

WAIKATO DISTRICT COUNCIL

Hearings of Submissions on the Proposed Waikato District Plan

Report and Decisions of Independent Commissioners

Decision Report 23: Reserves

17 January 2022

Commissioners

Dr Phil Mitchell (Chair)

Mr Paul Cooney (Deputy Chair)

Councillor Jan Sedgwick

Councillor Janet Gibb

Mr Dynes Fulton

Ms Linda Te Aho

Mr Weo Maag

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1 Introduction

- 1.1 Hearing 24 related to all the submissions received by the Waikato District Council (Council) on the provisions of the Reserves Zone within the Waikato Proposed District Plan (PDP). This hearing specifically related to objectives, policies and rules in chapters 8 and 25 of the PDP as well as the planning maps.

2 Hearing

- 2.1 The hearing was held on 16 October 2020 by Zoom. All the relevant information pertaining to this hearing (i.e., Section 42A report, legal submissions and evidence) is contained on Council's website.
- 2.2 We received written evidence from the following parties on the Reserves Zone provisions of the PDP. No submitter sought to present to us in person. The only oral presentation of evidence was from the author of the section 42A report, Mr Kelly Cattermole.

Council	<ul style="list-style-type: none">• Kelly Cattermole – section 42A report, 10 September 2020
Ministry of Education	<ul style="list-style-type: none">• Alec Duncan
Ngaruawahia Golf Club Inc	<ul style="list-style-type: none">• Peter Arndell
Heritage New Zealand Pouhere Taonga	<ul style="list-style-type: none">• Carolyn McAlley
Kiwirail	<ul style="list-style-type: none">• Pam Butler
Annie Chen	<ul style="list-style-type: none">• Sir William Birch
Waka Kotahi (NZ Transport Agency)	<ul style="list-style-type: none">• Michael Wood
Transpower	<ul style="list-style-type: none">• Rebecca Eng
Waikato Regional Council	<ul style="list-style-type: none">• Mark Tamura

3 Overview of issues raised in Submissions

- 3.1 In the section 42A report, Mr Cattermole set out the full list of submissions on the subject matter of the hearing. In summary, the key relief sought by the submitters related to:
- a) Reserve design and development;
 - b) Implementing Council's Walking, Cycling and Bridle Trail Strategy (2016);
 - c) Amending or deleting the Natural Values Policy (8.2.2);
 - d) Specific provision for individual uses of reserve-zoned land;

- e) Restricting temporary events further;
- f) Amendments to the sign rules; and
- g) Amendments to correct drafting errors.¹

4 Overview of evidence

- 4.1 Ms Alec Duncan for Ministry of Education advocated for a new policy and restricted discretionary rule to enable education facilities on reserves. Ms Duncan argued that education facilities such as outdoor education centres, sports training establishments and early childhood education centres may need to be located within reserve areas.
- 4.2 Ngaruawahia Golf Club (Mr Peter Arndell) opposed the section 42A report's recommendation to reject its submission, which sought to permit minor commercial activities on reserves (such as a golf driving range). Mr Arndell also sought more liberal signage (e.g., two or three additional signs) to be a permitted or controlled activity. He argued for each submission that the driving range and signs would have acceptable effects.
- 4.3 Ms Pam Butler for KiwiRail agreed with the section 42A report's recommendations on submissions on Policy 8.1.2 (Provision of open space), Rule 25.2.4.1 (Earthworks) and Rule 25.2.7.2 Signs (Effects on traffic). Ms Butler opposed the rejection of KiwiRail's submissions requesting a 5m building setback from the rail corridor, which KiwiRail had advocated to manage risks to human safety associated with the interface between rail operations and activities on sites adjoining the rail corridor.
- 4.4 The evidence of Ms Carolyn McAlley for Heritage New Zealand Pouhere Taonga supported HNZPT's submission seeking to add a new policy and objective to address cultural and heritage values in the Reserves Zone.
- 4.5 Mr Michael Wood for Waka Kotahi-NZ Transport Agency supported submissions asking for plan provisions to state traffic thresholds for temporary events and signage. Mr Wood noted that Policy 8.3.3 (2) refers to a permitted number of vehicle movements for temporary events, but the rules do not state a number. -In relation to signs, Mr Wood advocated for a maximum number of words and symbols or graphics on signs directed at road users.
- 4.6 Ms Rebecca Eng for Transpower's supported the section 42A report's recommendations to delete Policy 8.2.2(i) and (ii) and amend (iii) with more flexible wording. Transpower also supported recommended changes to the plan text in relation to National Grid provisions to avoid duplication of provisions in Chapter 14 Infrastructure.
- 4.7 Sir William Birch for Annie Chen referred to the Pokeno West area identified as Residential Zone in the PDP as notified. To manage open space in this area, he considered that the land should retain the residential zoning, with areas of high ecological value (watercourses and Significant Natural Areas) being vested as Local

¹ Section 42A report, section 3.1 para 22

Purpose Reserve and other areas which contain pedestrian/cycleways being vested as Local Recreation Reserve. We note that the relevance of this information is unclear to us as the section 42A report for Hearing 24 on Reserves Zone did not address any submissions from Annie Chen, nor any submissions on Pokeno West zoning. As such, we make no decision on those matters here.

- 4.8 Mr Mark Tamura for Waikato Regional Council supported the section 42A report's recommendations to amend the definition of "Conservation Activity" in Chapter 13: Definitions to exclude the establishment of walkways, cycle ways and accessory buildings. Mr Tamura also supported the recommendation to apply thresholds or an activity status for the clearance of indigenous vegetation when establishing walking and cycling tracks or accessory buildings.

5 Panel Decisions

- 5.1 In this section we provide a broad overview of our decision-making across all the topics listed in section 3. From section 6 onwards we go on to discuss the most contentious matters. The section 42A report addressed 83 submissions and 61 further submissions. The section 42A author analysed these and then made a recommendation to us to either accept or reject each submission. Where relevant, Mr Cattermole also recommended some changes to the proposed plan text and planning maps, then amended some of his recommendations in rebuttal and hearing documents. In many cases we agree with the recommendations and accept or reject submissions accordingly for the reasons given by the section 42A report author.

Reserve design and development

- 5.2 Submissions seeking changes to "Policy 8.1.2 - Provision, use and development of public open space and reserves" focussed on a range of design details that we consider are too specific to be included in the PDP. We reject these submissions for that reason.
- 5.3 The section 42A report recommended one change to Policy 8.1.2 to introduce reference to Crime Prevention Through Environmental Design (CPTED) principles, which we agree is an important facet of reserve design. This amendment is to add a new 8.1.2(c)(ii) as follows:

"(c) Require the location and design of recreation facilities and reserve development to integrate and support the surrounding urban environment by:

(i) ...

(ii) ...

(iii) incorporating safety and security for reserve users by encouraging methods/designs that respond to the principles of Crime Prevention Through Environmental Design (CPTED).'

Implementing Council's Walking, Cycling and Bridle Trail Strategy (2016)

- 5.4 The PDP planning maps show “walkway, cycleway, bridleway” trails throughout the district. We heard that some of these trails originate from structure plans while others are from Council’s Walking, Cycling and Bridle Trail Strategy (2016) (Trails Strategy).²
- 5.5 Trails have been constructed and are in use on some of these routes, but many are simply indicative. The trails have not been constructed and land acquisition and rights of way have not been negotiated for many of the routes over private land.
- 5.6 Policy 8.1.3(b) provides for walk/cycle/bridle ways identified on the planning maps, structure plans or in Council’s Trails Strategy to be acquired and developed during subdivision. This is lightly supported by zone rules. Some zones (e.g., Residential Zone Rule 16.4.15) contain details of mapped walkways to be provided for at the time of subdivision. Some zones permit the construction of the trails.
- 5.7 A group of submitters asked for the PDP provisions to be more proactive in providing for the acquisition of reserve land to implement the Trails Strategy. We reject these submissions because, as we heard, priority projects (identified in the Trails Strategy) will be driven by Council as funding allows. Adding references to the PDP mandating implementation of the Trails Strategy will not accelerate the construction of trails if the required funding is unavailable. It would also unnecessarily complicate applications to subdivide affected areas.³
- 5.8 Policy 8.1.3(b)(ii) refers to “safety and security for neighbours and walkway users.” The section 42A report noted that the opening words of policy (b) cover walkways, cycle ways and bridle ways and that the reference in (ii) only to walkway users is unnecessarily narrow.⁴ We see this as a drafting error and accept the suggestion to delete “walkway” from 8.1.3(b)(ii), so that all three pathway user groups are covered. Our reason is that this will enable consideration to be given to the differing design considerations needed for pedestrian, cyclist and equestrian pathways. Accordingly, we correct this minor error under Schedule 1 Clause 16 with this amendment:

8.1.3 Policies - Esplanade reserves and walkways

(a) ...

(b) During subdivision, provide for the acquisition and development of walkways/cycle ways/bridle ways identified on the planning maps, structure plans or in Council’s Trails Strategy by:

- (i) having convenient and practical public access to and along the route;
- (ii) incorporating safety and security for neighbours and walkway users;
- (iii) ... (iv)

² Section 42A report, para 18.

³ Section 42A report para 69

⁴ Section 42A report para 80

- 5.9 We heard other submissions on the indicative trails in Hearing 22 Infrastructure and have decided to delete all indicative trails shown on the planning maps for the reasons given in that decision (Decision Report 13). Reference to the Trails Strategy will be retained in the PDP through an amendment to Policy 8.1.3 to refer to "Trails Strategy 2016 or subsequent amendments."

Amending or deleting the Natural Values Policy (8.2.2)

- 5.10 Policy 8.2.2 is to enhance the natural environment during the use and development of reserves, by protecting landscapes, features and natural areas in mapped overlays as well as restoring and linking various habitats. Submitters variously sought retention and deletion of the policy. The section 42A report author recommended that para (a)(i) and (ii) be deleted (referring to mapped overlays) and that the restoration of habitats in para (iii) be qualified to "where appropriate and practicable."⁵
- 5.11 We agree and adopt those changes. Our reason regarding the mapped overlay areas is that this policy is redundant because it duplicates policies in Chapter 3 of the PDP. In relation to restoring and linking habitats, we consider that the inclusion of 'where appropriate and practicable' allows for recognition of the scale and significance of an area and gives more discretion as to where and if restoration and linking habitats should occur.

Specific provision for individual uses of Reserve zoned land

- 5.12 Submissions asked for changes to the activities provided for in the Reserves Zone. Submissions from Ministry of Education and Ngaruawahia Golf Club are discussed separately in the next section. Other submitters asked for jet ski racing events to be allowed on lakes and conditions to be included on permitted conservation activities. We consider that jet ski racing is an operational matter to be addressed through the relevant Reserve Management Plan and Council's management decisions rather than through district plan rules or provisions. Accordingly, we reject that submission.
- 5.13 Regarding conservation activities, the section 42A report recommended amending the definition of "conservation activity" in Chapter 13 to delete references to the establishment, maintenance or upgrading of public walking or cycle tracks, and accessory buildings.⁶ We agree with deleting the establishment of tracks from the definition, which effectively removes that activity from the permitted activity rule, ensuring control of adverse ecological effects from that activity.
- 5.14 The section 42A report also recommended the introduction of a new permitted activity rule covering maintenance, routine operation and repair of existing off-road pedestrian, cycleways and bridleways and associated accessory buildings, with conditions limiting vegetation clearance. A restricted discretionary rule covering activities that do not comply with the permitted rule was also recommended. We agree with these changes, because they permit necessary maintenance on existing tracks with ecological protection as well as provide the opportunity for good design and avoiding adverse

⁵ Section 42A report para 95

⁶ Section 42A report, para 146

effects as much as possible when putting in new tracks. We note that the section 42A author revised the recommended wording in the closing statement and that is the version we adopt as follows:⁷

<u>Rule 25.1.2 P5</u>	<u>Maintenance, routine operation and repair of existing off-road pedestrian, cycleways and bridleways and associated accessory buildings</u>	<u>Activity specific conditions:</u> <ul style="list-style-type: none"> (a) <u>Any indigenous vegetation alteration or removal must be undertaken within 1m either side of existing tracks</u> (b) <u>Any indigenous vegetation alteration or removal must not include any trees over 6m in height, or 600mm in girth</u> (c) <u>Any indigenous vegetation alteration or removal must not exceed 50m² per site per calendar year.</u>
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25.1.2A Restricted Discretionary Activities

<u>RDI</u>	<u>Maintenance, routine operation and repair of existing off-road walkways, cycleways and bridleways that do not comply with one or more of the conditions of Rule 25.1.2 P5</u>	<u>Discretion is restricted to:</u> <ul style="list-style-type: none"> (d) <u>Design and construction;</u> (e) <u>Visual, ecosystem and amenity effects; and</u> (f) <u>The extent to which the indigenous vegetation alteration or removal is necessary to provide for the functional and operational needs of off-road pedestrian, cycleways and bridleways</u>
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Restricting temporary events

5.15 Rule 25.1.2 P4 permits temporary events in the Reserves Zone subject to conditions. Submissions asked for additional conditions to differentiate between summer events and other events and to cap vehicle movements. We discuss vehicle movements separately below. Regarding seasonal differences, the submitter said that Raglan's reserves are increasingly congested in mid-summer and moving events to shoulder seasons, from the summer peak, would help ease the problem. The section 42A report rejected the submission, noting that Council is aware of the congestion and is also developing a reserve management plan response. We agree that this matter is better addressed through the relevant reserve management plan where the congestion occurs, as this

⁷ Concluding Hearing Report, Kelly Cattermole, 5 November 2020, para 23.

allows a bespoke approach to the management of events within reserves. We reject the submission for those reasons.

Amendments to sign rules

5.16 The PDP included three rules on signs in the Reserves Zone. Submitters asked for these to be retained, with amendments.

5.17 Kiwirail sought to widen the rule on signs directed at road users to all land transport. Their concern was that the rule does not protect railway drivers or operators from signs directed at the railway. The section 42A report recommended amendments to refer to effects on rail.⁸ We make these changes, which are sufficient to address the issue raised, ensuring that the rule covers railways, as follows:

Rule 25.2.7.2 P1	(a) Any sign directed at road <u>or rail</u> users must: (i) ... (ii) ... (iii) Not obstruct sight lines of drivers: turning into or out of a site entrance and intersections; <u>or at a level railway crossing</u> ; (iv) ...
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5.18 Council sought to clarify that only identification and interpretation signs are permitted on Maaori sites of significance. We accept this as a grammatical improvement that does not change the original intention.

5.19 Waka Kotahi/New Zealand Transport Agency [742.163] sought to retain Rule 25.5.2.1 P1 with an amendment to limit signs on Tamahere Village Green to one sign per site. The section 42A report noted that Tamahere Village Green is a small area enclosed on two sides behind the Tamahere commercial area with no road frontage and little visibility from state highways or local roads.⁹ The recommendation was to accept the submission, but no amendment was included. In the light of the evidence given, we consider this was an error. Our decision is to accept in part, to the extent that the rule is retained without amendment. Our reasons are that there appear to be no traffic safety issues (the concern of this submitter) and effects on amenity are adequately covered in the rule as notified.

5.20 The section 42A report noted there are no or limited objectives and policies within Chapter 8 that correspond to Rule 25.2.7.2 Signs - Effects on Traffic and recommended that a new objective and policy be added.¹⁰ While no submissions asked for new objectives or policies on signs, the submissions asking for the rules to be retained imply support for signage policy. Objective 8.1.1 refers to meeting the needs of communities, which is wide enough to cover signage issues. We do not believe an additional objective

⁸ Section 42A report, para 244-5

⁹ Section 42A report para 300

¹⁰ Section 42A report para 248

is needed but have decided to add a policy to cover the sign rules in the Reserves Zone, covering traffic, amenity, heritage and cultural impacts of signs as follows:

8.1.4 Policy – Managing the adverse effects of signs

(a) Ensure that signs do not adversely affect amenity, traffic safety, heritage or Maaori cultural values.

Amendments to correct drafting errors

- 5.21 The section 42A report author drew our attention to several apparent drafting errors in the PDP as notified. We have considered those where changes were recommended. Two of these are discussed above, being the correction to Policy 8.1.3 (b)(ii) referred to in the “Walkway, cycleway and bridleway” section above and the additional policy on signs.
- 5.22 Council submitted for grammatical changes to a range of reserves provisions (chapters 8 and 25). The section 42A report recommended that these changes be accepted, which we accept as worthwhile improvements to the readability of the PDP.
- 5.23 In the following sections, we turn to matters that, in the light of the evidence, remain in contention:¹¹
- a. Education facilities and reserves;
 - b. Ngaruawahia Golf Club commercial activities;
 - c. Ngaruawahia Golf Club signage;
 - d. Building setback from railways;
 - e. Cultural and heritage values;
 - f. Traffic thresholds for temporary events;
 - g. Signs – effects on traffic; and
 - h. Drafting corrections – Cycleway and bridleway rule.

5.24 Decisions have been grouped by issue in the following sections.

6 Educational Facilities

- 6.1 Ministry of Education submissions asked for a new policy and restricted discretionary activity rule to enable educational facilities to establish in the Reserve Zone.¹² Educational facilities are defined as land or buildings used for teaching or training by child care services, schools, or tertiary education services, including any ancillary activities.¹³

¹¹ Rebuttal Evidence, Kelly Cattermole, 5 October 2020, para 9

¹² Ministry of Education submissions [781.5 and 718.17]

¹³ National Planning Standards, section 14 Definitions Standard, to be adopted by PWDP.

- 6.2 The section 42A report recommended that the Ministry’s submissions on a new policy and rule be rejected,¹⁴ the reason being that educational facilities are more appropriately sited in other zones. If an educational facility was proposed to establish in the Reserve Zone, it would be preferable to follow the reserve management plan process under the Reserves Act 1977 or apply for a resource consent for a non-complying activity.
- 6.3 In evidence, Ms Alec Duncan for the Ministry argued that education facilities such as outdoor education centres, sports training establishments and early childhood education centres may need to be located within reserve areas. She noted that there are benefits and efficiencies provided by co-location and shared uses and said any adverse effects could be managed through the restricted discretionary assessment process.
- 6.4 We agree in principle with the Ministry of Education that there may be circumstances where it is desirable to site educational facilities on reserves. The best example given by the Ministry is the co-location of facilities shared by schools and the general community on reserves. The benefits of shared investment and the ability for school and public use to be scheduled at different times are reasons to consider those facilities could fit well within the ambit of Objective 8.1.1:
- “Public open space, natural reserves, parks and recreational facilities are provided to meet the needs of communities.”
- 6.5 However, some educational facilities could effectively privatise public open space, and exclude the public from land acquired for community use, using public funds.
- 6.6 The merits of a particular proposal for an educational facility on a reserve can be evaluated through several processes. The first is the consideration by the administering authority whether to grant or refuse landowner approval for the facility to occupy space on the reserve. That process is outside the scope of RMA and district plan.
- 6.7 District plan processes assess proposals that have landowner approval. The starting point under the PDP to evaluate activities in the Reserves Zone is Policy 8.1.2(d), which states:
- “Recognise that the development and day-to-day use of reserves is managed through Council’s reserve management plans, and provides for activities and uses in these areas to continue.”
- 6.8 Policy 8.1.2(d) is implemented by Rule 25.1.2 P1, which permits any activity provided for in a reserve management plan. Other rules permit informal recreation, conservation activities and some temporary events. All other activities are non-complying and it is unclear how those applications are to be assessed, given that Policy 8.1.2(d) provides no guidance for the assessment of new (as opposed to continuing) land uses.
- 6.9 We see merit in controlling activities on a reserve by reference to the relevant reserve management plan, but also see potential difficulties where a reserve management plan is outdated or does not exist. Objective 8.3.1 and Policy 8.3.2 allow for commercial

¹⁴ Section 42a report para 171-177.

activities where there is no reserve management plan or the reserve management plan does not cover such uses.¹⁵ There is no similar provision for educational facilities. In those circumstances, desirable development proposals that have landowner approval might be precluded by the time and cost of the reserve management plan process. The alternative way forward, through a resource consent application, is not well addressed in the notified policies and rules.

- 6.10 The Ministry of Education sought a new policy and rule to be added to chapters 8 and 25, respectively:

“Policy - Education Facilities and Reserves

Allow activities which are compatible with the role, function and predominant character of the Reserves, while managing the effects of the activities on the environment, including: Education facilities.”

The new rule proposed to accompany would make educational facilities a restricted discretionary activity, with council discretion restricted to:

- The extent it is necessary to locate the activity in the Reserve Zone.
- Reverse sensitivity effects of adjacent activities.
- Impacts on the transport network, streetscape and noise.

- 6.11 We are persuaded to make policy and rule amendments to enable educational facilities on reserves, although not with the wording proposed by the Ministry. We prefer that this policy is limited to educational facilities. Furthermore, there are so many applicable policies that raise such a wide range of considerations, that we do not consider a restricted discretionary rule to be realistic. Instead, we consider that a discretionary activity rule would provide a suitable level of flexibility, encompass the range of proposals that could be put forward and allow the wide-ranging assessment needed to address the variety of reserve types and contexts in the Reserve Zone.

- 6.12 Our decision is to accept the submission in part, to the extent that the following changes are made to Policy 8.1.2 and Rule 25.1.3:

Add to Policy 8.1.2, new paragraph (e):

“(e) Recognise the community benefit of educational facilities on reserves, subject to the activity being appropriate to the location and purpose of the reserve, and considering the effects on amenity, natural character and public access, and the availability of services.”

- 6.13 Add new discretionary activity rule 25.1.3 D3:

D3	Educational facilities
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- 6.14 **Attachment 3** contains section 32AA analysis of these changes.

¹⁵ Section 42A report, para 119

7 Ngaruawahia Golf Club commercial activities

- 7.1 Ngaruawahia Golf Club sought to enable minor commercial activities on reserves, such as a golf driving range which would be open to the public.¹⁶ The club asked for minor commercial activities to be restricted discretionary activities but did not include a draft rule for this. They acknowledged the need to protect reserve land but called for some flexibility in the district plan approach. The section 42A report recommended this submission be rejected, noting that the reserves management plan could enable appropriate activities, and other activities could be consented as non-complying activities.
- 7.2 Apart from the option of amending the reserve management plan, PDP Objective 8.3.2 and Policy 8.3.3 contemplate the establishment of some commercial activities ancillary to the purpose of a reserve, but all commercial activities are non-complying and no concession is made for small scale activities.
- 7.3 We agree that a more flexible approach to the establishment of commercial activities is desirable, subject to safeguarding the open space resource for its primary purpose. We accept the submission, in part, to the extent that we have amended Policy 8.3.3 and introduced two restricted discretionary activity rules to enable restaurant and markets on reserves. The text of these is set out in **Attachments 1 and 2**.
- 7.4 We consider that there are too many variables to draft an omnibus restricted discretionary activity rule enabling minor commercial activities, such as driving ranges, throughout the Reserves Zone.
- 7.5 We accept the section 42A report¹⁷ observation that there will be some reserves where any commercial development will be inappropriate. A non-complying activity status for commercial activities is, in our assessment, appropriate to make it clear that commercial activities are not encouraged, while still providing a consenting pathway for those activities which are compatible with the ongoing use of the reserve. We reject the submission for that reason.
- 7.6 The section 42A report anticipated that a future plan change to implement the National Planning Standards (which allow for three reserve zones) will likely address the submitter's concerns. We see an opportunity to consider discretionary status for commercial activities in at least one of the National Planning Standards' reserve zones.

8 Ngaruawahia Golf Club signage

- 8.1 Ngaruawahia Golf Club sought to amend the signs rule to provide for externally-facing signage on sites with road frontage over 500 metres at a ratio of one non-illuminated sign per 150 metres of road frontage as a controlled activity, with a 3m² maximum sign area.¹⁸ Their evidence indicated that this would mean two or three additional signs along

¹⁶ Submission Ngaruawahia Golf Club [194.3]

¹⁷ Section 42A report, para 120

¹⁸ Ngaruawahia Golf Club submission [194.4]

the road frontage of their golf club, saying that these could be set into, but not dominate, the reserve landscape.

- 8.2 The section 42A report author noted¹⁹ that the Reserve Zone rule 25.2.7.1 as notified allows one sign up to 3m² in size and an unlimited number up to 1m². Signs exceeding those limits would require a restricted discretionary consent. The material difference is that the submission would serve to permit more signs between 1m² and 3m².
- 8.3 The section 42A report author recommended that the submission be rejected, because the proposal would be incompatible with the reserve management plan for the golf course.
- 8.4 We reject the submission for the reason given by the report author, and because we are not persuaded there is any need to change rule 25.2.7.1 across the Reserve Zone. We consider that the notified rule appropriately provides for the signage that would ordinarily be expected on reserves, being mainly site identification, direction finding, safety and site interpretation signage. Some commercial advertising signage would be permitted under the rule, but the placement of multiple advertising signs up to 3m² needs to be carefully assessed case by case. We consider that the restricted discretionary consent status for this is appropriate.

9 Building setback from railways

- 9.1 KiwiRail sought to include a new rule to require that all new or altered buildings be set back a minimum of 5m from the railway corridor boundary.²⁰ The reason given was to avoid or minimise potential adverse effects on people's safety that may arise from objects or structures inadvertently and/or unexpectedly coming into conflict with moving trains within the rail corridor.
- 9.2 The recommendation in the section 42A report was to reject the submission for the following reasons:
- “It penalises adjoining land uses that adjoin the designation. Furthermore, if access and maintenance activities require a 5m setback distance, this is usually incorporated into the original Notice of Requirement, or an alteration to a designation is usually sought to accommodate this. I also note that there are other mechanisms with which to gain access such as easements.”²¹
- 9.3 We reject the submission for those same reasons.

¹⁹ S42A report H24 para 227-229

²⁰ Submissions of KiwiRail [986.61 and 986.70]. Similar submissions were made for other zones, with mixed recommendations in the s42A reports: H9 Business Zones, para 429, H10 Residential Zone, para 83; H12 Country Living, para 475; H18 Rural Zone (land use), para 311; H6 Village Zone, para 520

²¹ S42A report, H10 Residential Zone, para 83

10 Cultural and heritage values

- 10.1 Heritage New Zealand Pouhere Taonga sought the addition of a new policy and objective to address cultural and heritage values in the Reserves Zone.²²
- 10.2 Ms McAlley in her evidence argued that it would be beneficial if the PDP required a comprehensive consideration of historic heritage and cultural matters in complex and sensitive environments, an example being the Point Reserve in Ngaruawahia.
- 10.3 The s42A report²³ recommended this submission be rejected because heritage is addressed comprehensively by the objectives and policies in Chapter 7. Mr Cattermole also considered that reserve management plans can reference heritage issues as being relevant, thereby bringing these into consideration in RMA processes as well as other statutory regimes.
- 10.4 We agree and reject the submission accordingly.

11 Traffic thresholds for temporary events

- 11.1 Waka Kotahi-NZ Transport Agency sought to add traffic thresholds for temporary events²⁴. The submission proposed to add a new condition to Rule 25.1.2 P4 to read:
- “(g) There is a maximum of 100 vehicle movements per day, and no more than 15% of these are heavy vehicle movements.”
- 11.2 The section 42A report recommended this be rejected, because it was an onerous restriction that effectively duplicated considerations included in Council’s permit system for temporary events.²⁵
- 11.3 NZTA accepted that the submitted threshold of 100 vehicle movements was too low. It did however submit that rules needed to include a threshold number and also require a Traffic Management Plan where this limit will be exceeded. No specific number was suggested.
- 11.4 Policy 8.3.3 (2) requires the management of the effects of traffic on the road transport network where the permitted number of vehicle movements will be exceeded. This is not implemented by rules as notified. Traffic generation in most zones is controlled by Rule 14.12.1.4. An exception is the Reserves Zone, which is not mentioned in Rule 14.12.1.4. Additionally, Rule 25.1.2 P4 is silent on traffic generation. As the s42A report author advised, this approach was taken because Council operates a separate permit system for temporary events that covers traffic generation.
- 11.5 NZTA suggested (departing from its submission) that Policy 8.3.3 should be implemented by amending Rule 25.1.2 P4 so that a Traffic Management Plan is required after a stated traffic generation threshold is exceeded. We received no evidence to

²² Heritage NZ, sub [559.281]

²³ S42A report H24, para 31-32; Rebuttal para 15-16.

²⁴ NZTA sub [742.156]

²⁵ S42A report H24, para 162

enable an appropriate threshold to be set, apart from the concession that 100 vehicle movements would be too low. We have no basis to set a different threshold. For all these reasons we reject the submission.

- 11.6 However, we agree that there is an anomaly in Policy 8.3.3(b), which refers to a permitted number of vehicle movements for temporary events, while the rules do not state a number. Since we are not adding a number to the rule, we resolve the anomaly by adopting the recommendation, reasoning and section 32AA evaluation of the section 42A report author to amend Policy 8.3.3(b) as set out in **Attachment 1**.²⁶


12 Cycleways and Bridleways

- 12.1 The section 42A report recommended adding new rules 25.1.2 P5 and 25.1.2A RD1 controlling maintenance, routine operation and repair of existing off-road walkways, cycleways and bridleways.²⁷ A refinement of the wording was recommended in the section 42A author's closing statement to make clear that only existing tracks are included. The reason was to avoid unnecessary duplication and potential conflict with the equivalent rule within Chapter 14.²⁸ We adopt the change for that reason. The amended wording of these rules is shown in **Attachment 2**.

13 Conclusion

- 13.1 We accept or reject the section 42A report and the evidence filed by the submitters, collectively forming the section 32AA assessment informing this Decision.
- 13.2 The final set of Objectives and Policies for the Reserves Zone are set out as **Attachment 1**. The final set of rules for the Reserves Zone are set out at **Attachment 2**.
- 13.3 Overall, we are satisfied that the Reserves Zone provisions as amended will provide a suitable framework for land use and development within the zone.

For the Hearings Panel



Dr Phil Mitchell, Chair

Dated: 17 January 2022

²⁶ Rebuttal Evidence, Kelly Cattermole, 5 October 2020, para 23-26.

²⁷ Section 42A report, section 7.3, responding to submission of Waikato Regional Council [81.242]

²⁸ Closing statement, Kelly Cattermole, para 22.

Attachment 1: Marked up decisions version of Chapter 8 Reserves

This is a separate document

Attachment 2: Marked up decisions version of Chapter 25 Reserves Zone – Rules

This is a separate document

Attachment 3: Section 32AA Evaluation for Educational Facilities on Reserves

Educational facilities were not mentioned in the Reserves Zone objectives, policies or rules as notified, and consequently were not mentioned in the original section 32 report. We have decided to enable educational facilities to establish on reserves in limited circumstances. Criteria are included in an amendment to a policy, while the new rule changes the consent status of educational facilities from a non-complying to discretionary activity.

The new plan text is as follows:

- Add to Policy 8.1.2, new paragraph (e):
“(e) Recognise the community benefit of educational facilities on reserves, subject to the activity being appropriate to the location and purpose of the reserve, and considering the effects on amenity, natural character and public access, and the availability of services.”
- Add new discretionary activity rule 25.1.3 D3:

D3	Educational facilities
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The National Planning Standards contain this definition:

Educational facility	means land or buildings used for teaching or training by child care services, schools, or tertiary education services, including any ancillary activities.
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The policy and rule amendments are evaluated together as they form an integrated package to enable, to a limited extent, educational facilities to establish on reserves.

Other reasonably-practicable options

Options considered are the provisions as notified, the provisions requested by submitters, and the amendments we have decided on. The notified approach fails to recognise the potential benefits and efficiencies provided by co-location and shared uses on reserves. Educational activities include ancillary uses such as playing fields that could be entirely beneficial to the wider community, and these are largely precluded by the non-complying

status and absence of policy support on the PDP. This is not the most appropriate way to achieve Objective 8.1.1, which reads:

“Public open space, natural reserves, parks and recreational facilities are provided to meet the needs of communities.”

The Ministry of Education submitted a draft policy and restricted discretionary rule which are not the most appropriate way to achieve objective 8.1.1. The draft policy contemplates a wider range of activities than educational facilities, potentially including uses that are not aligned to meeting community needs. A restricted discretionary rule is not appropriate because of the very wide range of policies, educational facilities, community needs and reserve contexts that need to be considered.

The decision introduces an appropriate policy and rule that are specific to educational facilities while allowing for full assessment of proposals. It ensures proposals with adverse effects, or that lack positive community outcomes, can be avoided or suitably managed. The discretionary activity rule provides a suitable level of flexibility, enables council to respond to the range of proposals that could be put forward and allows the wide-ranging assessment needed to address the variety of reserve types and contexts in the Reserve Zone.

Effectiveness and efficiency

The amendments improve the effectiveness of the policy in implementing Objective 8.1.1 and will provide suitable guidance to plan users for the assessment of activities by reference to community needs. The discretionary activity rule enables Council to respond effectively to the range of proposals that could be put forward. Enabling some educational facilities on reserves can improve the efficient use of the open space resource.

Costs and benefits

There are no additional costs. Some consenting costs might be marginally reduced. There are benefits and efficiencies provided by enabling suitable educational facilities, particularly those that fit the context and meet a community need and especially facilities that offer co-location and shared use prospects. Enabling opportunities for shared investment between education providers and reserve administering authorities enhances community wellbeing to the extent that facilities might not otherwise be affordable for either party.

Risk of acting or not acting

There are no additional risks in not acting. There is sufficient information on the costs to the environment, and benefits to people and communities to justify the amendment to the policy and rule.

Decision about most appropriate option

For the reasons above, the policy and rule amendments are the most appropriate way to achieve Objective 8.1.1.

Attachment I: Chapter 8 Amendments

Chapter 8: ~~Reserves~~ Open Space Zone

Purpose

The OSZ – Open space zone provides for a range of passive and active recreational activities, along with limited associated facilities and structures.

8.1 Reserve Provision

8.1.1 Objective

- (a) Public open space, natural reserves, parks and recreational facilities are provided to meet the needs of communities.

8.1.2 Policies – Provision, use and development of public open space and reserves

- (a) Ensure that subdivision and development contributes to the provision of public open space, natural reserves, parks and recreational facilities.
- (b) Ensure that subdivision involving the vesting of land in Council as reserve aligns with the principles of Council's Parks Strategy or a structure plan, by:
 - (i) being of an appropriate size, scale and location for its intended use;
 - (ii) being appropriate for the strategic needs of the local community and the region;
 - (iii) having suitable road frontage and is accessible for its intended use and for future maintenance;
 - (iv) provide for the safety of the community by establishing fencing on side and rear boundaries;
 - (v) linking to, and supporting, existing social infrastructure;
 - (vi) providing for community wellbeing.
- (c) Require the location and design of recreation facilities and reserve development to integrate and support the surrounding urban environment by:
 - (i) being appropriately setback from boundaries;
 - (ii) maintaining the character and amenity values of the surrounding environment.
 - (iii) incorporating safety and security for reserve users by encouraging methods/designs that respond to the principles of Crime Prevention Through Environmental Design (CPTED)
- (d) Recognise that the development and day-to-day use of reserves is managed through Council's reserve management plans, and provides for activities and uses in these areas to continue.
- (e) Recognise the community benefit of educational facilities on reserves, subject to the activity being appropriate to the location and purpose of the reserve, and considering the effects on amenity, natural character and public access, and the availability of services.

8.1.3 Policies - Esplanade reserves and walkways

- (a) Acquire esplanade reserves or strips along coasts, rivers, lakes and wetlands during subdivision to enable the creation of trails and public access, particularly in identified high priority areas in Appendix 4.
- (b) During subdivision, provide for the acquisition and development of walkways/cycle ways/bridle ways identified on the planning maps, structure plans or in Council's Trails Strategy by:
 - (i) having convenient and practical public access to and along the route;

- (ii) incorporating safety and security for neighbours and ~~walkway~~ users;
- (iii) integrating with the wider transport network;
- (iv) protecting and restoring natural values.

8.1.3A Policy – Managing the adverse effects of signs

- (a) Ensure that signs do not adversely affect amenity, traffic safety, heritage or Maaori cultural values.

8.2 Natural Values

8.2.1 Objective – Natural values

- (a) The natural values of public open space, natural reserves and parks is maintained and enhanced.

8.2.2 Policy - Natural values

- (a) Enhance the natural environment during the use and development of reserves, by:
 - ~~(i) protecting outstanding natural landscapes, outstanding natural features and natural character areas;~~
 - ~~(ii) protecting and enhancing significant natural areas;~~
 - (iii) restoring and linking habitats for indigenous species, particularly in lake catchments, riparian margins, lowland ecosystems, wetland areas and coastal dunes and ecosystems where appropriate and practicable.

8.3 Commercial Activities and Temporary Events

8.3.1 Objective - Commercial activities and temporary events

- (a) Commercial activities and temporary events remain ancillary to, and promote the purpose of, the reserve.

8.3.2 Policy - Commercial activities

- (a) Restrict the scale, type and extent of commercial activities on reserves other than sport and active recreation parks to:
 - (i) those compatible with the reserve's primary use; and
 - (ii) those compatible with surrounding residential amenity values.

8.3.2A Policy – Commercial activities on sport and active recreation reserves

- (a) Enable commercial activities on sport and active recreation reserves where the activities are:
 - (i) accessory to and compatible with the reserve's classification and primary use;
 - (ii) of an appropriate scale, type and extent;
 - (iii) support and enhance the use and enjoyment of the open space; and
 - (iv) compatible with amenity values of the locality.

8.3.3 Policy – Temporary events

- (a) Enable temporary events and associated temporary structures on reserves, appropriate to the size and purpose of the reserve.
- (b) Manage the scale and extent of temporary events on reserves so that any significant adverse effects on people in the surrounding community are minimised by:
 - (i) limits on the timing, number and duration of events;
 - (ii) meeting the permitted noise limits for the zone;

- (iii) managing the effects of traffic on the road transport network ~~where the permitted number of vehicle movements will be exceeded.~~

8.4 Tamahere Park and Tamahere Village Green

8.4.1 Objective – Community hub

- (a) A community hub is developed in Tamahere.

8.4.2 Policy – Integrated development

- (a) Ensure that development within the Tamahere Park and Tamahere Village Green is integrated and connected with the Tamahere Business Zone.

8.4.3 Policy – Design guides

- (a) Ensure new development is consistent with the Tamahere Village Design Guide, and in particular:
 - (i) acknowledges local cultural and historic values;
 - (ii) achieves consistency of building scale, form, layout and design theme across the Tamahere Business Zone, Tamahere Park and Tamahere Village Green;
 - (iii) promotes a village character;
 - (iv) provides amenity planting that minimises the adverse visual effects of hard structures.

8.5 Objective – Earthworks

- I. Earthworks facilitate subdivision, use and development.

8.5.1 Policy – Earthworks

- (a) Manage the effects of earthworks to ensure that:
 - (i) Erosion and sediment loss is avoided or mitigated;
 - (ii) Changes to natural water flows and established drainage paths are mitigated;
 - (iii) Adjoining properties and public services are protected;
 - (v) The importation of cleanfill is avoided in the Reserve Zone; and
 - (vi) Adverse effects on historic heritage are avoided.
- (b) Earthworks are designed and undertaken in a manner that ensures the stability and safety of surrounding land, buildings and structures.
- (c) Manage the amount of land being disturbed at any one time to avoid, remedy or mitigate adverse construction noise, vibration, dust, lighting and traffic effects.
- (d) Subdivision and development occurs in a manner that maintains fundamental shape, contour and landscape characteristics.
- (e) Manage the geotechnical risks to ensure the ground remains sound, safe and stable for the intended land use.

8.6.1 Objective - Emergency services

Recognise the essential support role of emergency services training and management activities and their important contribution to the health, safety and wellbeing of people.

8.6.2 Policy - Emergency services facilities and activities

Enable the development, operation and maintenance of emergency services training and management facilities and activities within the zone.

Attachment 2: Chapter 25 Amendments

Note – Greyed out provisions are addressed in other hearings.

Chapter 25: ~~Reserve~~ Open Space Zone - Rules

- (1) The rules that apply to activities in the ~~Reserve~~ Open Space Zone are contained in Rule 25.1 Land Use – Activities, Rule 25.2 Land Use – Effects and Rule 25.3 Land Use – Building.
- (2) The rules that apply to subdivision in the ~~Reserve~~ Open Space Zone are contained in Rule 25.4. and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change.
- (3) The activity status tables and standards in the following chapters also apply to activities in the ~~Reserve~~ Open Space Zone:
 - 14 Infrastructure and Energy;
 - 15 Natural Hazards and Climate Change (Placeholder).
- (4) The following symbols are used in the tables:
 - (a) PR Prohibited activity
 - (b) P Permitted activity
 - (c) C Controlled activity
 - (d) RD Restricted discretionary activity
 - (e) D Discretionary activity
 - (f) NC Non-complying activity
- (5) The ~~Reserve~~ Open Space Zone contains a Specific Area listed below. This Specific Area contains rules that are either in addition to, or different from, other rules that apply to the rest of the ~~Reserve~~ Open Space Zone:
 - (a) 25.5 Tamahere Park and Tamahere Village Green

25.1 Land Use - Activities

25.1.1 Prohibited Activities

- (1) The following activity is a prohibited activity. No application for resource consent can be made for a prohibited activity and no resource consent can be granted:

PR I	Any building, structure, objects or vegetation that obscures the sight lines of the Raglan navigation beacons <u>for vessels entering Whaingaroa (Raglan Harbour) (refer to as identified in Appendix 7 (Raglan Navigation Beacon) for vessels entering Raglan Harbour (Whaingaroa).</u>
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25.1.2 Permitted Activities

- (1) The activities listed below are permitted activities if they meet all the following:
- (2) (a) Activity-specific standards:
 - (ab) Land Use – Effects rules in Rule 25.2 (unless the activity-specific rule and/or ~~conditions~~ standards identify a ~~condition~~ standard(s) that does not apply);

(b) Land Use – Building rules in Rule 25.3 (unless the activity-specific rule and/or ~~conditions~~ standards identify a ~~condition~~ standard(s) that does not apply).

(c) ~~Activity-specific conditions:~~

Activity		Activity-specific conditions <u>standards</u>
P1	Any activity provided in a Reserve Management Plan approved under the Reserves Act 1977	Nil
P2	Informal recreation	Nil
P3	A conservation activity	Nil
P4	Temporary event	<ul style="list-style-type: none"> (a) The event occurs no more than 15 times per calendar year <u>consecutive 12-month period</u>; (b) It operates between the hours of 7.30am and 8:30pm Monday to Sunday; (c) Temporary structures are: <ul style="list-style-type: none"> (i) Erected no more than 2 days before the event occurs; (ii) Removed no more than 3 days after the end of the event; (d) The site is returned to its original <u>previous</u> condition no more than 3 days after the end of the event; (e) There is no direct site access from a national route or regional arterial road. (f) Consistency with the relevant Reserve Management Plan.
P5	<u>Maintenance, routine operation and repair of existing off-road pedestrian, cycleways and bridleways and associated accessory buildings</u>	<ul style="list-style-type: none"> (a) <u>Any indigenous vegetation alteration or removal must be undertaken within 1m either side of existing tracks</u> (b) <u>Any indigenous vegetation alteration or removal must not include any trees over 6m in height, or 600mm in girth</u> (c) <u>Any indigenous vegetation alteration or removal must not exceed 50m² per site per calendar year.</u>
P6	<u>Retail activity accessory to a permitted activity on a sport and active recreation reserve.</u>	Nil
P7	<u>Buildings, structures and sensitive land use within the National Grid Yard as of 18 July 2018</u>	<ul style="list-style-type: none"> (a) <u>Within National Grid Yard:</u> <ul style="list-style-type: none"> (i) <u>Building alterations and additions to an existing building or structure that does not involve an increase in the building height or footprint; or</u> (ii) <u>Infrastructure (other than for the reticulation and storage of water for irrigation purposes) undertaken by a network utility operator as defined in the Resource Management Act 1991; or</u> (iii) <u>Non-habitable buildings or structures for farming activities in rural zones including accessory structures and yards for milking/dairy sheds (but not including any intensive farming buildings, commercial greenhouses and milking/dairy sheds); or</u> (iv) <u>Non-habitable horticultural buildings; or</u> (v) <u>Artificial crop protection and support structures (excluding commercial greenhouses and Pseudomonas syringae pv. Actinidiae (Psa) disease control structures);</u>

		<p>(vi) <u>Fences less than 2.5m in height, measured from the natural ground level immediately below the structure; and</u></p> <p>(vii) <u>Minor structures associated with farming activity that are not situated within 12m of the outer visible foundation of any National Grid tower or 10m of the outer visible foundation of a National Grid tower, including: fences, gates, stock exclusion structures, cattle-stops, stock underpasses, stock bridges and culvert crossings, and drinking water supply pipelines, troughs, and water storage tanks.</u></p> <p>(b) <u>All buildings or structures permitted by Rule OSZ-R6(1)(a) must:</u></p> <p>(i) <u>Comply with the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 under all National Grid transmission line operating conditions; and</u></p> <p>(1) <u>Locate a minimum 12m from the outer visible foundation of any National Grid support structure foundation and associated stay wire, unless it is:</u></p> <p>(2) <u>A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the NZECP; or</u></p> <p>(3) <u>Fences less than 2.5m in height, measured from the natural ground level immediately below the structure, and located a minimum of 5m from the nearest National Grid support structure foundation; or</u></p> <p>(ii) <u>Network utilities (other than for the reticulation and storage of water for irrigation purposes) or any part of electricity infrastructure undertaken by a network utility operator as defined in the Resource Management Act 1991, that connects to the National Grid; and</u></p> <p>(iii) <u>Not permanently physically impede existing vehicular access to a National Grid support structure;</u></p> <p>(c) <u>Artificial crop protection structures and support structures between 8m and 12m from a pole support structure but not a tower and any associated guy wire that:</u></p> <p>(i) <u>Meet the requirements of the NZECP 34:2001 ISSN 0114-0663 for separation distances from the conductor;</u></p> <p>(ii) <u>Are no higher than 2.5m;</u></p> <p>(iii) <u>Are removable or temporary, to allow a clear working space of at least 12 metres from the pole when necessary for maintenance and emergency repair purposes;</u></p> <p>(iv) <u>Allow all-weather access to the pole and a sufficient area for maintenance equipment, including a crane.</u></p>
P8	<u>Construction or alteration of a building for a sensitive land use</u>	<p>(a) <u>The construction or alteration of a building for a sensitive land use that complies with all of the following standards:</u></p>

		<p>(i) <u>It is set back a minimum of 10m from the centre of line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of up to 110kV; or</u></p> <p>(ii) <u>It is set back a minimum of 12m from the centre of line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of 110kV or more.</u></p>
P9	<u>Emergency services training and management activities</u>	Nil
P10	<u>Additions and alterations to an existing emergency service facility</u>	Nil
P11	<u>Construction, demolition, addition, and alteration of a building or structure</u>	Nil

25.1.2A Restricted Discretionary Activities

Activity		Discretion is restricted to:
RD1	<u>Maintenance, routine operation and repair of existing off-road walkways, cycleways and bridleways that do not comply with one or more of the standards of Rule 25.1.2 P5.</u>	<p>(a) <u>Design and construction;</u></p> <p>(b) <u>Visual, ecosystem and amenity effects; and</u></p> <p>(c) <u>The extent to which the indigenous vegetation alteration or removal is necessary to provide for the functional and operational needs of off-road pedestrian, cycleways and bridleways</u></p>
RD2	<u>Restaurant and café</u>	<p>(a) <u>effects of the intensity, scale and duration of the activity on recreation use and amenity values of the reserve</u></p> <p>(b) <u>the effects on public access to, and use of, the open space.</u></p> <p>(c) <u>design, external appearance and landscaping.</u></p> <p>(d) <u>effects on natural values</u></p> <p>(e) <u>containment of effects within the reserve and adverse effects amenity of the locality</u></p> <p>(f) <u>the extent the activity is consistent with any relevant Reserve Management Plan and reserve classification.</u></p>
RD3	<u>Markets</u>	<p>(a) <u>effects of the intensity, scale and duration of the activity on recreation use and amenity values of the reserve</u></p> <p>(b) <u>the effects on public access to, and use of, the open space.</u></p> <p>(c) <u>design, external appearance and landscaping.</u></p> <p>(d) <u>effects on natural values</u></p> <p>(e) <u>containment of effects within the reserve and adverse effects amenity of the locality</u></p> <p>(f) <u>the extent the activity is consistent with any relevant Reserve Management Plan and reserve classification.</u></p>
RD4	<u>Construction or alteration of a building for a sensitive land use that does not comply with Rule 25.1.2 P8</u>	<p>(a) <u>Effects on the amenity values of the site;</u></p> <p>(b) <u>The risk of electrical hazards affecting the safety of people;</u></p> <p>(c) <u>The risk of damage to property; and</u></p> <p>(d) <u>Effects on the operation, maintenance and upgrading of the electrical distribution or transmission lines.</u></p>

RD5	<u>Construction of emergency service facilities</u>	(a) <u>Effects on amenity of the locality.</u> (b) <u>Effects on character.</u> (c) <u>Road efficiency and safety.</u> (d) <u>Building design.</u> (e) <u>Site layout and design; and</u> (f) <u>Privacy on other sites.</u>
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25.1.3 Discretionary Activities

(I) The activities listed below are discretionary activities:

D1	Any permitted activity that does not comply with <u>one or more</u> any Activity-specific condition <u>standard</u> in Rule 25.1.2
D2	Any permitted activity that does not comply with the Land Use – Effects Rule 25.2 or Land Use – Building Rule 25.3 unless the activity status is specified as controlled, restricted discretionary or non-complying.
D3	<u>Educational facilities</u>
D4	<u>Any activity that is not listed as Permitted, Restricted Discretionary, Discretionary or Non-Complying.</u>

25.1.4 Non-Complying Activities

(I) The activities listed below are non-complying activities:

NC1	Any activity that is not listed as Permitted, Restricted Discretionary or Discretionary.
NC2	Waste management facility
NC3	Hazardous waste, storage, processing and disposal.
NC4	<u>Any new building for a sensitive land use, or addition to an existing building that involves an increase in the building envelope or height for a sensitive land use, within the National Grid Yard</u>
NC5	<u>Any change of use of an existing building to a sensitive land use within the National Grid Yard</u>
NC6	<u>The establishment of any new sensitive land use within the National Grid Yard</u>
NC7	<u>Dairy/milking sheds (excluding accessory structures and buildings), commercial greenhouses, Pseudomonas syringae pv. Actinidiae (Psa) disease control structures, or buildings for intensive farming within the National Grid Yard</u>
NC8	<u>Buildings, structures and sensitive land use within the National Grid Yard as of 18 July 2018 that do not comply with Rule 25.1.2 P7</u>

25.2 Land Use - Effects

25.2.1 Noise

- (1) Rule 25.2.1.1 Noise – General provides permitted noise levels in the Reserve Open Space Zone.
- (2) Rule 25.2.1.2 Noise – Construction provides the noise limits for construction activities.

25.2.1.1 Noise – General

P1	Crowd noise, noise generated by emergency generator and emergency sirens.
P2	<p>(a) Noise measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 must not exceed the permitted activity noise limits for the zone of any other site where sound is received, within the notional boundary on any site in the Residential Zone, Village Zone, Country Living Zone and Rural Zone must not exceed:</p> <p>(i) 55dB (L_{Aeq}), 7am to 7pm every day;</p> <p>(ii) 45dB (L_{Aeq}), 7pm to 10pm every day; and</p> <p>(iii) 40dB (L_{Aeq}) and 65dB (L_{Amax}), 10pm to 7am the following day.</p>
P3	(a) Noise measured within any site in any zone other than the Reserve Zone, Residential Zone, Village Zone, Country Living Zone and Rural Zone must meet the noise levels permitted for that zone.
P4	<p>(a) Noise levels must be measured in accordance with the requirements of NZS 6801:2008 “Acoustics – Measurement of Environmental Sound”.</p> <p>(b) Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 “Acoustic-Environmental noise”.</p>
DI	<p>(a) Noise that is outside the scope of NZS 6802:2008 or a permitted activity standard and;</p> <p>(b) Noise that does not comply with Rule 25.2.1.1 P1, <u>or</u> P2, P3 <u>or</u> P4.</p>

25.2.1.2 Noise – Construction

P1	<p>(a) Construction Noise must meet <u>not exceed</u> the limits in NZS 6803:1999 (Acoustics – Construction Noise).</p> <p>(b) Construction noise must be measured and assessed in accordance with the requirements of NZS6803:1999 ‘Acoustics – Construction Noise’.</p>
RDI	<p>(a) Construction noise that does not comply with Rule 25.2.1.2 P1.</p> <p>(b) Council’s discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> (i) Effects on amenity values; (ii) Hours and days of construction; (iii) Noise levels; (iv) Timing and duration; (v) Methods of construction.

25.2.3 Glare and artificial light spill

P1	<p>(a) Illumination from glare and artificial light spill must not exceed 10 lux measured horizontally and vertically at any other site <u>zoned General Residential, Medium Density Residential, Large Lot Residential, Settlement, Rangitahi Peninsula or Rural Lifestyle</u>.</p> <p>(b) Rule 25.2.3 P1 (a) does not apply to streetlights, navigation lights or from vehicles or equipment used in farming activities.</p>
RDI	<p>(a) Illumination from glare and artificial light spill that does not comply with Rule 25.2.3 P1</p> <p>(b) Council’s discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> (i) Effects on amenity values; (ii) Light spill levels on other sites; (iii) Road safety; (iv) Duration and frequency; (v) Location and orientation of the light source; (vi) Mitigation measures.

25.2.4 Earthworks

- (1) Rule 25.2.4.1 – Earthworks General provides the permitted rules for earthwork activities in the ~~Reserve Open Space Zone~~. This rule does not apply in those areas specified in rules 25.2.4.2, 25.2.4.3 and 25.2.4.4.
- (2) There are specific standards for earthworks within rules:
 - (a) Rule 25.2.4.2 – Maaori Sites and Maaori Areas of Significance
 - (b) Rule 25.2.4.3 – Earthworks within Significant Natural Areas
 - (c) Rule 25.2.4.4 – Earthworks within Landscape and Natural Character Areas

25.2.4.1 Earthworks – general

P1	<p>(a) Earthworks <u>(excluding the importation of fill material)</u> within a site must meet all of the following conditions <u>standards</u>:</p> <ol style="list-style-type: none"> (i) Be located more than 1.5m from a public sewer, open drain, overland flow path or other service pipe; (ii) Not exceed a volume of more than 250m³ and an area of more than 1,000m² within a site over a single consecutive 12-month period; (iii) The height of the resulting cut, filled areas or fill batter face in stable ground, not including any surcharge, does not exceed 1.5m, with a maximum slope of 1:2 (1 vertical to 2 horizontal); (iv) Areas exposed by earthworks are re-vegetated <u>or otherwise stabilised</u> to achieve 80% ground cover within 6 months of the commencement of the earthworks; (v) <u>Earthworks are set back at least 1.5m from all boundaries</u>; (vi) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; (vii) <u>Does not divert or change the nature of natural water flows, water bodies or established drainage paths; and</u> (viii) <u>Does not result in the site being unable to be serviced by gravity sewers.</u>
P2	<p>(a) <u>Earthworks for purposes of creating a building platform within a site, using imported fill material.</u></p>
P23	<p>(a) <u>Earthworks for purposes other than creating a building platform within a site, using imported fill material (excluding cleanfill) must meet all of the following standards. The importation of fill material to a site must meet all of the following conditions, in addition to the conditions in P1.</u></p> <ol style="list-style-type: none"> (i) Does Must not exceed a total volume of 500m³ per site and a depth of 1m; (ii) Is fit for compaction; (iii) The <u>slope height</u> of the resulting batter face in stable ground does must not exceed 1.5m with a maximum slope of 1:2 (1m vertical to 2m horizontal); (iii) <u>Fill material is setback at least 1.5m from all boundaries</u>; (v) <u>Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks</u>; (vi) <u>Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls</u>; (vii) <u>Do not divert or change the nature of natural water flows, water bodies or established drainage paths</u> (v) Does not restrict the ability for land to drain; (vi) Is not located within 3m of a property boundary, with the exception of the following: <ol style="list-style-type: none"> A. Landscaping bunds; <p>(b) Where a retaining wall exists, the fill is placed to the same level as the retaining wall.</p>
RD1	<p>(a) Earthworks that do not comply with Rule 25.2.4.1 P1, P2 or P23.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> (i) Amenity values and landscape effects; (ii) Volume, extent and depth of earthworks;

	<ul style="list-style-type: none"> (iii) Nature of fill material; (iv) Contamination of fill material; (v) Location of the earthworks to waterways, significant indigenous vegetation and habitat; (vi) Compaction of the fill material; (vii) Volume and depth of fill material; (viii) Protection of the Hauraki Gulf Catchment Area; (ix) Geotechnical stability; (x) Flood risk, including natural water flows and established drainage paths; (xi) Land instability, erosion and sedimentation; (xii) Proximity to underground services and service connections.
NCI	(a) Importation of cleanfill to a site.

25.2.4.2 Earthworks - Maaori Sites and Maaori Areas of Significance

The provisions notified under this heading are addressed in Decision Report 7: Maaori Sites and Areas of Significance

25.2.4.3 Earthworks – within Significant Natural Areas

The provisions notified under this heading are addressed in Decision Report 9: Significant Natural Areas

25.2.4.4 Earthworks – within Landscape and Natural Character Areas

The provisions notified under this heading are addressed in Decision Report 10: Landscapes

25.2.5 Hazardous substances

The provisions notified under this heading are addressed in Decision Report 11: Hazardous Substances and Contaminated Land

25.2.6 Notable trees

25.2.6.1 Notable tree – removal or destruction

25.2.6.2 Notable tree - trimming

25.2.6.3 Notable tree - activities within the dripline

The provisions notified under these headings are addressed in Decision Report 8: Historic Heritage

25.2.7 Signs

- 1) Rule 25.2.7.1 Signs – general provides permitted standards for any sign across the entire ~~Reserve~~ Open Space Zone.
- 2) Rule 25.2.7.2 Signs – effects on traffic apply specific standards for signs that are directed at road users.
- 3) 25.2.7.1 Signs – General

25.2.7.1

P1	A public information sign erected by a government agency.
P2	<p>(a) A sign must comply with all of the following conditions <u>standards</u>:</p> <ul style="list-style-type: none"> (i) The sign does not exceed: <ul style="list-style-type: none"> A. 3m² for one sign per site, and B. 1 m² for any other sign; (ii) The sign height does not exceed 3m; (iii) The sign does not exceed the height of the building; (iv) The sign is not illuminated; (v) The sign does not contain any moving parts, fluorescent, flashing or revolving lights or reflective materials; (vi) The sign is not attached to a tree identified in Schedule 30.2 (Notable Trees), except for the purpose of identification and interpretation; (vii) The sign is not attached to a heritage item listed in Schedule 30.1 (Heritage Items) except for the purpose of identification and interpretation; (viii) The sign is not attached to a <u>On a site with a</u> Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) except, the sign is for the purpose of identification and interpretation; (ix) The sign is set back at least 5m from the boundary of the <u>General Residential, Medium Density Residential, Large Lot Residential, Settlement or Rural Lifestyle Residential Zone and Village Zone or Country Living Zones.</u>
P3	<u>An official sign</u>
P4	<u>Signs that are located within a building or that are not visible from a road or adjoining site.</u>

RD1	<p>(a) Any sign that does not comply with Rule 25.2.7.1 P1 or P2.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) amenity values; (ii) character of the locality; (iii) effects on traffic safety; (iv) effects of glare and artificial light spill; (v) content, colour and location of the sign; (vi) effects on notable trees. (vii) effects on the heritage values of any heritage item due to the size, location, design and appearance of the sign; (viii) effects on cultural values of any Maaori site of significance; (ix) effects on notable architectural features of the building.
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25.2.7.2 Signs - effects on traffic

PI	<p>(a) Any sign directed at road <u>or rail</u> users must:</p> <ul style="list-style-type: none"> (i) Not imitate the content, colour or appearance of any traffic control sign; (ii) Be located at least 60m from controlled intersections, pedestrian crossings and any other sign; (iii) Not obstruct sight lines of drivers; turning into or out of a site entrance and intersections; <u>or at a railway level crossing;</u> (iv) Contain no more than 40 characters and no more than 6 symbols; (v) Have lettering that is at least 200mm high; and (vi) Comply with the following where the sign directs traffic to a site entrance: <ul style="list-style-type: none"> A. Located at least 175m from the entrance on roads with a speed limit of 80 km/hr or less; or B. Located at least 250m from the entrance on roads with a speed limit of more than 80km/hr.
DI	Any sign that does not comply with Rule 25.2.7.2 PI.

25.2.8 Indigenous vegetation clearance in a Significant Natural Area

The provisions notified under this heading are addressed in Decision Report 9: Significant Natural Areas

25.3 Land Use – Building

25.3.1 Height

- (1) Rule 25.3.1.1 (Height – Building general) provides permitted height levels across the entire ~~Reserve~~ Open Space Zone for buildings, structure or vegetation.
- (2) The following rules provide height limits for specific activities:
 - (a) Rule 25.3.1.2 Height – Buildings, structures and vegetation within an airport limitation surface and
 - (b) Rule 25.3.1.3 Height – Buildings in a battlefield view shaft.

25.3.1.1 Height - Building general

PI	<p>(a) Any building must not exceed a maximum height of 10m <u>measured from the natural ground level immediately below that part of the structure.</u></p> <p>(b) Any building must not exceed a maximum height of 5m <u>measured from the natural ground level immediately below that part of the structure</u> in any <u>of the following landscape and natural character areas:</u></p> <ol style="list-style-type: none"> (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) Outstanding Natural Character Area of the coastal environment; (iv) High Natural Character Area of the coastal environment. <p>(c) Any building must not exceed 7.5m in a Significant Amenity Landscape.</p>
P2	<p>(a) Any floodlight must not exceed a maximum height of 12m <u>measured from the natural ground level immediately below that part of the structure;</u> or</p> <p>(b) Any floodlight must not exceed a maximum height of 5m <u>measured from the natural ground level immediately below that part of the structure</u> in any <u>of the following landscape and natural character areas:</u></p> <ol style="list-style-type: none"> (i) Outstanding Natural Feature; (ii) Outstanding Natural Landscape; (iii) Outstanding Natural Character Area of the coastal environment; (iv) High Natural Character Area of the coastal environment. <p>(c) Any floodlight must not exceed 7.5m in a Significant Amenity Landscape.</p>
DI	Any building that does not comply with a condition of Rule 25.3.1 I PI and P2.

25.3.1.2 Height - Buildings, structures and vegetation within an airport obstacle limitation surface

The provisions notified under this heading are addressed in Decision Report 26: Te Kowhai Airpark Zone

25.3.1.3 Height – Buildings, structures and vegetation in a battlefield view shaft

PI	The maximum height of a building, structure or vegetation within a battlefield view shaft as shown on the planning maps must not exceed 5m <u>measured from the natural ground level immediately below that part of the structure.</u>
DI	A building, structure or vegetation that does not comply with Rule 25.3.1.3 PI.

25.3.2 ~~Daylight admission~~ Height in relation to boundary

PI	Any building must not protrude through a height control plane rising at an angle of 37 <u>45</u> degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.
RD1	<p>(a) A building that does not comply with Rule 25.3.2 PI.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ol style="list-style-type: none"> (i) Height of <u>the</u> building; (ii) Design and location of the building; (iii) Admission of daylight and sunlight to the site and other site; (iv) Extent Level of shading on <u>adjacent</u> any other sites;

	(v) Privacy of an other site; (vi) Amenity values of the locality.
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25.3.3 Building coverage

PI	Total Building coverage must not exceed 5% of the site.
DI	A-Building <u>coverage</u> that does not comply with Rule 25.3.3 PI.

25.3.4 Building floor area

PI	The gross floor area of a building must not exceed 250m ² .
DI	A building that does not comply with Rule 25.3.4 PI.

25.3.5 Building Setbacks

- (1) Rule 25.3.5.1 Building setbacks – all boundaries provides permitted building setback distances from all boundaries on any site within the ~~Reserve~~ Open Space Zone. Different setback distances apply based on the type of building.
- (2) Rules 25.3.5.2 Building setback – water bodies provides permitted building setbacks from a lake, wetland, river and coast.

25.3.5.1 Building setbacks - General

PI	(a) Any building must be set back a minimum of: (i) 6m from the road boundary; (ii) 6m from the boundary with the <u>GRZ – General Residential Zone</u> ; (iii) 6m from the boundary with the Village <u>SETZ – Settlement zone or LLRZ – Large lot residential Zone</u> ; (iv) 3m from the boundary with any other zone.
DI	A building that does not comply with Rule 25.3.5.1 PI

25.3.5.2 Building setbacks – Waterbodies

PI	(a) Any building must be set back a minimum of 32m from: (i) The margin of any lake with a bed area of 8ha or more; (ii) The bank of any river where the river bed has an average width of 3m or more; (iii) Any wetland with an area greater than 1ha. (b) Any building must be set back a minimum of 37m from the banks of the Waikato River and the Waipa River. (c) Any building must be set back a minimum of: (i) 32m from mean high water springs (d) Conditions Standards (a), (b) and (c) do not apply to any: (i) public walkway, cycleway, or bridleway; (ii) boat launching facility; (iii) pump shed up to 25m ² ; (iv) public amenity up to 25m ² ; (v) <u>10m from a managed wetland</u> .
DI	Any building that does not comply Rule 25.3.5.2 PI.

25.3.6 Heritage Items

25.3.6.1 Group A Heritage item – demolition, removal or relocation

25.3.6.2 Group B Heritage item - demolition, removal or relocation

25.3.6.3 All heritage items – alteration or addition

25.3.6.4 All heritage items – maintenance and repair

25.3.6.5 All heritage items – all site development

The provisions notified under these headings are addressed in Decision Report 8: Historic Heritage

25.4. Subdivision Rules

- (a) Subdivision in the ~~Reserve~~ Open Space Zone is a discretionary activity.

DI	Any subdivision in the Reserve <u>Open Space Zone</u> .
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25.4.2 Subdivision of land within the National Grid Corridor

<u>RDI</u>	<p>(a) <u>The subdivision of land within the National Grid Corridor that complies with all of the following standards:</u></p> <p><u>(i) All resulting allotments must be able to demonstrate that they are capable of accommodating a building platform for the likely principal building(s) and any building(s) for a sensitive land use located outside of the National Grid Yard, other than where the allotments are for roads, access ways or infrastructure; and</u></p> <p><u>(ii) The layout of allotments and any enabling earthworks must ensure that physical access is maintained to any National Grid support structures located on the allotments, including any balance area.</u></p> <p>(b) <u>Council's discretion is restricted to the following matters:</u></p> <p><u>(i) The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of the National Grid;</u></p> <p><u>(ii) The ability to provide a complying building platform outside of the National Grid Yard;</u></p> <p><u>(iii) The risk of electrical hazards affecting public or individual safety, and the risk of property damage;</u></p> <p><u>(iv) The nature and location of any vegetation to be planted in the vicinity of National Grid transmission lines.</u></p> <p><u>(v) The risk to the structural integrity of the National Grid;</u></p> <p><u>The extent to which the subdivision design and consequential development will minimise the potential reverse sensitivity on and amenity and nuisance effects of the National Grid asset.</u></p>
<u>NCI</u>	<u>Any subdivision of land within the National Grid Corridor that does not comply with one or more of the standards of Rule 25.4.2 RDI.</u>

25.5 Specific Area - Tamahere Park and Tamahere Village Green

25.5.1 Application of rules

- (1) The following rules of the ~~Reserve~~ Open Space Zone apply in the Tamahere Park and Tamahere Village Green:

- (a) Rule 25.1.2 – Permitted Activities

- (b) Rule 25.1.3 – Discretionary Activities
- (c) Rule 25.1.4 Non-Complying Activities
- (d) The Land Use – Effects rules in Rule 25.2 apply except:
 - (i) Rule 25.5.2.1 applies instead of Rule 25.2.7.1 Signs – General
- (e) The Land Use – Building rules in Rule 25.3 apply except:
 - (i) Rules 25.5.3.1 Building Coverage applies instead of Rule 25.3.3 Building Coverage; and
 - (ii) Rule 25.5.3.2 Building applies instead of Rule 25.3.1 Height – General and Rule 25.3.3 Building Coverage.
- (f) Rules 25.4 Subdivision

25.5.2 Land Use - Effects

25.5.2.1 Signs – Tamahere Village Green

PI	<p>(a) Any advertising sign visible from a public place must comply with all of the following conditions <u>standards</u>:</p> <ul style="list-style-type: none"> (i) Where the sign is attached to a building: <ul style="list-style-type: none"> A. does not exceed an area of 2m²; B. does not extend more than 300mm from the building wall; C. does not exceed the height of the building. (ii) Where the sign is attached to a verandah: <ul style="list-style-type: none"> A. is no deeper than 400mm; B. does not obscure any notable architectural feature of the building; C. does not project beyond the roof or fascia of the verandah more than 100mm in any direction; D. allows clearance of at least 2.5m above any pedestrian access, or (iii) Where the sign is free standing: <ul style="list-style-type: none"> A. does not exceed 1.5m in height; B. does not exceed an area of 1m², or (iv) Where a sign is a signage wall: <ul style="list-style-type: none"> A. does not exceed 1.2m in height; B. does not exceed an area of 4m²; (v) Where it is an illuminated sign, it: <ul style="list-style-type: none"> A. Is not a neon sign; B. Does not have a light source that flashes or moves; C. Does not contain moving parts or reflective materials; D. Does not spill light beyond the sign.
P2	<p>(a) A sign advertising a community event must comply with all of the following conditions <u>standards</u>:</p> <ul style="list-style-type: none"> (i) it is a free standing sign; (ii) be on display for no more than one month prior to the event; (iii) it does not exceed 1.5m in height, and (iv) it does not exceed an area of 1m². <p>(b) Where it is an illuminated sign, it must not:</p> <ul style="list-style-type: none"> (i) be a neon sign; (ii) have a light source that flashes or moves; (iii) contain moving parts or reflective materials; (iv) spill light beyond the sign.
RD1	<p>(a) Any sign that does not comply with the conditions <u>standards</u> in Rule 25.5.2.1 PI or P2.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) amenity values and streetscape (ii) traffic safety (iii) glare and light spill (iv) number of signs

	(v) design and location of sign (vi) consistency with Tamahere Village Design Guide
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25.5.3 Land Use – Building

25.5.3.1 Building Coverage – Tamahere Park

PI	(a) Any building in the Tamahere Park <u>specific control area</u> identified on the planning maps must not exceed 4% building coverage.
DI	Any building that does not comply with Rule 25.5.3.1 PI.

25.5.3.2 Building – Tamahere Village Green

PI	(a) Any building in the Tamahere Village Green <u>specific control area</u> must comply with the following conditions standards: (i) Total building coverage must not exceed 170m ² ; (ii) Height must not exceed 6m. (b) Rule 25.3.1.1 (Height Building General) does not apply.
DI	Any building that does not comply with Rule 25.5.3.2 PI.

Chapter 13 Definitions

Conservation activity

Means activities associated with indigenous habitat, wetlands and wildlife management and restoration that fundamentally benefit indigenous biodiversity or raise public awareness of indigenous biodiversity values. This includes stock exclusion, research and monitoring, the ~~establishment~~, maintenance or upgrading of public walking or cycle tracks, interpretive and directional signs, accessory buildings including those for tourism; interpretation or education purposes and the provision of access for plant or animal pest management.