

SECTION 42A REPORT

Rebuttal Evidence

Hearing 24: Reserve Zone

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Date: 5 October 2020



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I Introduction

I.1 Background

1. My full name is Kelly Nigel Cattermole. I am employed by the Waikato District Council as a Senior Planner (Consents Team) and I am currently on a fixed-term secondment to the Policy Team.
2. I am the writer of the original s42A report for Hearing 24: Reserve Zone.
3. In the interests of succinctness, I do not repeat the information contained in section I.1 to I.4 of that s42A Hearing Report for the Reserve Zone and request that the Hearings Panel take this as read.

2 Purpose of the report

4. In the directions of the Hearings Panel dated 26 June 2019, paragraph 18 states:

If the Council wishes to present rebuttal evidence it is to provide it to the Hearings Administrator, in writing, at least 5 working days prior to the commencement of the hearing of that topic.
5. The purpose of this report is to consider the primary evidence and rebuttal evidence filed by submitters.
6. Evidence was filed by the following submitters within the timeframes outlined in the directions from the Hearings Panel¹:
 - a. Ministry of Education [781] and [FS/277]
 - b. New Zealand Transport Agency [742]
 - c. Ngaruawahia Golf Club [194]
 - d. Waikato Regional Council [81]
 - e. Heritage New Zealand Pouhere Taonga [559]
 - f. Annie Chen [89]
 - g. KiwiRail [986].
7. Late evidence was filed by the following submitter:
 - a. Transpower [576] on 30th of September 2020. The late evidence was approved by the Hearings Panel on the same day.

3 Consideration of evidence received

3.1 Matters addressed by this report

8. The main topics raised in evidence and rebuttal evidence from submitters included:
 - a. Education facilities and reserves
 - b. National grid rule layout/placement/earthworks and setbacks
 - c. Natural values
 - d. Earthworks setback from railways
 - e. Reverse sensitivity and railways

¹ Hearings Panel Directions 21 May 2019

- f. Building setback from railways
 - g. Pokeno West rezone
 - h. Cultural and heritage values
 - i. Conservation activity and indigenous vegetation clearance for walking, cycling tracks or accessory buildings
 - j. Signage for the Ngaruawahia Golf Club
 - k. Traffic thresholds for temporary events
 - l. Signs – effects on traffic.
9. I have therefore structured my response as follows where there are points of contention or further clarification/elaboration is required. The other matters raised by the submitter evidence are either in support of my recommendations or are outside the scope of the Reserve Zone Topic (Pokeno West rezone)
- a. Education facilities and reserves
 - b. Building setback from railways
 - c. Cultural and heritage values
 - d. Signage for the Ngaruawahia Golf Club
 - e. Traffic thresholds for temporary events
 - f. Signs – effects on traffic.

4 Educational facilities

4.1 Analysis

10. The Ministry of Education have reiterated their desire for an RDA provision for ‘educational facility’ and supporting objective and policy for said activity within the Reserve Zone, highlighting the benefits and efficiencies provided by co-location and shared uses, including a recent example in Tauranga. I have sought further comment from Council’s Reserves Planner, Mr Crawshaw, regarding the evidence provided by the Ministry of Education.

Mr Crawshaw has stated that:

There are many instances around the district where areas zoned reserve (and classified as reserve) provide shared facility opportunities for educational facilities. I.e. Tamahere School and Tamahere Park (park provides overflow fields for school use). In these instances however the shared provision is for “general open space” rather than the educational facilities themselves being situating in the reserves zone.

When referring to active play, in many instances a simple concession can provide for the legal sharing of field space, and in most instances may not require a review of a RMP to enable. I would also argue that the future allocation or effective “pairing up” of such facilities is related more to effective strategic spatial planning than tweaking the appropriate zoning itself. However from a reserves perspective there is always a preference to situate the two activities adjacent to each other.

Mr Crawshaw’s comments are very useful in this regard, as they provide feedback from an operational point of view, and I agree with the comments made.

It is worth noting that the NPS zones may provide a potential avenue for ‘educational facility’ through an Open Space Zone or equivalent.

4.2 Recommendations

11. Having considered the points raised in evidence, I have not changed my recommendations.

5 Building setbacks from railways

5.1 Analysis

12. KiwiRail have requested that further elaboration be provided as to why I have changed my stance with respect to their request for a setback from buildings to railway tracks (submissions [986.61] and [986.70]). I stated within my s42A report that I was persuaded by the evidence presented at previous hearings (in particular Hearing 10: Residential Zone and Hearing 7: Industrial Zone and Heavy Industrial Zone).

13. I am particularly persuaded by the comments of the s42A author for Hearing 10: Residential Zone in paragraph 83 of the s42A report:

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.

I am persuaded by this argument and agree with the comments made here. Accordingly, I have made the recommendation to reject submissions [986.61] and [986.70] within my s42A report for the Reserve Zone.

5.2 Recommendations

14. Having considered the points raised in evidence, I have not changed my recommendations.

6 Cultural and heritage values

6.1 Analysis

15. HNZPT continue to seek a new objective and policy for 'Cultural and heritage values' to be applied to the Reserve Zone for a number of reasons, including that there would be benefit in the plan requiring a comprehensive consideration of historic heritage and cultural matters, a holistic consideration of works undertaken within Reserve-zoned land, and that Reserve Management Plans (RMP's) place the primary purpose of the reserve ahead of heritage. The submitter raises The Point as an example. I also note that the Objectives and Policies contained within Chapter 7: Heritage, apply to all zones, including the Reserve Zone.

16. Using The Point as an example, I retain my original opinion that the RMP's can address heritage and cultural matters. The RMP for The Point (The Point Reserve & Kiingitanga Reserve Management Plan) has a number of objectives and actions that in my view address the concerns of the submitter. For example, there is an Objective worded as follows:

Ensure cultural and historic values of The Point are identified, conserved and protected.

6.2 Recommendations

17. Having considered the points raised in evidence, I have not changed my recommendations.

7 Signage for the Ngaruawahia Golf Club

7.1 Analysis

18. The submitter [194] maintains that additional signage is appropriate for the site (one sign per 150m of road frontage). I am not persuaded by the evidence provided, and maintain my initial concerns raised in the s42A report, including incompatibility with the relevant RMP.

7.2 Recommendations

19. Having considered the points raised in evidence, I have not changed my recommendations.

8 Traffic thresholds for temporary events

8.1 Analysis

20. The submitter (New Zealand Transport Agency [742]) has provided further evidence with respect to their request for a numbers cap on the maximum number of vehicle movements associated with a permitted temporary event. They have helpfully pointed out Policy 8.3.3 – Temporary events.
21. It would appear that Policy 8.3.3 (3) is an orphan and that there is no rule that corresponds with this, although it could be considered if a temporary event required resource consent. The lack of explanation of what ‘permitted vehicle movements’ is in the context of the Reserve Zone is very unhelpful. An example of where resource consent would be required would be a temporary event requiring access from a national route or regional arterial route.
22. I am still of the opinion that Council’s Events Team, in conjunction with Council’s Roding Team, can require traffic management plans to be provided for events that are of such a scale that traffic safety may be adversely impacted.
23. I acknowledge the problematic wording of Policy 8.3.3 (3), as its reference to ‘permitted vehicle movements’ is confusing to a District Plan user (my emphasis in yellow - *iii. managing the effects of traffic on the road transport network where the permitted number of vehicle movements will be exceeded*). Any changes to Policy 8.3.3 (3) has the potential to be beyond the scope of any submissions. As there is no specific scope to address the issues of 8.3.3 (3), I seek direction from the Hearings Panel on this matter.
24. If the Panel are of a mind to correct this error, Policy 8.3.3 (3) could be reworded to give more flexibility and wider discretion to the processing officer of the resource consent.

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~~

8.2 Recommendations

25. Having considered the points raised in evidence and rebuttal evidence I have not changed my original recommendations, but I do acknowledge the submitter's comments regarding Policy 8.3.3 (3). If the Panel are of a mind, I wish to make the above recommendation with respect to Policy 8.3.3 (3).

8.3 Recommended amendments

26. I therefore make the following amendment to my initial recommendation:

8.3.3 Policy – Temporary events

- (c) Enable temporary events and associated temporary structures on reserves, appropriate to the size and purpose of the reserve.
- (d) 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 Section 32AA evaluation

27. The following points evaluate the recommended change under Section 32AA of the RMA.

Other reasonably-practicable options

28. The other option is to leave the policy worded as notified.

Effectiveness and efficiency

29. The recommended amendments to Policy 8.3.3 - Temporary events, will remove uncertainty from the plan and therefore increase the effectiveness and efficiency of the District Plan.

Costs and benefits

30. There are no additional costs, therefore costs are likely to be the same. There are benefits to the environment with the revised policy, as it is clearer about how the policy is to be interpreted and used for resource consents. This will also benefit district plan users, as there will be less confusion regarding the policy.

Risk of acting or not acting

31. 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.

Decision about most appropriate option

32. The amendment gives effect to the relevant objective and is considered to be more appropriate in achieving the purpose of the policy than that of the notified version.

9 Signs – effects on Traffic

9.1 Analysis

33. The submitter (New Zealand Transport Agency [742]) has provided further evidence with respect to their request for amendments to Rule 25.2.7.2 PI (iv) – Signs Effects on Traffic with respect to the maximum number of words and symbols or graphics. The submitter notes that

the inconsistency between report topics is unhelpful and requests that the Reserve Zone rule be amended to reflect the recommendations of the Rural Zone author's recommendations (being the inclusion of the restriction on the number of words).

34. I have looked at other s42A reports and noted that Hearing 12: Country Living Zone and Hearing 7: Industrial and Heavy Industrial Zone recommended rejecting the equivalent submission points in their respective zones. The evidence provided by the submitter has not changed my view on this matter, but given the now differing recommendations as a result of the s42A report for the Rural Zone, it may be a matter for the Hearings Panel to consider at a later date with the integration of the across-zone rules.

9.2 Recommendations

35. Having considered the points raised in evidence, I have not changed my recommendations.

