

SECTION 42A REPORT

Report on submissions and further submissions

Topic: Chapter 52 – Tourism Zone

Report prepared by: Alex Bell

Dated: 7 June 2024

TABLE OF CONTENTS

1. Introduction	4
1.1 Qualifications and Experience	4
1.2 Code of Conduct	4
1.3 Conflict of Interest	4
1.4 Preparation of this report	4
2 Scope of Report	5
2.1 Matters addressed by this report	5
2.2 Overview of the topic / chapter	5
2.3 Statutory Requirements	5
2.4 Procedural matters	5
3 Consideration of submissions received	6
3.1 Overview of submissions	6
3.2 Structure of this report	6
Topic 1: Submissions seeking retention of existing provisions	6
Topic 2: TOUZ-O4 – Provision of infrastructure provision for development and redevelopment	7
Topic 3: TOUZ-P9 – Reticulated wastewater and stormwater network capacity	9
Topic 4: TOUZ-R35 - Noise insulation for noise sensitive activities	10
Topic 5: TOUZ-R40 - Maximum number of residential units – sites not serviced by wastewater reticulation	11
Topic 6: TOUZ-R41 – infrastructure servicing development	11
4 Conclusion	12
APPENDIX 1 RECOMMENDED AMENDMENTS	14
APPENDIX 2 SECTION 32AA EVALUATION	15

List of submitters and further submitters addressed in this report

Submitter No	Submitter name	Abbreviation
10	Waikato Regional Council	WRC
16	Fire and Emergency New Zealand	FENZ
17	Waka Kotahi NZ Transport Agency	NZTA
24	Ministry of Education	MoE

1. Introduction

1.1 Qualifications and Experience

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

1.2 Code of Conduct

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

1.3 Conflict of Interest

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

1.4 Preparation of this report

7. This report considers the submissions and further submissions that were received in relation to Chapter 52 – Tourism Zone.
8. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2 Scope of Report

2.1 Matters addressed by this report

9. This report is prepared in accordance with Section 42A of the Resource Management Act 1991 (RMA). This report considers submissions and further submissions that were received by the Council in relation to the provisions of Chapter 52 - Tourism Zone within the Proposed Waitomo District Plan (PDP).
10. Other effects and activities are addressed various Section 42A reports such as signs, earthworks, the amenity precinct and the karst overlay.

2.2 Overview of the topic / chapter

11. The purpose of the tourism zone is to provide for future, mixed-use development that complements the tourism focus of the Waitomo caves area, while managing its unique and sensitive environment. There are three tourism zones, two located at Hangatiki to support existing activities and the main area of zoning at Waitomo Caves Village.
12. There are three Tourism Zones, two located at Hangatiki to support existing activities and the main area of zoning at Waitomo Caves Village.

2.3 Statutory Requirements

13. The PDP has been prepared in accordance with the Council's functions under the RMA, specifically section 31, Part 2 and the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32. The section 32 report which addresses 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.

2.4 Procedural matters

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

3 Consideration of submissions received

3.1 Overview of submissions

15. A total of 12 submissions were received. A total of 7 submissions requested that provisions as notified be retained and 4 requested amendments to various provisions. No further submissions were received on any of these original submissions.

3.2 Structure of this report

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

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

18. As 7 of the submissions have sought the retention of the existing provisions, this Section 42A report only contains analysis on the provisions where submitters have requested specific relief to a provision.

Topic 1: Submissions seeking retention of existing provisions

19. The submissions below have all sought retention of various provisions as notified, and no other submission point has been received on that provision.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
24.73	Ministry of Education (MoE)	Support	TOUZ-P1	Retain TOUZ-P1 as notified.	Accept
17.157	Waka Kotahi	Support	TOUZ-P2	Retain as notified (not submission point X re consistently using 'transport network'.	Accept
17.156	Waka Kotahi	Support	TOUZ-P11	Retain as notified.	Accept
24.74	MoE	Support	TOUZ-R6	Retain TOUZ-R6 as notified.	Accept
16.82	Fire and Emergency New Zealand (FENZ)	Support	TOUZ - Table 1 Activities Rules TOUZ-R11	Retain as notified.	Accept

Analysis and recommendations

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

Topic 2: TOUZ-O4 – Provision of infrastructure provision for development and redevelopment

22. Three submissions were received on this Objective.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
24.72	MoE	Support with amendment	TOUZ-O4	Amend TOUZ-O4 as follows: ... and is co-ordinated with infrastructure provision (including additional infrastructure). And Any consequential amendments required to give effect to the matters raised in this submission.	Reject
24.03	MoE	Amend	9. Definitions	<i>Add a new definition for 'Additional infrastructure' as follows:</i> <i>means:</i> <ul style="list-style-type: none"> • <i>Public open space.</i> • <i>Community infrastructure as defined in section 197 of the Local Government Act 2002.</i> • <i>Land transport (as defined in the Land Transport Management Act 2003) that is not controlled by local authorities.</i> • <i>Social infrastructure, such as schools and healthcare facilities.</i> • <i>A network operated for the purpose of telecommunications (as defined in section 5 of the Telecommunications Act 2001).</i> • <i>A network operated for the purpose of transmitting or distributing electricity or gas.</i> 	Reject

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
FS02.02	Ara Poutama Aotearoa the Department of Corrections	Support			Reject
16.80	(FENZ)	Support	TOUZ-O4	Retain as notified.	Accept
17.155	Waka Kotahi	Support	TOUZ-O4	Retain as notified.	Accept

Analysis and recommendations

23. Objective TOUZ-O4, seeks to ensure new development or re-development does not exceed available capacities for servicing and infrastructure and is co-ordinated with infrastructure provision. The Ministry of Education has sought that TOUZ-O4 be amended as follows:

Ensure new development or re-development does not exceed available capacities for servicing and infrastructure and is co-ordinated with infrastructure provision (including additional infrastructure).

24. The Ministry of Education have also sought the inclusion of an additional definition for Additional Infrastructure in Chapter 9 – Definitions.

Add a new definition for 'Additional infrastructure' as follows:

means:

- *Public open space.*
- *Community infrastructure as defined in section 197 of the Local Government Act 2002.*
- *Land transport (as defined in the Land Transport Management Act 2003) that is not controlled by local authorities.*
- *Social infrastructure, such as schools and healthcare facilities.*
- *A network operated for the purpose of telecommunications (as defined in section 5 of the Telecommunications Act 2001).*
- *A network operated for the purpose of transmitting or distributing electricity or gas.*

25. It is considered that the inclusion of the definition for additional infrastructure is not necessary, as many of the matters provided for within the proposed definition such as telecommunications, electricity and gas are already provided for within the RMA definition of infrastructure, and do not need to be repeated in an additional definition. It is also not clear what land transport that is not controlled by the local authority would need to be provided for, some clarity on this point at the hearing would be useful. In terms of social infrastructure, such as schools (educational facilities) and health care facilities, these have specific statuses in each of

the zones and corresponding objectives and policies. MoE is also a requiring authority and has the ability to designate land should it wish too, so could provide for educational facilities by designating land. The establishment of public open space is already provided for in the open space and natural open space zones. If there was a change in future use to convert land from open space or natural open space this would be a matter that would be addressed in those chapters and subdivision, and potentially by the Reserves Act 1977.

26. It is considered that the providing for 'additional infrastructure' as defined above is not appropriate, as the Objective specifically relates to ensuring that development or redevelopment does not exceed the capacity of infrastructure to service that development, and that the development is co-ordinated with infrastructure provision. In the areas we have zoned Tourism there are limits on the capacity of available infrastructure (i.e. water and wastewater in the Waitomo Caves Village is part of a private scheme, and the other two areas would require on-site systems to service development). While the other matters listed by MoE are important matters for where Schools locate, they are not considered to be within the scope of this Objective for the tourism zone.
27. Fire and Emergency New Zealand and Waka Kotahi (New Zealand Transport Agency) have sought the retention of Objective TOUZ-O4 as notified. As the submission by MoE is rejected, these submissions have been accepted.
28. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

Topic 3: TOUZ-P9 – Reticulated wastewater and stormwater network capacity

29. One submission was received on this Policy.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
16.81	FENZ	Oppose	TOUZ-P9	Amend as follows: TOUZ-P9. Where reticulated <u>water</u> , wastewater and stormwater networks are not available, restrict the scale and intensity of development and subdivision to ensure it can be serviced by on site non-reticulated <u>water</u> , wastewater and stormwater methods.	Accept

Analysis and recommendations

30. Policy TOUZ-P9 seeks to ensure that where reticulated wastewater and stormwater networks are not available, restrict the scale and intensity of development and subdivision to ensure it can be serviced by on site non-reticulated wastewater and stormwater methods.
31. Fire and Emergency New Zealand sought the following amendment to TOUZ-P9:
- Where reticulated water, wastewater and stormwater networks are not available, restrict the scale and intensity of development and subdivision to ensure it can be serviced by on site non-reticulated water, wastewater and stormwater methods.*
32. The submission from FENZ is accepted, as there is a private reticulated water scheme in the Waitomo Caves Village, and as such reticulated water is available, and should be provided for within the Policy.
33. Section 32AA: It is considered that given the scale and significance of the change recommended as a result of the above submission, a section 32AA evaluation is not required.

Topic 4: TOUZ-R35 - Noise insulation for noise sensitive activities

34. One submission was received on this rule.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
17.158	Waka Kotahi	Oppose	TOUZ-R35	Waka Kotahi seek that this rule is deleted and replaced in the Noise Chapter with the rule drafted in Appendix B.	Reject

Analysis and recommendations

35. Rule TOUZ-R35 relates to all new buildings accommodating noise sensitive activities, which require them to be insulated to achieve a noise level of 40dB LAeq inside habitable rooms where it is proposed to be located within various distances to State Highways.
36. The submission from Waka Kotahi is rejected on the basis that this submission point should be considered in Chapter 20 – Transport. Once the provision is considered and addressed in the Transport Chapter it could have implications across multiple chapters. Therefore, it should be considered and addressed in Section 42A for Chapter 20 - Transport.
37. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

Topic 5: TOUZ-R40 - Maximum number of residential units – sites not serviced by wastewater reticulation

38. One submission was received in relation to this rule.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
10.152	Waikato Regional Council (WRC)	Oppose	TOUZ-R40	Include an advice note directing the applicant to the Waikato Regional Plan (WRP) rule framework. That way applicants will know compliance is also needed under the WRP framework.	Accept in part

Analysis and recommendations

39. Rule TOUZ-R40 relates to maximum number of residential units on sites not serviced by wastewater reticulation. The submission from the Waikato Regional Council requests an advice note that directs an applicant to the Regional Plan and specifies that resource consent may be required from WRC. It is accepted that this advice note could be included, as it provides useful guidance to plan users. However, the submission point does not provide the specific wording of the advice note, so WRC may wish to provide some amended wording for the advice note at the hearing. It should be noted that the advice note will not need to specify Horizons Regional Council area (Manawatū-Whanganui) as no areas of the Tourism Zone are in Manawatū-Whanganui.

40. Section 32AA: It is considered that given the scale and significance of the change recommended as a result of the above submission, a section 32AA evaluation is not required.

Topic 6: TOUZ-R41 – infrastructure servicing development

41. One submission was received in relation to this rule.

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
16.83	FENZ	Support in part	TOUZ-R41	Delete TOUZ-R41(4) and replace with the following: 4. <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</u>	Reject

Submission No	Submitter	Support / in part / oppose	Plan Provision	Relief Sought	Recommendation
				<p><u>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>And Retain the note as notified.</p>	

Analysis and recommendations

42. Rule TOUZ-R41 relates to the provision of three waters infrastructure to service development and specifies that where reticulated water and wastewater are not available developments must be serviced by onsite infrastructure. Stormwater is required to be managed on-site. Rule TOUZ-R41.4 specifically relates to each site being provided with the necessary access to water for fire fighting purposes.
43. It appears that while TOUZ-R41 is appropriate for residential activities, amended wording 'All developments must have an independent water supply for fire fighting that is compliant with SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice' is appropriate for the firefighting water supply requirements of other types of accommodation in the TOUZ the exact amendment required and the specific activities this applies to needs to be confirmed with FENZ. In the interim no amendment is made and clarification from FENZ is welcomed.
44. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

4 Conclusion

45. Submissions have been received in support of, and in opposition to the notified provisions of the Proposed Waitomo District Plan. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, it is recommended that the proposed district plan should be amended as set out in Appendix 1 of this report.
46. For the reasons set out in the section 32AA evaluations included throughout this report, it is considered that the proposed provisions, with the recommended amendments, will be the most appropriate means to:

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

APPENDIX 1 RECOMMENDED AMENDMENTS

TOUZ-P9.

Where reticulated water, wastewater and stormwater networks are not available, restrict the scale and intensity of development and subdivision to ensure it can be serviced by on site non-reticulated water, wastewater and stormwater methods.

APPENDIX 2 SECTION 32AA EVALUATION

Section 32AA

The evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken has been undertaken in accordance with section 32AA of the RMA.

The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to the Tourism Zone is contained within the assessment of the relief sought within this report, as required by section 32AA(1)(d)(ii).