



AREA SPECIFIC MATTERS
Natural Open Space Zone

Section 32 Report for the Proposed Waitomo District Plan

Section 32 Report – Natural Open Space Zone

SUMMARY OF ISSUES	RESOURCE MANAGEMENT ACT 1991	NATIONAL DIRECTION	REGIONAL POLICY STATEMENTS	IWI MANAGEMENT PLANS CONT...
<p>The Natural Open Space Zone chapter addresses the following issues:</p> <ul style="list-style-type: none"> necessarily address the location or scale of open space, there is a need to provide adequate land for each type of open space use, being a range of passive and active leisure and recreational activities. Ensuring natural open space zoned land is prioritised for recreational uses. Ensuring natural open space zoned areas are accessible and connected to other networks such as roads, cycleways and along waterbodies and the coast. Ensuring the protection of areas of high natural, heritage, landscape and cultural value land within this zone from inappropriate use and development. Land in the natural open space zone needs to balance the provision of appropriate activities and managing adverse effects of these activities on surrounding areas. The zone will need appropriate bulk and location standards, as well as limits on noise and lighting. The zone includes land that is owned privately landowners there is a need to provide for a balanced approach even where the natural values are high. 	<p>Section 5 RMA The management of the natural open space zone is directly relevant to section 5. Open space zones are important for the cultural and social wellbeing of the community and also provide environmental benefits by protecting important landscapes or biodiversity. The natural open space zones assists in protecting these areas for future generations.</p> <p>Section 6 RMA There are no specific section 6 matters directly relevant to this topic. However, the natural open space zone contains areas mapped as natural coastal character, significant natural areas, outstanding natural features and landscapes, sites and areas of significance to Māori, natural hazards and historic heritage. These particular matters are addressed in the relevant overlay chapters.</p> <p>Section 6(e) identifies the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga as a matter of national importance. This is reflected in NOSZ-O5 which seeks to protect and enhance mana whenua values.</p> <p>The zone may also enable access to and along the coastal marine area, lakes, and rivers in accordance with section 6(d), and this is reflected in NOSZ-O4.</p> <p>Section 7 RMA The following clauses are relevant in section 7: 7(b) The efficient use and development of natural and physical resources. This matter relates to using public open space land in the best way possible in line with the principles of sustainable management, including ensuring it does not become overused. It also relates to the effect of the zone on private land. A more balanced approach is required for private land whilst recognising the values of the land.</p> <p>7(c) The maintenance and enhancement of amenity values. This matter relates to the need to maintain and enhance both open space and recreation amenity values, and those of adjacent zones.</p> <p>7(d) intrinsic values of ecosystems Many of the areas of Natural Open Space Zone are valued for their ecological characteristics.</p> <p>7(f) Maintenance and enhancement of the quality of the environment. This matter relates to a general requirement to maintain and enhance the quality of the open space and recreation environment, and complements the environmental obligations contained within the definition of sustainable management (sections 5(2)(a), (b) and (c)).</p> <p>Section 8 RMA Section 8 requires Council to work in partnership with Maniapoto and Tainui to actively protect their interests.</p> <p>This is particularly relevant in open space and recreation zones where they apply to culturally important and significant sites.</p>	<p>There are six National Policy Statements (NPSs) currently in place:</p> <ul style="list-style-type: none"> New Zealand Coastal Policy Statement 2010 NPS for Electricity Transmission 2008 NPS for Renewable Electricity Generation 2011 NPS for Freshwater Management 2020 NPS on Urban Development 2020 NPS for Highly Productive Land 2022 <p>New Zealand Coastal Policy Statement 2010</p> <p>These zones have areas within the coastal environment and therefore the NZCPS is relevant to these areas. NZCPS has objectives and policies which aim to protect and preserve the coastal environment while providing for public use and enjoyment:</p> <p><i>Objective 4: To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment;</i></p> <p><i>Objective 6: To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development;</i></p> <p><i>Policy 18: Public open space</i> <i>Recognise the need for public open space within and adjacent to the coastal marine area, for public use and appreciation including active and passive recreation, and provide for such public open space, including by:</i> <i>(a) ensuring that the location and treatment of public open space is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment;</i> <i>(b) taking account of future need for public open space within and adjacent to the coastal marine area, including in and close to cities, towns and other settlements;</i> <i>(c) maintaining and enhancing walking access linkages between public open space areas in the coastal environment;</i> <i>(d) considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to have access to public open space; and</i> <i>(e) recognising the important role that esplanade reserves and strips can have in contributing to meeting public open space needs.</i></p>	<p>The Waikato Regional Policy Statement Many of the relevant provisions in the Waikato RPS focus on public access. Section 2.5.3(l) Strategies for the Waikato River seeks to ensure appropriate public access to the Waikato River while protecting and enhancing health and wellbeing of the Waikato River.</p> <p>Objective 3.16 Riparian areas and wetlands Riparian areas (including coastal dunes) and wetlands are managed to: a) maintain and enhance: i) public access; and...</p> <p>Objective 3.23 Public access Public access to and along the coastal marine area, lakes and rivers is maintained and enhanced.</p> <p>The policies have a strong directive to maintain and enhance public access to the coast, lakes and rivers. Implementation method 12.3.2 recognises the role of esplanade reserves and strips in contributing to public open space needs.</p> <p>The Manawatū-Whanganui One Plan does not contain any especially relevant provisions to the natural open space zone, although there are objectives and policies concerned with some of the features that may be included in the Zone such as significant natural areas, outstanding natural landscapes and high natural character in the coastal environment.</p>	<p>The Waikato Tainui Environment Management Plan 2018 (WTEP)</p> <p>The WTEP sets strong direction to ensure access to coastal areas particularly for customary activities. Policy 25.3.3.1 requires reserves next to oceans, lakes and rivers to be set-aside during the subdivision and land development process to allow access (amongst other things). The policy seeks that development retains access to water bodies.</p> <p>Objective 14.3.2 seeks the ability of Waikato-Tainui to undertake customary activities is protected and enhanced within the rohe, particularly on, in, and around waterways and their margins, including wetlands and reserves. Policy 14.3.2.1 identifies mechanisms for achieving this objective such as the creation of esplanades and reserves through the resource consent process.</p> <p>Policy 25.3.3.1 ensures that land use and development: (b) Require reserves next to oceans, lakes and rivers to be set-aside during the subdivision and land development process to protect the water body, allow access, increase biodiversity, and enhance ecosystems. (c) Decisions on use of reserves or similar provision in subdivision applications shall give priority to protecting the water body health regardless of the water body or subdivision size.</p> <p>It is considered that the proposed provisions take into account the WTEP, as they recognise the importance of cultural, spiritual and/or archaeological values and interests or associations of importance to mana whenua and ensure activities do not compromise these values. NOSZ-P11 enables appropriate activities which support and re-establish the relationship of mana whenua and their culture and traditions to their ancestral lands, water, sites, wāhi tapu and other taonga.</p>
<p>OPERATIVE WAITOMO DISTRICT PLAN</p>			<p>IWI MANAGEMENT PLANS</p>	<p>OTHER RELEVANT PLANS OR LEGISLATION</p>
<p>The Operative District Plan (ODP) contains the Conservation Zone which performs a similar role to the natural open space zone. The focus of the Objectives in this chapters were on protecting the features of the Conservation Zone such as significant indigenous vegetation, karst and cave systems, natural habitats and ecosystems, natural character of the coastal environment etc. By comparison, the Natural Open Space Zone is more focused on the activities and structures within the zone.</p> <p>The activities enabled in the Conservation Zone are primarily conservation activities carried out by or approved by the land controlling authority and the collection of plant or animal matter for scientific</p>		<p>There are also 8 National Environmental Standards (NESs) currently in place:</p> <ul style="list-style-type: none"> NES for Air Quality 2004 NES for Sources of Human Drinking Water 2007 NES for Telecommunication Facilities 2016 NES for Electricity Transmission Activities 2009 NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 NES for Plantation Forestry 2017 NES for Freshwater 2020 NES for Storing Tyres Outdoors 2021 <p>There are no NES relevant to this topic.</p> <p>Relevant case law considered While there is caselaw regarding Kauri Dieback Disease, Director-General of Conservation v Thames-</p>	<p>We are required to take into account planning documents recognised by an iwi authority and lodged with the territorial authority.</p> <p>Maniapoto Iwi Environment Management Plan (MEMP)</p> <p>As expected, there are not many provisions which specifically address parks and reserves in the MEMP. The policies specific to parks and reserves are largely around appropriate planting, e.g. Policy 8.3.2.2(b) encourage use of indigenous plants for public spaces, parks and reserves, and 14.3.2.3(g) which seeks to incorporate native riparian planting on esplanade reserves and strips in new and existing subdivisions.</p> <p>It is considered that the proposed provisions take into account the MEMP, as they recognise the importance of cultural, spiritual and/or archaeological values and</p>	<p>The Reserves Act 1977 The Reserves Act contains provisions for the acquisition, control, management, maintenance, development and use of public reserves, specifically historic reserves, nature reserves, recreation reserves, scenic reserves, scientific reserves, government purpose reserves and local purpose reserves. The Reserves Act has three main functions. These are:</p> <ul style="list-style-type: none"> To provide for the preservation and management, for the benefit and enjoyment of the public, areas possessing some special feature or values such as recreational use, wildlife, landscape amenity or scenic value. For example, the reserve may have value for recreation, education, as wildlife habitat or as an interesting landscape.

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<p>research or Māori cultural purposes if approved by the land controlling authority.</p> <p>The natural open space zone is more comprehensive in the activities and structures appropriate for the zone and differentiates between land in public and private ownership.</p>	<p>Other sections of the RMA Section 4(3) of the RMA states that section 9(3) does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than land held for administrative purposes) that— (a) is consistent with a conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and (b) does not have a significant adverse effect beyond the boundary of the area of land.</p>	<p>Coromandel District Council [2018] NZEnvC 244 this is most relevant to the natural environment chapters.</p>	<p>interests or associations of importance to mana whenua and ensure activities do not compromise these values. NOSZ-P11 enables appropriate activities which support and re-establish the relationship of mana whenua and their culture and traditions to their ancestral lands, water, sites, wāhi tapu and other taonga. NOSZ-P2 enables use and development that protects the natural open space character, values and amenity of the zone, and particularly ensures a predominance of natural open space and indigenous vegetation.</p>	<ul style="list-style-type: none"> To ensure, as far as practicable, the preservation of representative natural ecosystems or landscapes and the survival of indigenous species of flora and fauna, both rare and commonplace. To ensure, as far as practicable, the preservation of access for the public to the coastline, islands, lakeshore and riverbanks and to encourage the protection and preservation of the natural character of these areas. <p>Walking Access Act 2008 The Walking Access Act 2008 also influences public access around New Zealand, which was created to enhance and extend walking access throughout the country. The Walking Access Act 2008 sits alongside and does not duplicate existing RMA provisions. The New Zealand Walking Access Commission implements the Act and provides leadership on walking access issues. The Commission maps walking access routes, provides information to the public, has developed a code of responsible conduct, assists with dispute resolution and negotiates new walking access.</p>
SCALE & SIGNIFICANCE s32(1)(c)				
<p>The assessment is based on eight factors outlined in Ministry for the Environment’s guidance on Section 32 reports. Each factor is scored in terms of its scale and significance (where 1 is low and 5 is high).</p> <p>Reason for Change: 2 Problem / Issue: 2 Degree of Shift from Status Quo: 2 Who and How Many Affected, Geographic Scale of Effects: 2 Degree of Impact on or Interest from Māori: 4 Timing and Duration of Effects: 3 Type of Effect: 2 Degree of Risk or Uncertainty: 2</p> <p>Total (out of 40): 17</p>				<p>STRATEGIC DIRECTION</p> <p>The following objective from the Strategic Directions chapter of the PDP are relevant to this topic: SD-05: Compatible activities with similar effects and functions are zoned together and new development is directed towards the appropriate zones to ensure that land use and subdivision: 1. Are consistent with the anticipated character and amenity values of the areas where they are located; and 2. Efficiently use natural and physical resources in order to meet the community’s and the environment’s needs both now and in the future; and 3. Recognise existing lawful activities and protect their ongoing operation from incompatible activities.</p> <p>SD-013: The district’s communities have access to a diverse and connected network of open spaces which offer a range of recreational experiences while protecting the values of scheduled sites, features and overlays.</p>
UNCERTAINTIES AND RISKS s32(2)(c)				
<p>The degree of risk and uncertainty is low due to the certainty provided by a well-understood approach to parks management, and existing reserve management plans. Furthermore, most of the areas within the zone are areas are also subject to conservation strategies developed by the Department of Conservation and that are consistent with the Reserves Act 1977.</p>				
OBJECTIVE(S) s32(1)(a)				
<p>Relevance – The five objectives relate directly to the purpose of the zone and reflect the appropriate land uses and activities for the zone. The objectives are consistent with section 31(1)(a), the management of the effects of use, development or protection of land. The objectives assist in achieving the purpose and principles of the RMA, by enabling recreational activities for people’s wellbeing while protecting natural and cultural values, as well open space character and amenity. This is also consistent with objectives 4, 6 and Policy 18 of the NZCPS (maintaining and enhancing public open space in the coastal environment).</p> <p>Usefulness – The objectives will assist in setting the expected outcomes for the zone and will assist in assessing any resource consent applications.</p>				

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Reasonableness – Despite there being more objectives than the ODP, this is not a significant departure from the status quo. The objectives are unlikely to place any unjustifiably placing high costs on the community.

Achievability – The objectives are achievable and provide more clarity on the purpose of the zone as well as appropriate structures and activities.

Are the objectives the most appropriate way to achieve the Purpose of the Act?

The proposed objectives are considered to meet the tests of relevance, usefulness, reasonableness and achievability. The objectives are the most appropriate way to achieve the purpose of the RMA because they:

- Objectives NOSZ-02 and NOSZ-03 provide for a wide range of recreational activities within the zone, which are fundamental to the wellbeing of the communities.
- Objective NOSZ-01 seeks to protect all the section 6 matters which sit inside the natural open space zone.
- Objectives NOSZ-02 and NOSZ-04 encourages public access in accordance with section 6(d).
- Objective NOSZ-05 achieves section 6(e) to protect and enhance mana whenua values.
- The objectives specifically and clearly set out the outcomes anticipated by the District Plan in relation to open space and addresses the resource management issues. In particular, the delivery of a range of open space options to the community for their leisure and recreational needs, the protection of those open space functions from other alternative land uses establishing in the zone and the imperative for public land that open space areas are accessible.
- These objectives apply district-wide and give specific recognition to open space as a necessity for the District which need to be planned for and maintained in a way that enables the growth, development and economic well-being of the district. The objectives balance the management of these spaces with the principle/overarching goal of minimising adverse effects on the environment.
- The proposed objectives provide plan users and decision makers with certainty as to the outcomes that are appropriate under the District Plan provisions, and are considered reasonable and achievable, and consistent with the objectives of other district plans.
- The objectives will sustain the potential of natural open space as a physical resource for current and future generations.

PROVISIONS s32(1)(b)

EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)

ALTERNATIVES s32(1)(b)(i)

Benefits Anticipated

Environmental

- The provisions provide for a low level of development and built form to retain the natural/biodiversity values within the natural open space zone.
- Performance standards limit the shading and dominance of structures on adjoining properties.

Economic

- Enables activities that are in accordance with a Reserve Management Plan without incurring the costs of resource consent.
- Enables commercial activities that are consistent with the purpose of the zone.
- Enables temporary events which bring economic benefits to the District.

Social

- Explicitly recognises the potential for reverse sensitivity on adjacent sensitive activities.
- Enables a range of recreational activities.
- Enables improved public access to esplanade areas and reserves.
- Community benefit from sustainably managed open space. There is also explicit provision for community facilities.
- Enables temporary activities and events.

Cultural

- Re-establish the relationship of mana whenua and their culture and traditions to their ancestral lands, water, sites, wāhi tapu and other taonga
- Increased access to the coast and waterbodies.

Costs Anticipated

Environmental

- There are not anticipated to be any environmental costs.

Economic

- Costs of a resource consent for larger structures.
- Imposes limits on commercial activities.

Social

- Recreation activities in reserves are likely to give rise to noise, which could impact on neighbouring properties.
- Increased vehicle movements and parking associated with use of the zone and events, potentially giving rise of traffic congestion.
- Anti-social behaviour associated with parks.

Cultural

- There are not anticipated to be any cultural costs.

Economic growth opportunities

The provisions are not likely to result in any economic growth opportunities.

Employment opportunities

The provisions are not likely to result in any employment opportunities.

For the purpose of this evaluation, the Council has considered the following potential options:

1. The proposed provisions; and
2. The status quo.

The ODP provisions are not considered to be efficient or effective in achieving the objectives.

In order to identify other reasonably practicable options, the Council has undertaken the following:

- Reviewed other relevant district plan provisions for provisions relevant to the management of reserves; and
- Sought feedback from Council's parks and reserves team.
- Collated feedback from discussions with iwi

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QUANTIFICATION OF BENEFITS & COSTS s32(2)(b)	
Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified. Given the assessment of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to this topic.	
EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii)	REASONS FOR PROVISIONS s32(1)(b)(iii)
<p>Section 32(1)(b)(ii) requires assessing the efficiency and effectiveness of the provisions in achieving the objectives:</p> <p><u>Efficiency</u> The proposed provisions are the most efficient method of meeting the objectives given the benefits identified above. They will reduce costs and provide certainty for Council and the community. The package of provisions achieves the proposed objectives in an efficient and effective manner by providing a balance between management of adverse effects and enabling appropriate activities to occur.</p> <p><u>Effectiveness</u> The proposed provisions are the most effective method of meeting the objectives as they clearly set out the appropriate activities and development in the zone. The provisions clearly define the purpose of the zone. The provisions effectively connect the reserve management plans and the District Plan and ensure they complement each other in protecting and managing the use of land classified as reserve in the District.</p>	<p>Section 32(1)(b)(iii) requires a summary of the reasons for deciding on the provisions:</p> <ul style="list-style-type: none"> • they enable development and land use in the Zones to be effectively managed, recognising the natural values and the distinctive amenity and character. • the policies provide clear direction as to the intent, purpose and character of the zones. • the rule framework reflects the amenity anticipated in the zones by controlling development through rule requirements. • the standards are aligned with the anticipated nature and scale of built development in the zone. • the chapters and definitions align with the National Planning Standards and will allow a range of recreational activities to establish and operate in the zone.