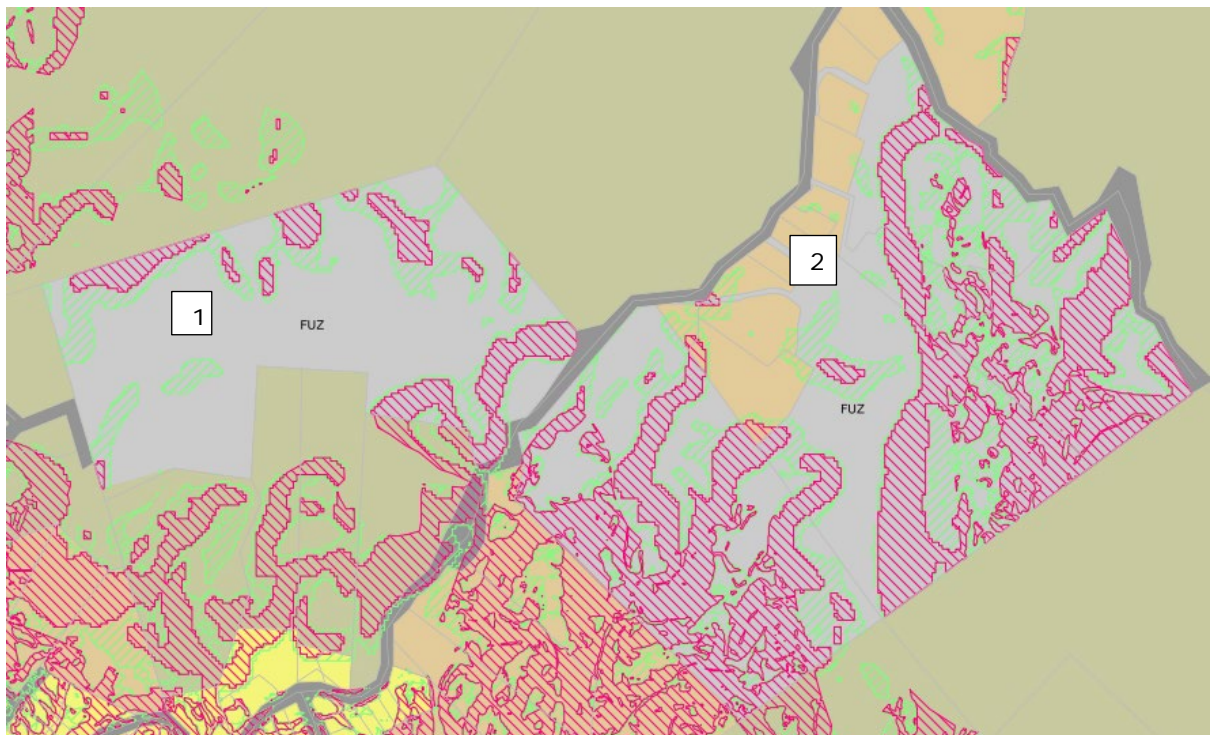


Figure 2: Te Kuiti FUZ areas 1 and 2 on Mangarino Road. Red stripes indicate Building Platform Suitability Overlay – Area A, and green stripes indicate Building Platform Suitability Overlay – Area B.

38. Area 3 lies alongside Pukenui Road (Figure 3).

Location	Land area	Natural hazard area	Type of natural hazard	Intended future zone
Te Kuiti Pukenui Road (3)	9.16 ha	3.99 ha	Building Platform Suitability Area A has a high propensity to either generate, or be affected (inundated) by landsliding. Building Platform Suitability Area B has a medium propensity to either generate, or be affected (inundated) by landsliding	Residential zone



Figure 3: Te Kuiti FUZ area 3 alongside Pukenui Road.

39. Area 4 is accessed from Walker Street (Figure 4), and it should be noted that a subdivision has recently been granted at William Street (along the

western edge of the site) comprising of 7 residential lots, 1 large lot and the remainder left as a single lot.

Location	Land area	Natural hazard area	Type of natural hazard	Intended future zone
Te Kuiti Walker Street (4)	13.63 ha	8.01 ha	Building Platform Suitability Area A has a high propensity to either generate, or be affected (inundated) by landsliding. Building Platform Suitability Area B has a medium propensity to either generate, or be affected (inundated) by landsliding	Residential zone

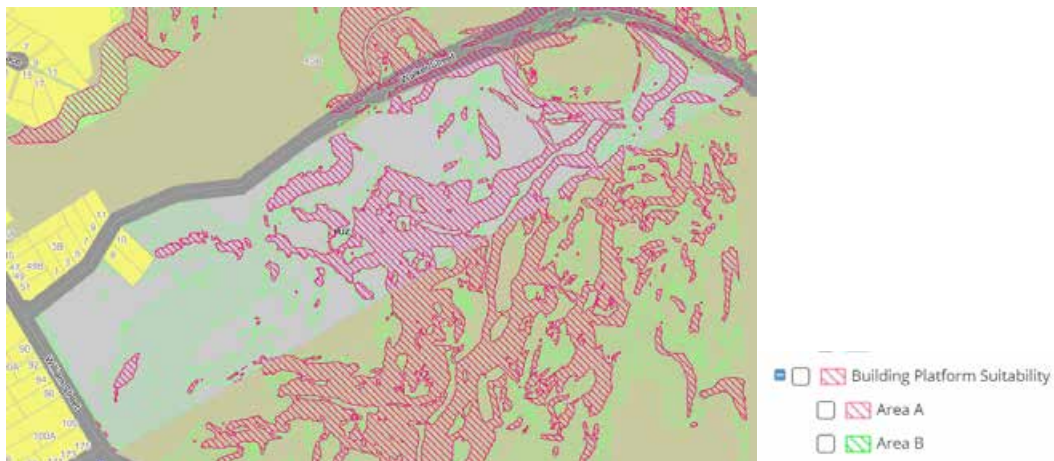


Figure 4: Te Kuiti FUZ area 4 accessed from Walker Road

40. Of the FUZ land proposed for Awakino (Figure 5), 5.45 ha is covered by the Coastal Flood Hazard Area in the middle of the zone. The Flood Hazard area for Awakino appears to be a basin about 3m above sea level according to the contours. Most coastal flooding is based on a 3m rise so this area would be about 0.5m deep.

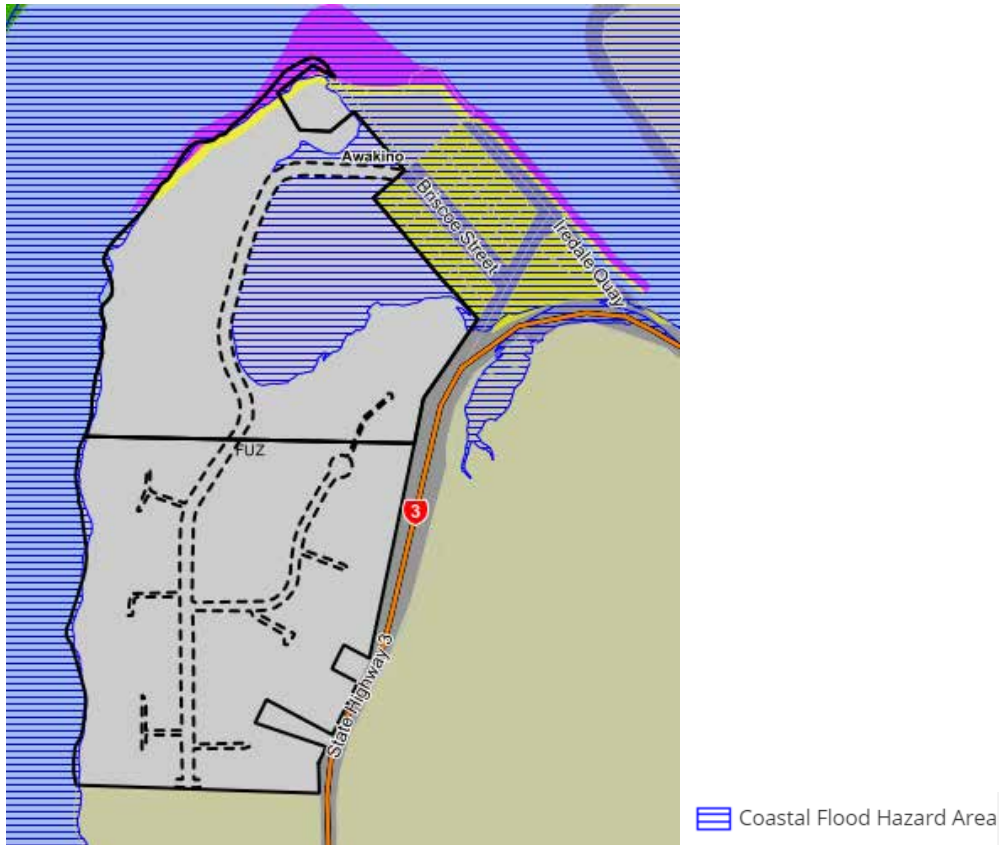


Figure 5: Awakino FUZ area

Location	Land area	Natural hazard area	Type of natural hazard	Intended future zone
Awakino	28.62	5.45 ha	Coastal Flood Hazard Area	Settlement zone

41. Only a small portion of the Te Mahoe FUZ land in Mokau is affected by the Coastal Flood Hazard Area (Figure 6). The other two areas of FUZ land north of Mokau are not subject to any natural hazards (Figure 7). It is acknowledged that further detailed geotechnical investigation will need to be undertaken before any development can occur. The other area identified is to provide for rural lifestyle expansion and if necessary to assist with the provision of land for dwellings which might require relocation as a result of coastal erosion. The Flood Hazard area for Mokau is a narrow tongue of about 0.5m depth, which rapidly decreases into the FUZ area.

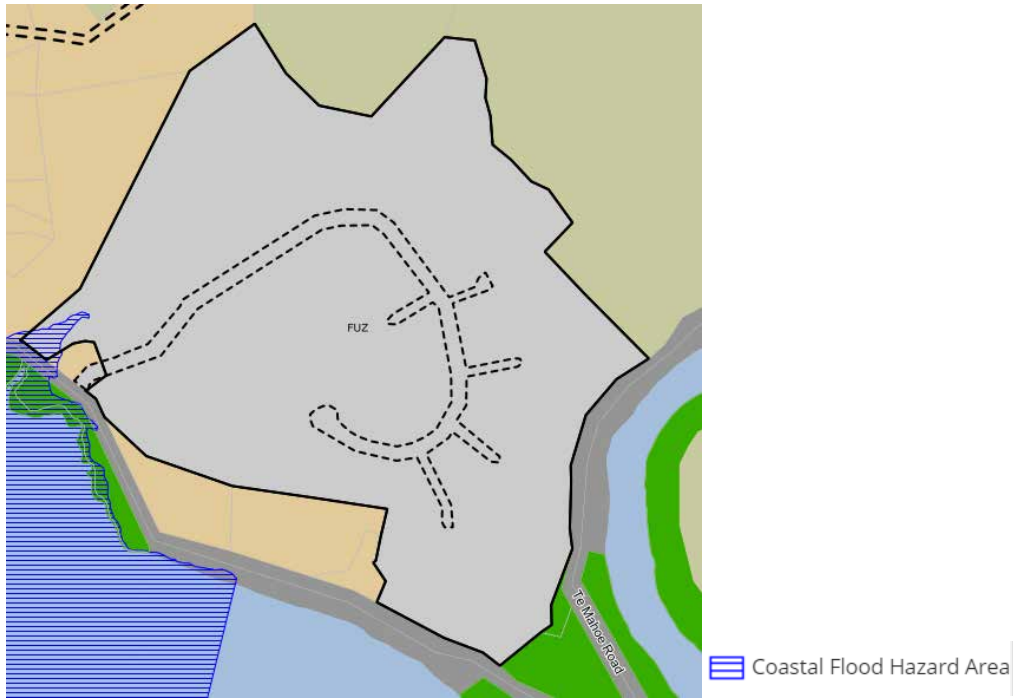


Figure 6: Te Mahoe Road, Mokau FUZ area

Location	Land area of FUZ	Natural hazard area	Type of natural hazard	Intended future zone
Mokau	39.62 ha	0.21 ha	Coastal Flood Hazard Area	Rural lifestyle



Figure 7: FUZ located on State Highway 3 and North Street, Mokau

42. Waitomo Caves Village has land set aside as FUZ to allow for the expansion of mixed-use activities envisaged in this area (Figure 8). Building Platform Suitability Area C which affects part of this land is the floodplain for 100 year ARI events (current climatic conditions) with rainfall projected to a 2120 future time horizon based on RCP 8.5. Waitomo Flood Hazard is harder to define as Council’s GIS does not have the contour data for the whole area. However, indications from the contour levels around the stream itself it is 48-50m above sea level and as the Flood Hazard area is also within the 50m contour lines the depth of flooding would be 0.5 to 1m.

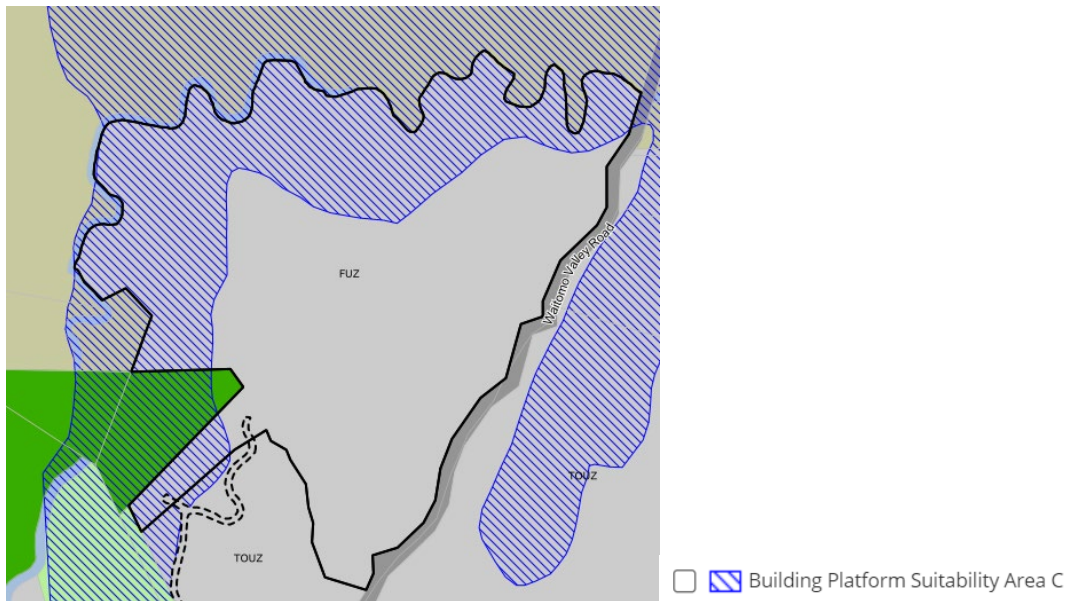


Figure 8: Waitomo Caves FUZ area

Location	Land area of FUZ	Natural hazard area	Type of natural hazard	Intended future zone
Waitomo Caves	39.91 ha	13.55 ha	Building Platform Suitability Area C	Tourism zone

43. As noted previously, all areas are subject to further detailed investigations through the structure planning process. I note the following clauses in Appendix 5 which explicitly require consideration of natural hazards in the development of structure plans:

- 3. The topography and natural and physical constraints of the site, including natural hazards and areas of contamination; and
- 13. In Te Kūiti the provision of detailed geotechnical investigations which fully identify the nature of natural hazards, particularly landslide susceptibility and liquefaction; and

15. In Waitomo Caves Village, the provision of detailed investigations which fully identify the nature of natural hazards, particularly site suitability and the potential for river generated flooding and surface ponding; and
 16. In Mokau and Awakino an understanding of how development of the area might assist with the provision of land for dwellings requiring relocation as a result of coastal erosion hazards; and
 17. In Mokau and Awakino the provision of detailed geotechnical investigations which fully identify the risks and associated constraints;
44. While differing densities of residential development are anticipated in this zone, the risks of natural hazards, particularly land instability and flooding, must also be recognised and managed at the time of subdivision or when identifying building platforms. In addition, Chapter 23 Natural Hazards has policies and rules for building within flood areas and building suitability platform areas that will ensure development can occur safely. With the exception of Pukenui Road and William Street in Te Kuiti, all the FUZ areas are destined for low density development in the form of Rural lifestyle zone, Settlement zone and Tourism zone. The larger lot sizes of these zones will more easily enable development to avoid placing buildings in the natural hazard overlays.
 45. Taking into account the analysis as above for Te Kuiti, Awakino and Mokau it is not considered that there is a need for any of these potential FUZ areas to be redefined.
 46. For Waitomo Caves, due to the uncertainty with the data I consider it is appropriate to reduce the FUZ to align with Flooding Hazard overlay as shown in Figure 9. This will result in a reduced land area of 19.37 ha of FUZ. As a result of the FUZ boundary realignment, no area within the FUZ at Waitomo Caves will be affected by a hazard overlay.

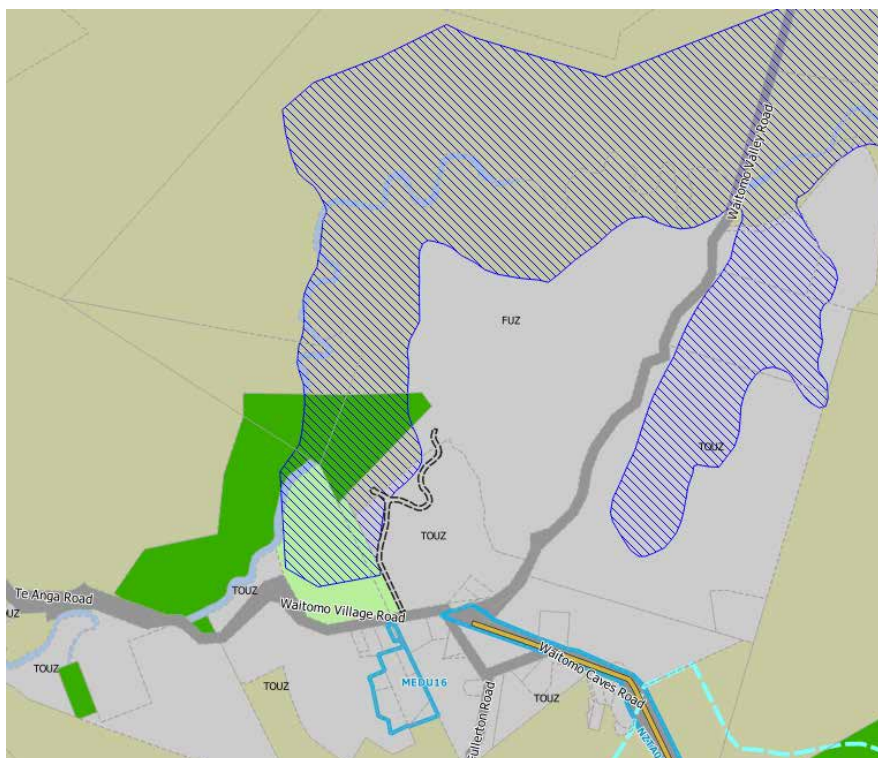


Figure 9 Recommended zoning map for Waitomo Caves with amendments to the extent of FUZ

4.1.3 Indigenous Biodiversity

47. In regards to potential loss of biodiversity, it is noted that there are no areas of significant indigenous biodiversity shown on planning maps in any of the FUZ areas. I note that clause 11 of Appendix 5 requires the following matter be addressed as part of the structure plan:

11. The protection, maintenance or enhancement of scheduled sites or features, landscapes, overlays, natural waterbodies and indigenous vegetation;

48. I therefore do not consider any amendments need to be made to the extent of the FUZ to avoid areas of significant indigenous biodiversity.

4.1.4 Highly productive land

49. As referenced in paragraph 22 above, the PDP was notified on 20 October 2022, which was three days after the NPS-HPL came into effect. Five of the FUZ areas have highly productive land as illustrated in Figures 10-18.

Table 1: Summary of FUZ areas that overlap with LUC 1-3

Location	Operative District Plan zoning	Reason for rezoning FUZ
Te Kuiti areas 1 and 2 around Mangarino Road	Rural Zone	Identified in the Town Concept Plan for Te Kuiti (2019)
Figure 11 Awakino	Rural zone	Identified in the Mokau Town Concept Plan (2019)
Figure 12 Mokau	Rural Zone	Identified in the Mokau Town Concept Plan (2019)
Figure 13 Waitomo Caves	Rural Zone	Identified in the Waitomo Caves Town Concept Plan (2019)

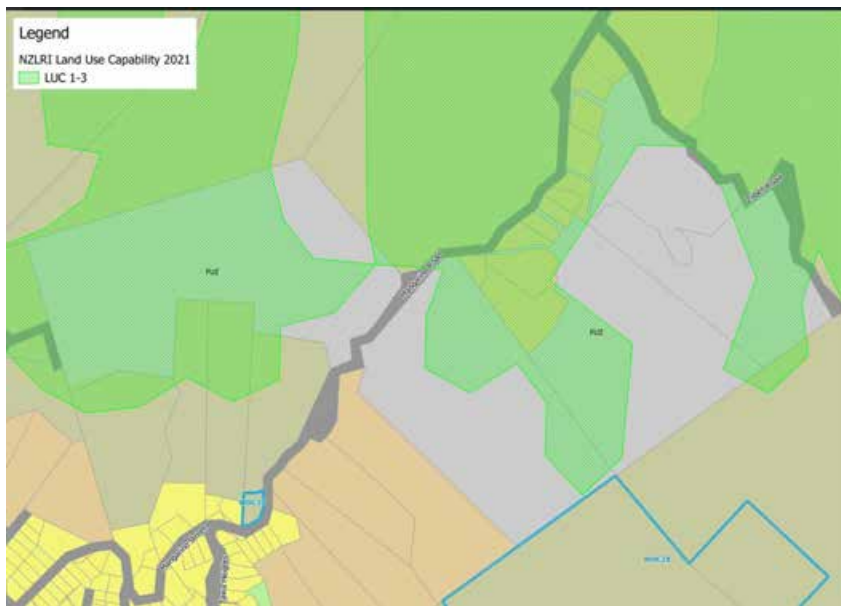


Figure 10 Location of FUZ in Te Kuiti areas 1 and 2 around Mangarino Road

Proposed Re-zoning



Figure 11 Town Concept Plan for Te Kuiti showing the future zoning for Mangarino Road



Figure 12 Location of FUZ in Awakino



Figure 13 Town Concept Plan for Mokau showing future zoning for Awakino



Figure 14 Location of FUZ in Mokau



Figure 15 Town Concept Plan for Mokau

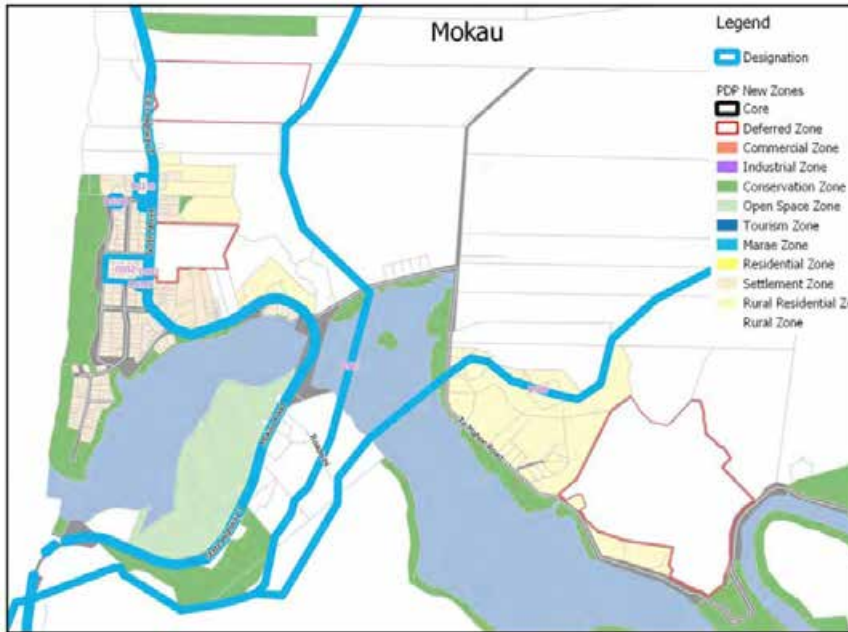


Figure 16 Rezoning implementation plan contained in the Mokau Town Concept Plan



Figure 17 Location of FUZ in Waitomo Caves

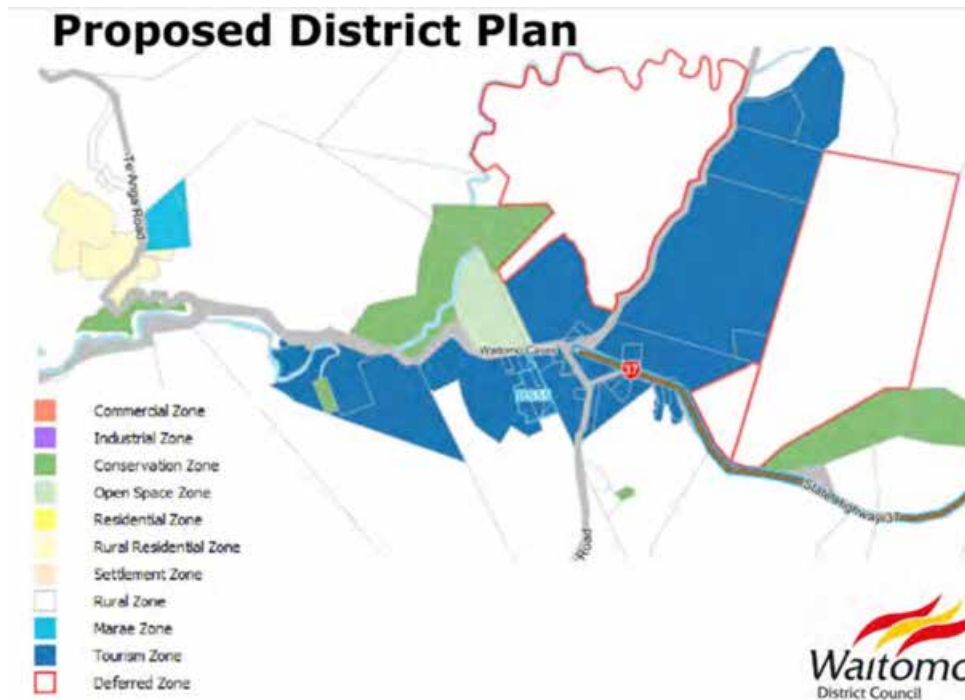


Figure 18 Rezoning plan in the Town Concept Plan for Waitomo Caves

Is the land “highly productive land”?

- 50. I have concentrated on the areas of FUZ which overlap with LUC 1-3, and the four key areas outlined above are currently mapped as highly productive land.
- 51. The definition of “highly productive land” in the NPS-HPL is:
 - highly productive land means land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land).
- 52. Because the regional councils have not yet undertaken a change to include updated maps of highly productive land, the transitional requirements of clause 3.5(7) will apply:
 - (7) Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:
 - (a) is
 - (i) zoned general rural or rural production; and
 - (ii) LUC 1, 2, or 3 land; but
 - (b) is not:

(i) identified for future urban development; or

(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

53. The four areas in question were unfortunately all still zoned Rural Zone under the Operative District Plan at the date of commencement of the NPS-HPL so clause 3.5(7)(a) does apply.
54. clause 3.5(7)(b) contains exclusions. Clause 3.5(7)(b)(ii) would require the plan change to be notified but the PDP had not been notified at the date of commencement of the NPS-HPL.
55. Turning to the exclusion in clause 3.5(7)(b)(i), FUZ is deemed to be future urban development so allows an exclusion. The logic for this finding is set out below.
56. In addition, Clause 3.4(2) of the NPS-HPL states that despite anything else in Clause 3.4 (mapping clause), land that, at the commencement date, is identified for future urban development must not be mapped as highly productive land.

Is FUZ identified for future urban development?

57. The path for classifying FUZ as future urban development comes down to definitions. The phrase “Identified for future urban development” is defined in the NPS-HPL as:

(a) identified in a published Future Development Strategy as land suitable for commencing urban development over the next 10 years; or

(b) identified:

(i) in a strategic planning document as an area suitable for commencing urban development over the next 10 years; and

(ii) at a level of detail that makes the boundaries of the area identifiable in practice.

58. As WDC is not a Tier 1 or 2 local authority, it has not undertaken a Future Development Strategy which discounts clause (a) of the definition from applying. I then considered whether clause (b) of the definition could apply. Reference to a “strategic planning document” looks promising, although I note that it is specifically defined as a *non-statutory* growth plan or document.

59. The term “Strategic planning document” is defined in the NPS-HPL as:

means any non-statutory growth plan or strategy adopted by local authority resolution

60. This could arguably apply to the draft PDP given that it had not yet been notified at the time of commencement of the NPS-HPL and thus did not have any statutory status. The draft PDP had certainly been adopted by WDC resolution on 6 October 2022. The draft PDP easily satisfies clause (b)(ii) of the definition which requires that the level of detail makes the boundaries of the area identifiable in practice.
61. In addition, the following Town Concept Plans have been adopted by WDC which identify areas for growth which is then delivered by the FUZ:
- a. Maniaiti / Benneydale Town Concept Plan;
 - b. Mokau Town Concept Plan;
 - c. Piopio Town Concept Plan;
 - d. Te Kūiti Town Concept Plan; and
 - e. Waitomo Caves Village Town Concept Plan.
62. As outlined in Table 1, all 4 areas were identified in their respective Town Centre Concept Plans. The intended rezoning was clearly identified at a property level which satisfies the requirement of clause (b)(ii) of the definition of "Identified for future urban development". In addition, they are non-statutory growth plans or strategies in accordance with the definition of "strategic planning document".
63. The Town Concept Plans were all prepared in 2019, and their preamble states that they are plans generated to guide the changes over the next 15 years which would mean they establish the framework for growth until 2034. As we are now within 2024, the Town Concept Plans still have ten years to run and thus satisfy the ten year requirement of the definition for "Identified for future development".

What is urban development?

64. The term "urban development" is used in the definition of "Identified for future urban development". Unhelpfully the NPS-HPL does not define "urban development", and neither does the National Policy Statement for Urban Development. However the definition of "urban" in the NPS-HPL lists the zones one would normally expect such as residential, commercial and industrial, but also lists "any special purpose zone, other than a Māori Purpose Zone". FUZ is specifically identified as a special purpose zone in the National Planning Standards. Therefore FUZ is deemed to be urban.

So what does this mean?

65. The consequence of this analysis and finding is that FUZ meets the transitional requirement of Clause 3.5(7)(b)(i) and is not highly productive land.
66. This is further reinforced by Clause 3.4(2) of the NPS-HPL which states that despite anything else in Clause 3.4 (mapping clause), land that, at

the commencement date, is identified for future urban development must not be mapped as highly productive land.

67. The consequence of this is that no changes are required to the FUZ in order to give effect to the NPS-HPL.

5 Topic 2: Objectives and policies:

5.1 Introduction

68. The objectives and policies of the FUZ will only apply to the land up until a plan change is notified to change the zoning. They therefore address two matters:

- a. Ensure subdivision and development does not compromise the ability to achieve full development under the future zone; and
- b. Require comprehensive and integrated structure planning to support transition to a new zone.

69. Five submission points sought either amendments to the notified provisions or inclusion of new provisions, while three sought retention of specific objectives and policies as notified.

5.2 Analysis and recommendations

70. The submission from WRC [10.148] sought inclusion of a new policy which directs future development to consider cumulative effects and the RPS general development principles, in particular the following:

- a. Connect with existing or planned infrastructure;
- b. Efficiently use water;
- c. Promote positive biodiversity outcomes;
- d. Avoid adverse effects on hydrological processes; and
- e. Allow adaptation to climate change.

71. Because the objectives and policies of the FUZ do not guide the future development of the land, there is little value in adding the matters sought by WRC. These matters have more impact if they are addressed as either Strategic Objectives or Appendix 5. Any plan change to change the zoning needs to be accompanied by a section 32 evaluation which (amongst other things) requires the change in zone to be tested as to whether the proposed change is the most appropriate way to achieve the objectives in the Plan. With the exception of hydrological processes which is a regional council matter, all of the matters identified by WRC already are

represented in the Strategic Objectives or objectives in other chapters of the Plan.

72. I considered the alignment between the matters listed in the submission and other general development principles in Appendix 11 of the RPS against the requirements of Appendix 5 of the PDP. Appendix 11 of the RPS lists twenty Development Principles that new development should take into account, and eight principles for rural-residential development. These are high level principles intended to ensure development occurs in a co-ordinated and integrated manner for the wider Waitomo region.
73. Development in the FUZ area will need to address the requirements under Appendix 5 and although this appendix may not have the exact wording as shown in the RPS, the final development will achieve similar outcomes.
74. Section 75 (3)(c) of the Resource Management Act 1991 states that in their district plan a territorial authority must give effect to any regional policy statement. Upon analysis of the information contained in Appendix 5 of proposed Waitomo District Plan, I consider that the information contained in this appendix does give effect to the high level principles of RPS Appendix 11 and that no amendments are required. I therefore recommend rejecting the submission from WRC [10.148]. I have undertaken a complete comparison of Appendix 5 of the PDP against Appendix 11 of the RPS in the section 42A report on Appendix 5.
75. Waikato Regional Council [10.149] seek an amendment to FUZ-P2 by including an additional clause as follows (or similar):
 3. The activity takes into account the timeframe in which the area is expected to develop.
76. The wording of FUZ-P2 applies to new development and sets parameters around what type of development is appropriate. The wording of the policy quite clearly indicates that new development and activities can be undertaken in the FUZ zone provided they are compatible with existing and future activities and that any potential conflict between existing and anticipated future activities can be appropriately managed while the area develops. The policy is not intended to provide for any timeframe under which an activity can occur.
77. The FUZ cross references to and relies on the General rural zone rules, and any activity wishing to establish in the FUZ will be subject to the same activity status as that which would apply to the General rural zone. The change of zone will occur when either a landowner considers circumstances warrant it appropriate to commence the structure plan process or when there is demand for the land to be rezoned for increased development. The intent of the policy is to ensure development does not compromise the ability to achieve full development of the site in the future, irrespective of how much time elapses before the zoning change is progressed. The changes sought by WRC risk undermining the policy position by suggesting that an incompatible use may be acceptable if there is a delay on rezoning. I therefore recommend that WRC [10.149] submission be rejected.

78. Waka Kotahi [17.150] seek an amendment to FUZ-P4 to replace the words “responds to” with “is proportionate with” growth demands. The submitter’s reasons are that rezoning should be aligned with identified land use needs and should be proportionate with growth demands. It considers that this is necessary to ensure that local needs are met efficiently and that travel demand is managed.
79. The use of the words “responds to” indicates that at some stage in the future there will be a demand for the land to transition from FUZ to the anticipated future zone. At this time, and to effect the change to the new zone, the landowner/s will be required to undertake a structure plan and during this process will be considering all aspects of the effects of the change i.e. how much land is necessary to transition at that point. This may result in the whole or only part of larger landholdings being transitioned or undertaking a staged development, while the remaining area of the property is retained as FUZ until a later date. The term “proportionate” implies a narrow focus on land area, whereas the word “responds to” implies a wider lens of typology of housing, location and lifestyle choice.
80. While either phrase would work, I prefer the notified wording and recommend that the submission from Waka Kotahi [17.150] is rejected.
81. Waka Kotahi [17.151] seeks to include a new policy that will provide a mechanism or trigger for when a FUZ is bought forward for intended development. The timing of transition from FUZ to a live zone is dependent on a number of factors that are not always able to be defined. The reasons for rezoning can be:
- a. The need to respond to the demands for growth within the Waitomo district;
 - b. The types of growth to be provided i.e. residential, rural lifestyle, settlement or tourism zones;
 - c. The wishes of the landowner/s; and
 - d. Managed retreat from an area of natural hazards; or
 - e. Provision of infrastructure.
82. All the requirements stated in Appendix 5 need to be taken into account to inform the structure plan process. I do not consider there is a need to identify a ‘mechanism/trigger point’ as the reasons for rezoning will be varied. I therefore recommend that the submission point from Waka Kotahi [17.151] be rejected.
83. Royal Forest and Bird Protection Society of NZ (**Forest and Bird**) [47.190] seek new objectives and policies which ensure that development protects indigenous biodiversity, considers cumulative effects and climate change. The objectives and policies of the FUZ only manage the current uses of the zone, they do not manage the transition to another live zone as this is progressed through a Schedule 1 plan change. As with any development

in any of the zones, indigenous biodiversity is comprehensively managed by Chapter 26 Ecosystems and Indigenous biodiversity (ECO). Subdivision, use and development can contribute to the continued loss and reduction of indigenous biodiversity and the ECO provisions seek to maintain or enhance indigenous biodiversity.

84. Appendix 5 is the key mechanism for managing the development of structure plans which enable the plan change for rezoning to proceed. I note that Appendix 5 requires:

11. The protection, maintenance or enhancement of scheduled sites or features, landscapes, overlays, natural waterbodies and indigenous vegetation;

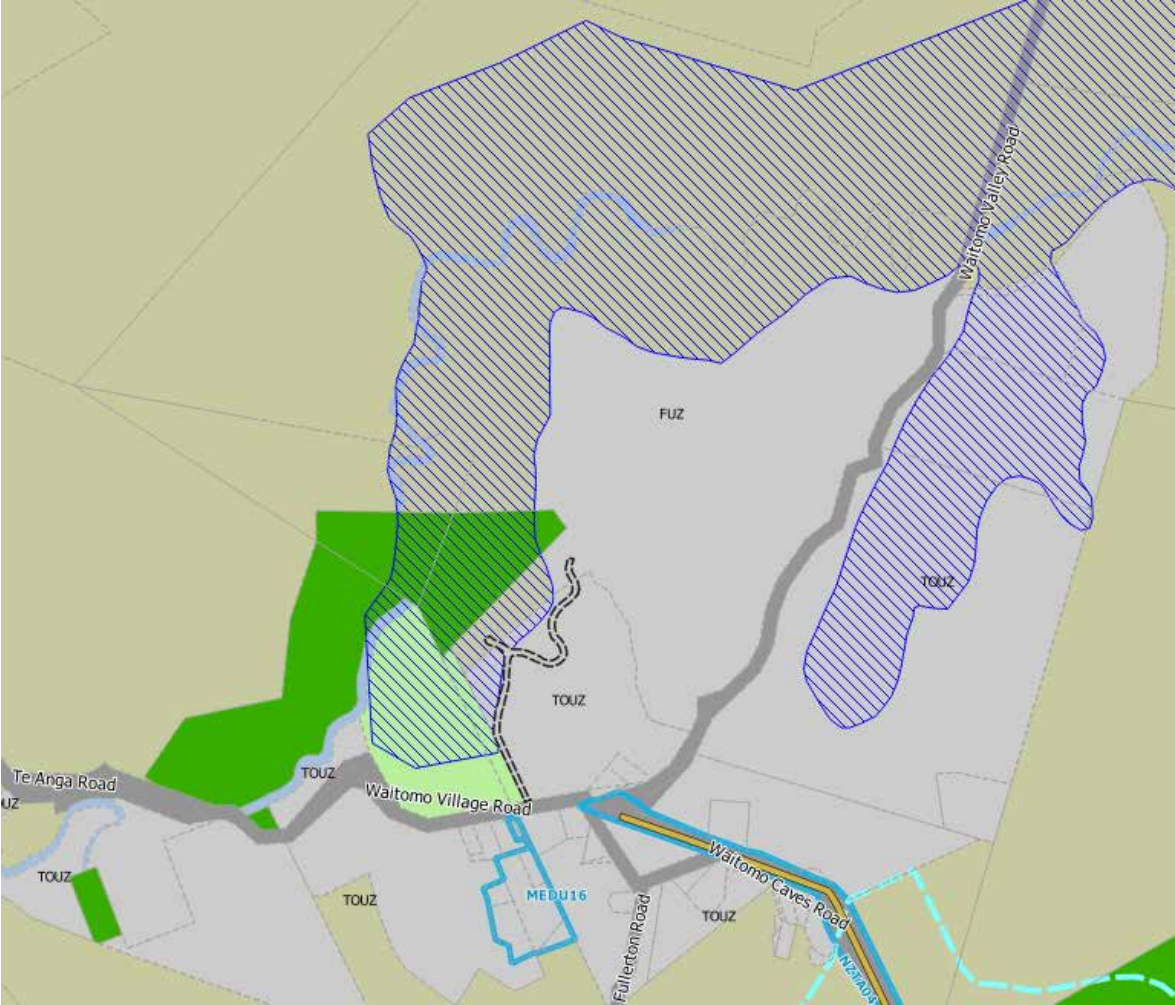
85. Taking into account the existing provisions in the ECO chapter and the requirements of Appendix 5, I consider that specific objectives and policies, such as the submitter is requesting, are not required. I therefore recommend rejecting the submission from Forest and Bird [47.190].

6 Conclusion

86. For the reasons included in this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.

87. Appendix 1 contains recommended amendments to the FUZ chapter and Appendix 2 contains the s32AA evaluation.

APPENDIX 1: RECOMMENDED MAPPING AMENDMENTS



Recommended zoning map for Waitomo Caves with amendments to the extent of FUZ

APPENDIX 2 SECTION 32AA EVALUATION

1 Introduction

This section 32AA evaluation relates to the recommended amendments to the Future urban zone (**FUZ**) and supports the discussion, analysis and recommendation in the section 42A report. A section 32AA evaluation is only required for changes recommended since notification; if there is no change to the notified version, a section 32AA evaluation is not required. The level of detail in this report needs to be at a level of detail that corresponds to the scale and significance of the changes recommended.

1.1 Format of the report

The section 32AA evaluation report is structured in a similar order to the topics in the s42A to enable the reports to be read together. In accordance with the requirements of section 32, the tests for objectives are different from provisions.

2 Appropriateness of Objectives

Objectives SD-07 and SD-014 are relevant to this topic. The appropriateness of this objective has been assessed previously, and no changes are proposed through the s42A recommendations.

2.1 Application and extent of the Future Urban Zone

The following reasonably practicable options have been identified for guiding the development of comprehensive and integrated structure plans:

Option 1 – Retain the location and extent of the FUZ as notified

Option 2 – Reduce the extent of the FUZ at Waitomo Caves to match the location of Building Platform Suitability Area C.

2.2 Preferred Option

Option 2 is preferred. Due to the uncertainty with the data, it considered appropriate to reduce the FUZ to align with Flooding Hazard overlay. This will result in a reduced land area of 19.37 ha of FUZ at Waitomo Caves. As a result of the FUZ boundary realignment, no area within the FUZ at Waitomo Caves will be affected by a hazard overlay.

2.3 Evaluation of Preferred Option Against Objective

This section contains an evaluation of the preferred option identified above.

Evaluation of Preferred Option Against Objective(s)		
	Costs	Benefits
Environmental	There are no environmental costs	There are no environmental benefits
Economic	Reduces the development potential for the site Reduces the amount of land available for tourism activities and may reduce tourism spend	There are no economic benefits
Social	There are no social costs	Reduces the risk to people and property from flooding
Cultural	There are no cultural costs	There are no cultural benefits
Economic growth provided or reduced	The provisions may have the effect of reducing the developable land and reducing the scale of any future economic growth.	
Employment opportunities	The provisions may have the effect of reducing the developable land and reducing the scale of any future employment opportunities.	
Uncertain or insufficient info	There is sufficient information to support the proposed changes.	
Risk of acting or not acting	There is sufficient information to act.	
Effectiveness		

The proposed change to the zoning map is the most effective method of achieving SD-O3 and SDO14. It will have the effect of reducing the risk to people and property from flooding.

Efficiency

The proposed provisions are the most efficient method of achieving the objectives given the benefits identified above. Reducing the ability to develop within Building Platform Suitability Area C will be efficient in keeping people and property safe from flooding

Summary

This option is the most appropriate way to achieve the objective, mostly because it

- enables the Council to effectively administer its District Plan and to monitor the outcomes of the proposed provisions in a clear and consistent manner.
- Sets out a comprehensive framework for identifying land suitable for urban development and the requirements for urbanisation to occur.
- gives effect to the RPS.
- enables the Council to fulfil its statutory obligations.
- achieves Part 2 of the RMA, particularly section 5 in providing for the economic and social wellbeing of the community, and the current and future needs of the community while protecting the health and safety of the community.

APPENDIX 3 ACCEPT / REJECT RECOMMENDATIONS

Submission no	Submitter	Support / in part / oppose	Plan section	Plan provision	Relief sought	Accept, Accept in part, Reject
10.147	WRC	Oppose	50. Future urban zone	General comment	Do not rezone any area subject to natural hazards risks as 'Future Urban Zone' and do not rezone any other area that could represent potential losses of biodiversity and highly productive land as 'Future Urban Zone'.	Accept in part
FS03.55	Director-General of Conservation	Support			Allow	Accept in part
10.148	WRC	Amend	50. Future urban zone	FUZ policies	Add a new policy which directs future development to consider cumulative effects and the WRPS general development principles, in particular the following: <ul style="list-style-type: none"> • Connect with existing or planned infrastructure • Efficiently use water • Promote positive biodiversity outcomes • Avoid adverse effects on hydrological processes • Allow adaptation to climate change. 	Reject
10.149	WRC	Amend	50. Future urban zone	FUZ-P2	Add wording as follows or to the same effect: <u>"3. The activity takes into account the timeframe in which the area is expected to develop ."</u>	Reject
17.147	Waka Kotahi	Support	50. Future urban zone	FUZ-O3	Retain as notified.	Accept
17.148	Waka Kotahi	Support	50. Future urban zone	FUZ-P1.3	Retain as notified.	Accept

Submission no	Submitter	Support / in part / oppose	Plan section	Plan provision	Relief sought	Accept, Accept in part, Reject
17.149	Waka Kotahi	Support	50. Future urban zone	FUZ-P3	Retain as notified	Accept
17.150	Waka Kotahi	Support in part	50. Future urban zone	FUZ-P4	Amend as follows: Ensure land in the future urban zone responds to <u>is proportionate with</u> growth demands and is rezoned in accordance with its intended future use as identified below.	Reject
17.151	Waka Kotahi	-	50. Future urban zone	New Policy	Impose a new provision which provides for a mechanism/trigger point for determining when the Future Urban Zone could be brought forward for the intended future use.	Reject
47.190	F&B	Support with amendment	50. Future urban zone	FUZ objective and policies	Add new objectives and policies to the Future urban zone which ensure that future development protects indigenous biodiversity and considers cumulative effects, in particular: <ul style="list-style-type: none"> • Maintaining and improving biodiversity values • Enabling mitigation of climate change • Allowing adaptation to climate change And Any consequential changes or alternative relief to achieve the relief sought.	Reject