

SECTION 42A REPORT

Report on submissions and further submissions

Topic: Chapter 48 – Natural Open Space Zone

Report prepared by: Predrag Draca

Dated: 7 June 2024

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List of submitters and further submitters addressed in this report

Submitter no	Submitter name	Abbreviation
24	Ministry of Education	MOE
16	Fire and Emergency New Zealand	FENZ
47	Forest and Bird	FB
39	Firstgas	FG
50	Te Nehenehenui	TNN
12	Heli A1 Limited	HAL
38	Te Kohanganui Whare	TKW
2	New Zealand Historical Association	NZHA
18	Auckland Waikato Fish and Game	AWFG
53	Department of Conservation	DOC
FS07	Grant Lennox	GL
FS05	Federated Farmers	FF
FS13	New Zealand Agricultural Aviation Association	NZAAA
FS20	Sheryl Paekau	SP
FS15	New Zealand Helicopter Association	NZHEA

1. Introduction

1.1 Qualifications and Experience

1. My name is Predrag (PJ) Draca. I am employed by the Waitomo District Council as a Senior Planner.
2. I hold the qualifications of Bachelor of Environmental Planning- Terrestrial Environmental Stream from the University of Waikato.
3. I have been employed in planning roles in both private and local government for almost 10 years. I have been employed by Waitomo District Council as the Senior Planner since September 2020. In this role I am responsible for the administration of the Operative Waitomo District Plan and have been assisting with the drafting of the Proposed Waitomo District Plan when required.

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 48 – Natural Open Space 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. This report considers submissions and further submissions that were received by the Council in relation to the provisions of Chapter 48 - Natural Open Space Zone (NOSZ) within the Proposed Waitomo District Plan. Chapter 48 – NOSZ manages the effects of activities on reserves on public and private land, which is generally used for recreational and conservation activities. Other effects and activities are addressed in various Section 42A reports, such as temporary activities, and Ecosystems & indigenous biodiversity.

2.2 Overview of the topic / chapter

10. This manages the effects of activities on reserves on public and private land, which is generally used for recreational and conservation activities. Land within the NOSZ often has high natural, ecological, landscape, cultural and heritage values and plays an important role in protecting and increasing the populations of threatened and endangered species.
11. Activities on Council owned and/or administered reserves are controlled by the provisions of the Reserves Act 1977 the Conservation Act 1987 and to some private land that is the subject of covenants under the Queen Elizabeth II National Trust. Limited areas of private land which have high conservation values are also included in the NOSZ.

2.3 Statutory Requirements

12. The PDP has been prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, national planning standards. Regard has also been given to the relevant regional plans.

2.4 Procedural matters

13. 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

14. A total of 26 submissions and 21 further submissions have been received on the NOSZ Chapter. In total 16 submissions sought the retention of existing provisions, 9 submissions sought amendments to provisions as notified, and 1 submission sought the addition of a new performance standard.

3.2 Structure of this report

15. 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.

16. 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.

3.3 New performance standard

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
16.74	FENZ	New	48. Natural open space zone	<p>New standard</p> <p>NOSZ-R13 – Servicing</p> <p><u>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.</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>	Reject

Analysis and recommendation

17. NOSZ-P2.7 specifically requires that there is adequate existing or planned infrastructure to service the activity and or development. It is considered that the wording 'adequate existing or planned infrastructure' would also include infrastructure for firefighting purposes as such the suggested additional standard by FENZ is not considered necessary.
18. Section 32AA: No changes are recommended as a result of this submission. A section 32AA evaluation is not required.

3.4 Submissions seeking retention of existing provisions

19. The submissions below have all sort retention of various provisions as notified.

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
53.70	DOC	Support	48. Natural Open Space zone	Retain: Introduction – Natural Open Space Zone NOSZ-01, NOSZ- 02, NOSZ-P1, NOSZ-P2, NOSZ-P3, NOSZ-P4, NOSZ-P5, NOSZ- P5, NOSZ-P6, NOSZ-P7, NOSZ- R1, NOSZ-R3, NOSZ-R4, NOSZ- R5, NOSZ-R6 as notified	Accept
04.31	NZAAA	Support	NOZS-01	Retain as notified.	Accept
FS07.31	Grant Lennox	Support		Allowed	Accept
12.31	Heli A1 Limited	Support	NOZS-01	Retain as notified.	Accept
FS13.53	New Zealand Agricultural Aviation Association	Support		Retain the objective as sought	Accept
FS15.34	New Zealand Helicopter Association	Support		Retain the objective as sought	Accept
39.81	Firstgas	Support	48. Natural open space zone	Retain NOSZ-01 as notified.	Accept
24.66	MoE	Support	48. Natural open space zone	Retain NOSZ-03 as notified.	Accept

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
38.106	TTRMC	Support	48. Natural open space zone	Retain NOSZ-O5 as notified.	Accept
FS20.135	Sheryl Paekau	Support		I seek that the whole of all submissions provided by Te Kohanganui Whare be allowed and to take into account my support in part when applied to limiting numbers of dwellings on Maori land.	Accept
50.30	TNN	Support	48. Natural open space zone	Retain the following provisions in the Natural open space zone: NOSZ-O5. NOSZ-P1.5. NOSZ-P11. NOSZ-P12.	Accept
FS20.228	Sheryl Paekau	Support		I seek that the whole of all submissions provided by Te Nehenehenui Trust be allowed and to take into account my support in part when applied to limiting numbers of dwellings on Maori land.	Accept
02.20	NZHA	Support	48. Natural open space zone	Retain NOSZ-P1.	Accept
FS13.20	New Zealand Agricultural Aviation Association	Support		Retain the policy as sought	Accept
04.32	NZAAA	Support	48. Natural open space zone	Retain NOSZ-P1.	Accept
FS07.32	Grant Lennox	Support		Allowed	Accept
12.32	Heli A1 Limited	Support	48. Natural open space zone	Retain NOSZ-P1.	Accept
FS13.54	New Zealand Agricultural Aviation Association	Support		Retain the policy as sought	Accept
FS15.35	New Zealand Helicopter Association	Support		Retain the policy as sought	Accept
38.107	TTRMC	Support	48. Natural	Retain NOSZ-P1.5 as notified.	Accept

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
			open space zone		
FS20.136	Sheryl Paekau	Support		I seek that the whole of all submissions provided by Te Kohanganui Whare be allowed and to take into account my support in part when applied to limiting numbers of dwellings on Maori land.	Accept
39.82	Firstgas	Support	48. Natural open space zone	Retain NOSZ-P3 as notified.	Accept
24.67	MoE	Support	48. Natural open space zone	Retain NOSZ-P3 as notified.	Accept
38.108	TTRMC	Support	48. Natural open space zone	Retain NOSZ-P11 as notified.	Accept
FS20.137	Sheryl Paekau	Support		I seek that the whole of all submissions provided by Te Kohanganui Whare be allowed and to take into account my support in part when applied to limiting numbers of dwellings on Maori land.	Accept
38.109	TTRMC	Support	48. Natural open space zone	Retain NOSZ-P12 as notified.	Accept
FS20.138	Sheryl Paekau	Support		I seek that the whole of all submissions provided by Te Kohanganui Whare be allowed and to take into account my support in part when applied to limiting numbers of dwellings on Maori land.	Accept
18.33	AWFG	Support	48. Natural Open Space Zone	Retain NOSZ-R3 as notified.	Accept

Analysis and recommendation

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.

3.5 Submissions seeking amendments to existing provisions

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
47.184	F&B	Support with amendment	48. Natural open space zone	<p>Overview</p> <p>Amend the overview of the Natural open space zone as follows:</p> <p>These areas often have high natural, <u>indigenous biodiversity</u>, ecological, landscape,</p> <p>And</p> <p>Any consequential changes or alternative relief to achieve the relief sought.</p>	Reject
47.185	F&B	Support with amendment	48. Natural open space zone	<p>Amend NOSZ-O1 as follows:</p> <p>Ensure that the zone's natural, ecological, <u>indigenous biodiversity</u>, landscape,</p> <p>And</p> <p>Any consequential changes or alternative relief to achieve the relief sought.</p>	Reject
FS05.129	Federated Farmers	Oppose		Decline the relief sought	Accept
47.186	F&B	Support with amendment	48. Natural open space zone	<p>Amend NOSZ-O2 as follows:</p> <p>Encourage public access to areas of natural open space for the community to use and enjoy for leisure and cultural activities where this does not negatively impact on <u>indigenous biodiversity</u>.</p> <p>And</p> <p>Any consequential changes or alternative relief to achieve the relief sought.</p>	Reject
47.187	F&B	Support with amendment	48. Natural open space zone	<p>Amend NOSZ-O4 as follows:</p> <p>Land in this zone adjoining lakes and water bodies should facilitate public access where possible and appropriate where <u>this does not negatively impact on indigenous biodiversity</u>.</p>	Reject

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
				And Any consequential changes or alternative relief to achieve the relief sought.	
47.188	F&B	Support with amendment	48. Natural open space zone	Amend NOSZ-P1.4. as follows: Any adverse effects on natural, ecological, <u>indigenous biodiversity</u> , landscape and historic heritage values can be appropriately avoided, remedied or mitigated. And Any consequential changes or alternative relief to achieve the relief sought.	Reject
FS05.130	Federated Farmers	Oppose		Decline the relief sought	Accept
16.73	FENZ	Oppose	48. Natural open space zone	Amend as follows: NOSZ-P2. Enable use and development that protects the natural open space character, values and amenity of the zone where the use and development: [...] 7. Require new buildings and structures to provide a firefighting water supply to manage fire risk.	Reject
04.33	NZAAA	Support in part	48. Natural open space zone	Retain NOSZ-R3 and add: 5. conservation activities Amend the definition of conservation activities as sought above to include: “(j) weed and pest control and the intermittent use of aircraft for conservation purposes”	Reject
FS07.33	Grant Lennox	Support		Allowed	Reject
FS23.13	Te Nehenehenui	Oppose		Te Nehenehenui have stated support for other submitters' submission points that may be in conflict with this submission, therefore TNN oppose the points of this submission that are not aligned to our Taiao and cultural values, or those we have noted support for.	Accept
12.33	Heli A1 Limited	Support in part	48. Natural open space zone	Retain NOSZ-R3 and add: 5. conservation activities Amend the definition of conservation activities as sought above to include:	Reject

Submission no	Submitter	Support / in part / oppose	Plan provision	Relief sought	Recommendation
				"(j) weed and pest control and the intermittent use of aircraft for conservation purposes"	
FS13.55	New Zealand Agricultural Aviation Association	Support		Retain the rule and add as sought	Reject
FS15.36	New Zealand Helicopter Association	Support		Retain the rule and add as sought	Reject
12.34	Heli A1 Limited	Support in part	48. Natural open space zone	Retain NOSZ-R4 and add: <u>Conservation activities</u> in the list as a permitted activity or; specifically list <u>weed and pest control</u> as a permitted activity on conservation and reserve land. Amend the definition of conservation activities as sought above to include: <u>"(j) weed and pest control and the intermittent use of aircraft for conservation purposes"</u> .	Accept in part
FS13.56	New Zealand Agricultural Aviation Association	Support		Retain the rule and add Conservation activities in the list as a permitted activity as sought OR Specifically list weed and pest control as a permitted activity on conservation and reserve land as sought	Accept in part
FS15.37	New Zealand Helicopter Association	Support		Retain the rule and add Conservation activities in the list as a permitted activity as sought or; Specifically list weed and pest control as a permitted activity on conservation and reserve land as sought	Accept in part

Analysis and recommendation

22. Forest and Bird have requested an amendment to the Overview, NOSZ-O1, NOSZ-O2, NOSZ-O4 and NOSZ-P1.4 to include the term "indigenous biodiversity" in all of these provisions.
23. It is considered that indigenous biodiversity does not need to be specifically referenced in the Overview, Objectives and Policies, as it is provided for in the terms natural and ecological, which would be considered to include indigenous biodiversity. Also, specific objectives, policies and rules for the protection of indigenous biodiversity are provided in Chapter 26 -

Ecosystems & indigenous biodiversity and as such the suggested addition is not required.

24. Heli A1 Limited, New Zealand Agricultural Aviation Association and the New Zealand Helicopter Association have all made submissions seeking clarification that the use of weed and pest control and the intermittent use of aircraft for conservation purposes would be a permitted activity. It is considered that the use of an aircraft for weed, and pest management should be a permitted activity and meets the definition of 'Conservation Activities' in Chapter 9, which is set out below:

"means any activity that involves the preservation and protection of indigenous habitat, flora and fauna that fundamentally benefits indigenous biodiversity and safeguards it for future generations"

25. It is considered that conservation activities and pest management on public conservation land and reserves administered by Waitomo District Council are provided for within the Waitomo District Comprehensive Reserve Management Plan and the Waikato or Wanganui Conservation Management Strategy (NOSZ-R4.7 and 4.8). Also, HW-R7 provides for vegetation clearance outside of SNAs across all zones, which would be the applicable provision for weed control.
26. Section 32AA: No changes are recommended as a result of these submissions. A section 32AA evaluation is not required.

4. Conclusion

Submissions have been received in support of, and in opposition to the notified provisions of the proposed district plan. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, it is recommended that no amendments are made to this Chapter.

For the reasons set out in the section 32AA evaluation outlined throughout this report, it is considered that the proposed objectives and 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

No amendments to any of the Chapters or Schedules have been required or requested.

APPENDIX 2 SECTION 32AA EVALUATION

No section 32AA evaluation is required, as no submissions requesting amendments to these chapters have been requested.