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Enquiries to: Joao Paulo Silva



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Waitomo District Council
PO Box 404
Queen Street, Te Kuiti 3941

Private Bag 3038
Waikato Mail Centre
Hamilton 3240, NZ

waikatoregion.govt.nz
0800 800 401

Email: districtplan@waitomo.govt.nz

Tēnā koe,

Waikato Regional Council Further Submission on the Proposed Waitomo District Plan

Thank you for the opportunity to make a further submission on the Proposed Waitomo District Plan. Please find attached the Waikato Regional Council's further submission. This submission was formally endorsed by the Director Science, Policy and Information under delegated authority on 27 July 2023.

Should you have any queries regarding the content of this document please contact Joao Paulo Silva, Senior Policy Advisor, Policy Implementation directly on (07) 9497179 or by email joaopaulo.silva@waikatoregion.govt.nz.

Nāku iti noa, nā,

A handwritten signature in black ink, appearing to read "Tracey May". The signature is written in a cursive style with a large initial "T" and "M".

Tracey May
Director Science, Policy and Information

Further Submission from Waikato Regional Council on Proposed Waitomo District Plan

26 July 2023

Introduction

1. The Waikato Regional Council (WRC) appreciates the opportunity to make a further submission on the Proposed Waitomo District Plan (PDP). WRC's primary interest is in relation to the Waikato Regional Policy Statement (WRPS). District Plans are required to give effect to the WRPS (Resource Management Act [RMA] s75(3)(c)).
2. WRC lodged a submission on the Proposed Waitomo District Plan on 19 December 2022. The purpose of this further submission is to respond to matters raised by other submitters, to uphold important aspects of the WRPS and note the National Policy Statement Indigenous Biodiversity (NPS-IB).
3. Key matters raised in this further submission relate to:
 - a. Significant natural areas (SNA), indigenous biodiversity and highly mobile indigenous species
 - b. Outstanding natural landscapes and natural character.
4. We respond to specific submission points and submitters in the table below.

5. FURTHER SUBMISSION ON Proposed Waitomo District Plan

Submission point	Provision	Submitter	Relief sought from Submitter (Points in this column are verbatim)	Support/ Oppose	Reasons	Decision requested
<i>Whole plan</i>						
17.03	General comment	Waka Kotahi	The Waitomo PDP demonstrates how it has regard to the National Adaptation Plan (NAP) and Emissions Reduction Plan (ERP) under section 74(2)(b)(i) of the RMA.	Support	WRC agrees that consideration of the ERP and NAP is vital and is required under the RMA.	The Waitomo PDP demonstrates how it has regard to the NAP and ERP under section 74(2)(b)(i) of the RMA.
17.39	NU-R28	Waka Kotahi	Retain as notified.	Support with amendment	Coastal environment areas in the Waitomo District (for example, in Mokau and Marakopa) have high natural character, landscape, and amenity values and experience dynamic and complex natural biological and physical processes. WRC is concerned that the proposed permitted activity status for “the construction of new public roads, state highways, service lanes and any road widening outside of the road reserve or designation” in the coastal environment and landscapes of high amenity value will result in significant adverse and irreversible effects on these values. This conflicts with objective CE-O1 of the WRPS which states that the coastal environment should be managed in an integrated way that “preserves natural character and protects natural features and	Amend activity status for “the construction of new public roads, state highways, service lanes and any road widening outside of the road reserve or designation” in the coastal environment and landscapes of high amenity value to discretionary, in line with the discretionary activity status for outstanding natural landscapes, outstanding natural character, SNAs and high/very high natural character areas.

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					<p>landscape values of the coastal environment.” It also conflicts with policy CE-P1 of the WRPS, which requires development to occur in a way that has regard to coastal character, protects the valued characteristics of remaining undeveloped coastal environments, and ensures sufficient development setbacks to protect natural character, public access, indigenous biodiversity, natural physical processes, amenity and natural hazard mitigation functions of the coast.</p>	
<i>NH – Natural hazards</i>						
51.35	New rule	Kiwi Rail Holdings (KRH)	<p>Amend to add new rule as follows; <u>Applying to all Hazard overlays NH - RX</u> <u>Existing Regionally Significant Infrastructure - maintenance, replacement and upgrading</u> <u>Where:</u> <u>PER – 1</u> <u>The infrastructure is within 5m of the existing alignment or location; and</u> <u>PER – 2</u> <u>The above ground footprint of the infrastructure is not increased by more than 10%;</u></p>	Support with amendments	<p>WRC advocates for a risk-based approach to natural hazards. The proposed rule in its current form would allow for further investment in critical infrastructure already located in hazard overlay areas. WRC considers that this may be appropriate in specific circumstances but should be discouraged more broadly given the potential for this to entrench community vulnerability and susceptibility to hazards.</p> <p>The WRPS provides direction to develop in a way that reduces risks</p>	<p>Include the new rule as drafted by KRH, but also include a requirement for consideration of new locations outside of flood/hazard areas (i.e., Discretionary activity status if in the existing location and/or controlled activity status in a new location outside of a hazard area).</p>

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			<p><u>Activity status where compliance not achieved: Restricted Discretionary Matters of discretion are restricted to:</u></p> <ul style="list-style-type: none"> • <u>any adverse effects arising from locating the regionally significant infrastructure in this location; and</u> • <u>any potential adverse effects of diverting or blocking overland flow path(s), including upstream and downstream flood risks; and</u> • <u>the effectiveness and potential adverse effects of any proposed mitigation measures; and</u> • <u>alternative locations for the regionally significant infrastructure; and</u> • <u>any positive effects of locating the regionally significant infrastructure at this location; and</u> • <u>the ability for the regionally significant infrastructure to be efficiently recovered after a hazard event; and</u> • <u>the operational need or functional need for the activity to be established in this location.</u> 		<p>from natural hazards to an acceptable or tolerable level (see HAZ-P2). It also directs development to support existing urban areas in preference to creating new ones (see APP11a). This direction is consistent with the New Zealand Coastal Policy Statement (NZCPS) which provides direction to avoid redevelopment or change in land use that would increase the risk of adverse effects from coastal hazards (Policy 25b).</p> <p>WRC supports the proposed rule and considers that it will ensure continued ability to maintain and provide cost-effective and efficient services. However, WRC notes that exceptions should be made for asset replacement projects. We suggest including a requirement for consideration of new locations outside of flood/hazard areas (i.e., Discretionary activity status if in the existing location and/or controlled activity status in a new location outside of a hazard area).</p>	
<i>ECO – Ecosystems and indigenous biodiversity</i>						
47.124	General	Forest and Bird (F&B)	Add provisions for protection of bat habitats including corridors, and corridors of other highly mobile	Support	WRC is supportive of this submission point and notes that provisions for bat habitats and	Add provisions for protection of bat habitats including corridors, and

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			indigenous species to the Ecosystems and Indigenous Biodiversity chapter. Waitomo DC work with WRC and DOC and other bat specialists to identify Bat Protection Areas to be included as an overlay in the DP maps, and include appropriate statements in the DP Objectives, Policies and Rules.		<p>other highly mobile indigenous species (including the inclusion of bat protection areas) is required under the NPS-IB (see Policy 15). This direction complements existing direction under the WRPS to protect significant habitats of indigenous fauna (see ECO-P2, ECO-M12 and ECO-M13 of the WRPS).</p> <p>WRC looks forward to collaborating with Waitomo District Council to ensure positive outcomes for highly mobile indigenous species in the Waitomo District and wider Waikato region.</p>	corridors of other highly mobile indigenous species to the Ecosystems and Indigenous Biodiversity chapter. Waitomo DC to work with WRC and DOC and other bat specialists to identify Bat Protection Areas to be included as an overlay in the district plan maps, and include appropriate statements in the district plan Objectives, Policies and Rules.
53.06	New provision	Department of Conservation (DOC)	The D-G requests WDC work with the DOC and other submitters to identify appropriate sites as Bat Protection Areas. These areas should receive a Bat Protection Area overlay on the Planning Maps. Activities in the BPA will be subject to provisions that avoid and minimise adverse effects on the bats and their habitat.	Support	WRC supports this submission point for the reasons outlined in the row above (in relation to submission point 47.124).	WDC to work with DOC and other submitters to identify appropriate sites as Bat Protection Areas. These areas should receive a Bat Protection Area overlay on the Planning Maps. Activities in the BPA will be subject to provisions that avoid and minimise adverse effects on the bats and their habitat.
53.28	ECO-O1 and ECO-O4	DOC	Replace ECO -O1 and ECO -O4 with the following or words to like effect:	Support with	WRC is supportive of the proposed replacement of ECO-O1 and ECO-O4 with a new objective that aligns	Replace ECO -O1 and ECO -O4 with the following or words to like effect:

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			<p>There is a net increase in indigenous biodiversity throughout the District, comprising:</p> <ol style="list-style-type: none"> 1. <u>Protected and restored SNAs, identified in SCHED6; and</u> 2. <u>Other areas of indigenous biodiversity that are maintained and enhanced, and</u> 3. <u>The restoration and enhancement of areas of indigenous biodiversity is encouraged and supported.</u> 	amendments	<p>with the WRPS and the recent National Policy Statement-Indigenous Biodiversity (NPS-IB).</p> <p>We support the wording of DOC’s proposed objective, which seeks to achieve a net increase in indigenous biodiversity throughout the district. We note that the WRPS and the NPS-IB advocates for no overall net loss of indigenous biodiversity at a minimum (see 2.1(1)(a) of the NPS-IB and ECO-M3 of the WRPS) and consider DOC’s proposed wording to be an appropriate and effective way of achieving this. We do suggest some minor changes to ensure greater consistency with the NPS-IB, which provides direction to recognise and provide restoration of indigenous biodiversity, and increase indigenous tree cover in urban and non-urban environments.</p>	<p>There is a net increase in indigenous biodiversity throughout the District, comprising:</p> <ol style="list-style-type: none"> 1. <u>Protected and restored SNAs, identified in SCHED6; and</u> 2. <u>Other areas of indigenous biodiversity that are maintained and enhanced;</u> and 3. The restoration and enhancement <u>Restored and enhanced areas of areas of indigenous biodiversity is encouraged and supported;</u> and 4. <u>Indigenous vegetation cover promoted in urban and non-urban environments;</u> and 5. <u>Protected SNAs through the avoidance and management of adverse effects from new subdivision, use and development.</u>

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18.04	ECO-P3	Auckland/ Waikato Fish and Game Council (AWFG)	Retain as notified.	Support with amendmen ts.	WRC supports this submission point but considers that the provisions should be reviewed and updated to be in alignment with the National Policy Statement for Freshwater Management (NPS-FM), National Environmental Standards for Freshwater (NES-F) and NPS-IB.	Review and update provision to be in alignment with the NPS-FM, NES-F, and NPS-IB.
43.39	ECO-P5	GL	Add a new clause to ECO -P5 as follows: <u>11. Whether the activity is required for the continued operation, repair, maintenance and minor upgrading of nationally or regionally significant industry, infrastructure, or is associated with significant mineral resources.</u>	Oppose	WRC does not support this submission point. The proposed amendments reduce the strength of the avoid wording in this policy and conflict with provisions in the WRPS. We note also that this suggested amendment could be in conflict with the recently enacted NPSIB.	This submission point is not adopted.
<i>NFL – Natural features and landscapes</i>						
43.22	NFL-P1	GL	Amend NFL-P1 as follows: ... 8. <u>Avoiding in the first instance, and where avoidance is not practicable, remedying and mitigating</u> the adverse effects 10. Providing for the continued operation of lawfully established farm ing activities; and 11. <u>Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources.</u>	Oppose	WRC does not support this submission point. The proposed amendments reduce the strength of the avoid wording in this policy and conflict with method NFL-M1 of the WRPS, which provides strong direction to 'avoid' adverse effects of activities in outstanding natural features and landscapes.	This submission point is not adopted.
43.26	NFL-P5	GL	Amend NFL-P5 as follows: ... 3 <u>Ensuring that the effects of Avoiding</u>	Oppose	WRC opposes this submission for reasons outlined in the row above	This submission point is not adopted.

Submission point	Provision	Submitter	Relief sought from Submitter (Points in this column are verbatim)	Support/ Oppose	Reasons	Decision requested
			<p>any activity, particularly vegetation clearance and large-scale earthworks including quarrying activities, where these will adversely affect the values of the karst systems or features <u>are avoided in the first instance, and where this is not practicable, remedied or mitigated</u>; and 4. <u>Ensuring developments in locations that are of significance to mana whenua appropriately assess adverse effects and any resulting development is managed in a way that protects (to the extent warranted by the circumstances) the values of the site</u>; ... 7. Providing for the continued operation of lawfully established <u>farming activities; and</u> 8. <u>Providing for nationally and regionally significant infrastructure and industry, and for those activities associated with significant mineral resources, where the effects of these activities do not compromise the values of the karst overlay.</u></p>		(see further submission point relating to submission point 43.22).	
43.27	NFL-R16	GL	Amend NFL -R16 as follows: Karst Overlay – NC <u>DIS: Rural production zone PR: All other zones</u>	Oppose	WRC considers that a non-complying activity status for the creation of new entrances into caves, structures within caves or other modifications to cave features is appropriate. Caves are sensitive environments, and it is vital that any	This submission point is not adopted.

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					works proposed to these environments is a) not signalled to be accepted or appropriate, and b) goes through a rigorous assessment and a greater degree of scrutiny beforehand.	
43.28	NFL-R17	GL	Amend NFL -R17 as follows: Karst Overlay - NC DIS: Rural production zone PR: All other zones	Oppose	WRC considers that a non-complying activity status for earthworks or vegetation clearance occurring in karst overlay areas within 20m of a cave or a sinkhole is appropriate, for the reasons outlined in the row above (see further submission point relating to submission point 43.27).	This submission point is not adopted.
<i>NATC – Natural Character</i>						
43.56	NATC-P1	GL	Amend wording so that remediation and mitigation of adverse effects are included in the policy (alongside avoid wording). Removal of avoid wording in point 5. Inclusion of nationally and regionally significant infrastructure and industry, and significant mineral resources as matters to be provided for.	Oppose	WRC does not support this submission point. The proposed amendments reduce the strength of the avoid wording in this policy which conflicts with NATC-P1(1) of the WRPS, which provides strong direction to ‘avoid’ adverse effects on natural character, where natural character is pristine or outstanding. We also note that GL’s suggested wording “from the adverse effects of inappropriate subdivision, use and development” is not necessary, as this is already addressed in point NATC-P1.3.	This submission point is not adopted.

Submission point	Provision	Submitter	Relief sought from Submitter (Points in this column are verbatim)	Support/ Oppose	Reasons	Decision requested
<i>LIGHT - Light</i>						
47.166	Light chapter – general comment	F&B	<p>Amend the overview of the Light chapter to include an additional sentence to acknowledge the impact of artificial light on indigenous fauna, with this wording or similar: <u>Unmodified artificial lighting can also impact indigenous fauna such as long tailed bats, seabirds and insects.</u></p> <p>And</p> <p>Amend the Light chapter to identify appropriate light levels in areas of bat habitat, and in areas known to be (or potentially suitable as) pathways for seabirds coming ashore to nest, or migration pathways.</p> <p>It is recommended that Waitomo DC work with WRC, DOC and other bat and seabird specialists.</p> <p>And</p> <p>Add specific Objectives, Policies and Rules following on from the above.</p>	Support	<p>WRC supports this submission point and considers that the changes proposed by F&B will allow for greater consistency with the NPS-IB and the WRPS. There is a need to recognise the impacts that artificial light can have on indigenous biodiversity – especially its impacts on bats (where known bat presence is recorded). Any new subdivision and development should recognise, consider and provide for bats where their presence has been identified.</p>	<p>Amend the overview of the Light chapter as suggested by F&B. Amend objectives, policies and rules in the Light chapter to ensure that impacts of light on indigenous fauna is avoided.</p>
<i>Appendices and schedules</i>						
47.192	Appendix 4	F&B	<p>Delete Appendix 4 wording and replace with proposed wording relating to biodiversity offsets.</p>	Support with amendments	<p>WRC is supportive of this submission point but considers that a biodiversity offsetting framework in the Waitomo PDP should be consistent with the framework provided in Appendix 3 of the NPS-IB. This direction builds on existing direction in the WRPS relating to</p>	<p>Amend Appendix 4 so that it is consistent with the framework outlined in Appendix 3 of the NPS-IB.</p>

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					offsetting (see ECO-M3 and ECO-M13 of the WRPS).	
51.51	Schedule 6	KRH	That the PDP Maps are Amended to remove the SNA overlay from KiwiRail's corridor designations (as listed under "KR 01 in the Designations schedule).	Oppose	WRC notes that SNAs are tenure-neutral under the NPS-IB (see Appendix 1 of the NPS-IB for the criteria for identifying areas that qualify as SNAs). Therefore, WRC considers that this submission point should not be adopted.	This submission point is not adopted.

Further information and hearings

WRC **wishes to be heard** at the hearings for Proposed Waitomo District Plan in support of this submission and is prepared to consider a joint submission with others making a similar submission.

WRC **could not** gain an advantage in trade competition through this further submission.

Submitter details

Waikato Regional Council
Contact person: Joao Paulo Silva (Policy Implementation)
Email: joaopaulo.silva@waikatoregion.govt.nz
Phone: (07) 9497179

Post: Private Bag 3038
Waikato Mail Centre
Hamilton 3240

I could not gain an advantage in trade competition through this submission
I am not directly affected by an effect of the subject matter of the submission that:
(a) does not adversely affect the environment; and
(b) does not relate to trade competition or the effects of trade competition.