

SECTION 42A REPORT

Report on submissions and further submissions on the
Proposed Waikato District Plan - Stage 1

Hearing 24: Reserve Zone

Report prepared by: Kelly Cattermole

Date: 10 September 2020



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List of submitters and further submitters addressed in this report

Original Submitter	Submission number
Adrian Morton	499
Auckland Waikato Fish and Game Council	433
Blue Wallace Surveyors Ltd	662
Counties Manukau Police	297
Counties Power Limited	405
Federated Farmers of New Zealand	680
Heritage New Zealand Lower Northern Office	559
Ian McAlley	368
Jet Ski Racing New Zealand Inc	19
Karen White	757
KiwiRail Holdings Limited (KiwiRail)	986
Linda Silvester	830
Mercer Residents and Ratepayers Committee	367
Ministry of Education	781
New Zealand Transport Agency	742
Ngaruawahia Golf Club Inc	194
Paula Dudley	328
Raglan Naturally	831
Tainui o Tainui	942
Transpower New Zealand Ltd	576
Waikato District Council	697
Waikato District Health Board	923
Waikato Regional Council	81

Further Submitter	Submission number
Bootleg Brewery	1264
Chorus New Zealand Limited	1031
Colette Shona Hanrahan	1051
Federated Farmers	1342
Fonterra Limited	1333
Heritage New Zealand Pouhere Taonga	1323
Mercury NZ Limited	1386, 1387, 1388
New Zealand Walking Access Commission	1307
Pareoranga Te Kata	1035
Perry International Trading Group Limited	1348
Spark New Zealand Trading Limited	1033
TaTa Valley Limited	1340
Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)	1108
Transpower New Zealand Limited	1350
Turangawaewae Trust Board	1139
Vodafone New Zealand Limited	1032
Watercare Services Ltd	1176
Whaingaroa Environmental Defence Inc. Society	1276

Please refer to Appendix I to see where each submission point is addressed within this report.

I Introduction

I.1 Qualifications and experience

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 hold a Bachelor of Science (Geography Major) and a Post Graduate Diploma in Science (with Merit), both from the University of Canterbury. I am an Associate of the New Zealand Planning Institute.
3. I have been a consents planner for the last 7 years with the Waikato District Council (including 2 years as a Senior Planner). As a part of that role I have processed a number of subdivision and land use consents, including the bulk of the Helenslee and Hitchen Block developments in Pokeno, the Synlait Dairy Factory, the Castaways expansion, and a number of consents in both urban and rural areas.

Prior to my consent planner roles, I was the PIM/Lim Officer for the Waikato District Council from October 2010 to December 2012, where I processed the planning and engineering checks for building consents, and produced LIM reports.

4. I became involved with the Proposed Waikato District Plan (PWDP) in 2018, where I provided feedback to the Policy Team (along with other Consent Planners). Towards the end of 2018 and into the beginning of 2019, I assisted in the summarising of the original submissions and briefly assisted in the summarising of the further submissions. I am the author of the Village Zone land use s42A report. Aside from those items of work, I have had no other involvement in the PWDP.

I.2 Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
6. I am authorised to give this evidence on the Council's behalf to the hearing's commissioners.

I.3 Conflict of Interest

7. To the best of my knowledge, I confirm that I have no real or perceived conflict of interest. I have processed a number of building consents, resource consents and LIM reports over the last 9 years, however, (to the best of my knowledge) I currently have no applications in progress which are related to the submissions dealt with in this report.

I.4 Preparation of this report

8. I am the author of this report.
9. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions.

10. In preparing this report I rely on expert advice sought from Council's Open Spaces Team with regard to the following matters:
- Reserve Management Plans (RMP)
 - Trails Strategies
 - Use of Lake Kainui and Lake Waahi
 - National Planning Standards (NPS)
 - Specific provisions for individual activities
 - Relief sought by the Ngaruawahia Golf Club (this includes input from Council's Property Team)
 - Use of reserves for temporary events.

2 Scope of Report

2.1 Matters addressed by this report

11. This report is prepared in accordance with section 42A of the RMA. This report considers submissions that were received by the Council in relation to the provisions of the Reserve Zone within the Waikato Proposed District Plan (PDP). Provisions relating to management of the Reserve Zone include objectives, policies and rules on activities, buildings, amenity effects and subdivision.

2.2 Overview of the topic/chapter

12. The Reserve Zone is managed through chapters 8 and 25 of PWDP. Chapter 25 contains rules relating to management of the Reserve Zone including activities, buildings, amenity effects and subdivision with the supporting objectives and policies contained within Chapter 8: Reserves.
13. The Reserve zoned land is scattered across the district, but generally speaking, tends to be located near settlements to service the population that resides there. Others such as Wainui Reserve can also act as a 'destination reserve' and attract events that draw in people from outside of the district, such as Soundsplash. It is important to note that while land can be gazetted/classified as a reserve, this does not mean that the land in question is zoned for such purpose.

2.3 Statutory requirements

14. The statutory considerations that are relevant to the content of this report are largely set out in the opening legal submissions by counsel for Council (23 September 2019) and the opening planning submissions for Council (23 September 2019, paragraphs 18-32.) The opening planning submissions from the Council also detail the relevant iwi management plans (paragraphs 35-40) and other relevant plans and strategies (paragraphs 41-45). The following sections identify statutory documents with particular relevance to this report.
15. Waikato Regional Policy Statement
- The Waikato Regional Policy Statement 2016 (RPS) makes numerous references in the methods identified to implement its policies through District Plan provisions. Of particular relevance are the objectives relating to riparian areas and wetlands (3.16), ecological integrity and indigenous biodiversity (3.19), amenity (3.21), outstanding natural features and landscapes (3.20) and public access (3.23) along with associated sections 11 (Indigenous biodiversity), 12 (Landscape, natural character and significant habitats of indigenous fauna) of the RPS.
16. Waikato Regional Plan
- The Waikato Regional Plan manages the natural and physical resources of the Waikato region and gives effect to the Regional Policy Statement. In particular, the Waikato Regional Plan has

rules regarding the clearance of vegetation within natural state water bodies and wetlands, along with associated objectives and policies contained within section 4.3 of the Waikato Regional Plan.

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

Waikato District Council's Walking, Cycling and Bridle Trail Strategy (2016) has, as its purpose, the following matters:

- a) *map the existing track network and identify the key challenges and issues associated with it*
- b) *map out a spatial 'vision' identifying opportunities for track improvements, expansions and*
- c) *linkages*
- d) *provide strategic direction for prioritising the creation of new trails*
- e) *specify the role of Council in implementing the Strategy, and also provide positive guidance to*
- f) *the community (with Council input or facilitation) on how best to achieve local trail projects*
- g) *provide guidance to assist Council in undertaking its role of buying, selling and managing land*
- h) *identify funding priorities to guide Council expenditure and to assist in leveraging external*
- i) *funding for trails*

And;

This strategy has been prepared to identify trail expenditure priorities over the next 10 years. However, Part Two of the Strategy includes aspirational trail linkages, developments and extensions which may be implemented over a much greater time period.

18. This strategy appears to have then (partially) come through into the PDP notified maps as 'Walkway Cycleway Bridleway', noting that some trails originate from structure plans while others from the strategy itself (high priority) have not come through. It is also referenced within Policy 8.1.3 ('Council's Trails Strategy') along with the subdivision creating reserves rule (i.e. Rule 24.4.11 - Subdivision Creating Reserves).
19. The National Planning Standards seek to provide a standard format for district plans across New Zealand. The Hearings Panel has indicated that it wishes to adopt National Planning Standards approaches where possible during the current hearings. This report relies on the National Planning Standards defined terms (14 – Definitions) that were recommended for adoption in Hearing 5. The report also includes discussion of renaming the zone in accordance with the standards.
20. Section 32 of the RMA requires that the objectives of the proposal be examined for their appropriateness in achieving the purpose of the Resource Management Act (RMA), and the provisions (policies, rules or other methods) of the proposal to be examined for their efficiency, effectiveness and risk. Section 32 reports were published when the Proposed Waikato District Plan (PWDP) was notified in 2018. This report updates that particular earlier analysis in "section 32AA evaluations", where material changes to the plan are recommended.

2.4 Procedural matters

21. Additional feedback was sought from the Waikato Regional Council with respect to submission points [81.242] and [81.243] and the New Zealand Transport Agency [742.163]. The feedback that resulted from this additional consultation is addressed in the respective areas within this report.

3 Consideration of submissions received

3.1 Overview of submissions

22. Submissions from 39 separate parties relate to the Reserve Zone. The submissions cover a wide range of issues, including these common issues raised by more than one submitter:

- Reserve design and development
- Implementing Council's Walking, Cycling and Bridle Trail Strategy (2016)
- Amending or deleting the Natural Values Policy (8.2.2)
- Specific provision for individual uses of Reserve zoned land
- Restricting temporary events further
- Amendments to the sign rules
- Numerous grammatical/technical amendments to correct drafting errors

3.2 Further submissions

23. I address the further submissions together with the primary submissions they relate to.

24. Numerous Mercury Energy [FS1386], [FS1387] and [FS1388] further submissions oppose original submissions on the grounds that it is not clear how effects from flooding would be managed. I recommend that all of these be rejected, because I consider them irrelevant to the matters considered in this report. These further submissions and my recommendations on them are recorded in Appendix I, but there is no further discussion of further submissions made by Mercury in this report.

3.3 Structure of this report

25. I have structured this report to reflect the submissions received, starting with the Chapter 8 objectives and policies. The report then considers submissions on the rules in Chapter 25 in the order that they appear in the PWDP. The report contains these sections:

- 4 Chapter 8 – Reserves
- 5 Chapter 8 – Reserves – New Objective and Policy – Cultural and Heritage Values
- 6 Section 8.1 – Reserve Provision
- 7 Objective 8.1.1
- 8 Policy 8.1.2 – Provision, use and development of public open space and reserves
- 9 Policy 8.1.3 – Esplanade reserves and walkways
- 10 Section 8.2 – Natural Values
- 11 Objective 8.2.1 – Natural values
- 12 Policy 8.2.2 – Natural values
- 13 Section 8.3 – Commercial Activities and Temporary Events
- 14 Proposed Waikato District Plan - Section C – Rules
- 15 Chapter 25 – Reserve Zone
- 16 Rule 25.1.2 – Land Use Activities - Permitted activities
- 17 Rule 25.1.2 – Land Use Activities - Permitted activities - P3 (A conservation activity)
- 18 Rule 25.1.2 – Land Use Activities - Permitted activities - P4 (Temporary event)
- 19 Rule 25.1.2 – Land Use Activities - Permitted/Controlled Activities
- 20 Rule 25.1 – Land Use Activities – Restricted Discretionary Activities
- 21 Rule 25.1.3 – Discretionary Activities
- 22 Rule 25.1.1 – Land Use Activities - Prohibited activities
- 23 Rule 25.2.1.1 – Noise
- 24 Rule 25.2.3 – Glare and artificial light spill
- 25 Rule 25.2.4.1 – Earthworks

26	Rule 25.2.7 – Signs
27	Rule 25.3.1.1 – Height
28	Rule 25.3.3 – Building coverage
29	Rule 25.3.5 – Building setbacks
30	Rule 25.3.4.2 – Building setbacks – Waterbodies
31	Rule 25.4 – Subdivision
32	Rule 25.5.2.1 – Signs - Tamahere Village Green
33	Rule 25.5.3.2 – Building - Tamahere Village Green
34	Miscellaneous – Reserve Extent
35	Chapter 29 – Appendices - Appendix 4 – Esplanade Priority Areas
36	Conclusion

Appendix 1 Table of submission points

Appendix 2: Chapter 25 Recommended amendments

Appendix 3: Chapter 8 Recommended amendments

Appendix 4: Provisions cascade

Appendix 5: Esplanade Priority Areas recommended amendments

3.4 Amendments to plan text

26. Where amendments to plan text are recommended, the relevant text is presented after the recommendations with new text in red underlined, and deleted text in ~~red struck through~~. All recommended amendments are brought together in Appendix 2.

4 Objectives and Policies

4.1 Introduction

27. Chapter 8 – Reserves, contains an objectives and policies that are applicable to the Reserve Zone.
28. The objectives and policies cover reserve provision, natural values, commercial activities and temporary events, along with specific references to Tamahere Village green and Tamahere park.
29. Twenty-eight submissions were received in relation to the Objectives and Policies of the Reserve Zone.

4.2 Chapter 8 – Reserves – New Objective and Policy - Cultural and Heritage Values

4.2.1 Submissions

30. Two submission points were received on the whole of Chapter 8, with one seeking its retention and the other seeking a specific objective and policy for cultural and historic values.

Submission point	Submitter	Decision requested
367.13	Mercer Residents and	Retain Chapter 8 Reserves.

	Ratepayers Committee	
<i>FS1386.551</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 367.13</i>
559.281	Heritage New Zealand Lower Northern Office	<p>Add a new cultural and heritage-based objective and policy to Chapter 8: Reserves as follows:</p> <p><u>Objective - Cultural and Heritage Values</u></p> <p><u>The cultural and historic heritage values of public open space, natural reserves and parks are maintained and conserved.</u></p> <p><u>Policy - Cultural and Heritage Values</u></p> <p><u>(i) Ensure the conservation of cultural and heritage values at the time of the consideration of proposed works through consultation with Tangata Whenua and Heritage New Zealand.</u></p>
<i>FS1388.812</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 559.281</i>

4.2.2 Analysis

31. Heritage New Zealand Lower Northern Office [559.281] seeks the inclusion of an objective and policy within Chapter 8 to address cultural and historic heritage values. They state in their reasoning that these are required to recognise cultural or heritage values that are often prevalent within reserves, in particular Heritage Reserves and reserves adjacent to river/coastal locations. Heritage New Zealand does acknowledge the role of RMPs, but considers it necessary for consideration under any RMA process.
32. In my view, the objectives and policies within Chapter 7 – Historic Heritage, in particular Policy 7.1.3 Policy – Heritage items (a) sufficiently covers the relief sought by the submitter given that it also addresses ‘places and areas’. It is also a matter that is addressed by the General Policies RMP (2015) with respect to heritage conservation (Section 9.2 – page 39). Accordingly, I disagree with the relief sought.
33. Mercer Residents and Ratepayers Committee [367.13] seeks to retain Chapter 8. As I am making a number of recommendations to Chapter 8 (detailed further in my report), I am only agreeable to the relief in part.

4.2.3 Recommendations

34. For the reasons above, I recommend that the Hearings Panel:
 - (a) **Accept in part** Mercer Residents and Ratepayers Committee [367.13] to the extent of parts of Section 8 that are remaining as notified and **Reject** Mercury NZ Limited [FS1386.551].
 - (b) **Reject** Heritage New Zealand Lower Northern Office [559.281] and Mercury NZ Limited [FS1388.812].

4.2.4 Section 32AA evaluation

35. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

4.3 Section 8.1 – Reserve Provision

4.3.1 Introduction

36. Section 8.1 – Reserve Provision sets out an objective and policies regarding reserves, including their provision, use and development, along with acquisition and development of esplanade reserves and walkways.

4.3.2 Submissions

37. One submission was received on the whole of Section 8.1 – Reserve Provision which sought specific wording relating to Reserve Management Plans (RMPs) and development/use of reserves.

Submission point	Submitter	Decision requested
18.1	Waikato RiverCare Incorporated	Amend Chapter 8.1 Reserve Provision, to recognise that the development and day-to-day use and maintenance of reserves are managed through Council's reserve management plans which provide for the continuation of reserve activities.
<i>FS1386.141</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 18.1</i>
<i>FS1035.1</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 18.1</i>

4.3.3 Analysis

38. With respect to the request by Waikato RiverCare Incorporated [18.1] to amend Section 8.1, it is my opinion that this amendment is not required as the wording is already encapsulated within Policy 8.1.2 - Provision, use and development of public open space and reserves as point (d). It should be noted, however, that Council's Open Spaces Team have indicated that the wording is not entirely accurate, in that the Reserve Management Plans are not 'day to day', their level of detail varies and they may need to rely on other legislation to dictate their use (such as the Open Spaces and Beaches bylaw). The RMP gives an indication of types of activities and long-term development appropriate on reserves. Despite this, it is my opinion that there is no scope to make amendments to this policy to reflect this feedback.

4.3.4 Recommendations

39. For the reasons above, I recommend that the Hearings Panel:
- (a) **Reject** Waikato RiverCare Incorporated [18.1], Mercury NZ Limited [FS1386.141] and Pareoranga Te Kata [FS1035.1].

4.3.5 Section 32AA evaluation

40. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

4.4 Objective 8.1.1

4.4.1 Introduction

41. Objective 8.1.1 sets out that reserves and facilities are to meet the needs of the communities.

4.4.2 Submissions

42. One submission was received which sought the retention of Objective 8.1.1.

Submission point	Submitter	Decision requested
923.128	Waikato District Health Board	Retain Reserves Objective 8.1.1 as notified.
FS1387.1532	Mercury NZ Limited	Oppose submission 923.128

4.4.3 Analysis

43. Waikato District Health Board [923.128] seeks the retention of Objective 8.1.1. As there are no amendments recommended to this objective, I am agreeable to this.

4.4.5 Recommendations

44. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Waikato District Health Board [923.128] and **Reject** Mercury NZ Limited [FS1387.1532]

4.4.6 Section 32AA evaluation

45. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

4.5 Policy 8.1.2 - Provision, use and development of public open space and reserves

4.5.1 Introduction

46. Policy 8.1.2 sets out matters for reserve vesting and its use and development.

4.5.2 Submissions

47. Seven submissions were received on Policy 8.1.2. The submissions are on a range of matters but include: inclusion of Crime Prevention through Environmental Design (CPTED) requirements, fencing and lighting consultation requirements, requirements for conformance to the Urban Design Guidelines, section 33 vesting to iwi, clause for reverse sensitivity for railways and retention of the policy as notified.

Submission point	Submitter	Decision requested
297.47	Counties Manukau Police	Add to Policy 8.1.2(c) Provision, use and development of public open space and reserves a new point, as follows: <u>(iii) being safe and conforming to the national guidelines for CPTED</u>
<i>FS1386.317</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 297.47</i>
328.10	Paula Dudley	Amend Policy 8.1.2(b)(iv) Provision, use and development of public open space and reserves, to ensure the relevant style/type of fencing and lighting is negotiated with neighbouring property owner(s).
499.15	Adrian Morton	Amend Policy 8.1.2 Provision, use and development of public open space and reserves, to require that residential development will conform to the Residential Subdivision Urban Design Guidelines in relation to layout around open space and stormwater design features.
<i>FS1387.505</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 499.15</i>
757.16	Karen White	Amend Policy 8.1.2 Provision, use and development of public open space and reserves, to include the following: <u>Residential development will conform to the Waikato Urban Design Guidelines 'Residential Subdivision' in relation to layout around open space and stormwater design features.</u>
<i>FS1387.1110</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 757.16</i>
942.65	Tainui o Tainui	Retain Policy 8.1.2 Provision, use and development of public open space and reserves. AND Add a new clause to Policy 8.1.2 Provision, use and development of public open space and reserves as follows: <u>(e) Where Council do not wish to manage small scale areas of significance to Maori, vested as a contribution to development, a section 33 vesting to the appropriate iwi should be considered.</u>
986.75	KiwiRail Holdings Limited (KiwiRail)	Add a new clause (e) to Policy 8.1.2 Provision, use and development of public open space and reserves as follows (or similar amendments to achieve the requested relief): <u>(e) Manage Reverse sensitivity by providing sufficient setbacks for buildings to provide for residents' safety and amenity</u> AND Any consequential amendments to link and/or accommodate the requested changes.
923.129	Waikato District Health Board	Retain Policy 8.1.2 - Provision, use and development of public open space and reserves as notified.

FS1387.1533	Mercury NZ Limited	Oppose submission 923.129
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4.5.3 Analysis

48. With respect to Karen White [757.16] and Adrian Morton [499.15], it is my opinion that the relief sought is already contained within Chapter 4.7 – Urban Subdivision and development, specifically Objective 4.7.1 – Subdivision and Land Use Integration and Policy 4.7.3 – Residential subdivision. The only apparent difference between the two is that the submitter seeks ‘...will conform to...’ where as Policy 4.7.3 is worded; ‘*Development responds to the outcomes of...*’. It is my opinion that the wording contained with Policy 4.7.3 is preferable as it offers a degree of flexibility that can be evaluated through the consenting process. In addition, Chapter 4 is a more appropriate location for this policy, because it integrates reserve design with the overall design of developments.. Accordingly, I am not agreeable to the relief sought by the submitters.
49. Counties Manukau Police [297.47] seek an amendment to Policy 8.1.2 - Policies – Provision, use and development of public open space and reserves (c), to include the words ‘*being safe and conforming to the national guidelines for CPTED*’. The reasons for the relief sought are to ensure that there is an obligation to consider CPTED, reducing victimisation, making people safe and making people feel safe. I note that the submitter requested similar amendments across a number of policies through the PDP. While I agree with the outcomes sought by the submitter, the amendment sought as worded would effectively make it such that any alternative methods outside of CPTED, which may provide safety and security, would be excluded from consideration.
50. In my opinion, more appropriate wording would be: “*incorporating safety and security for reserve users by encouraging methods/designs that responds to the principles of Crime Prevention Through Environmental Design (CPTED)*”. This would recognise that absolute compliance to CPTED is not always required and other methods could be utilised, while also being similar to the wording utilised in Objective 4.7.1 – Subdivision and Land Use Integration and Policy 4.7.3 – Residential subdivision.
51. KiwiRail Holdings Limited (KiwiRail) [986.75] requests amended wording to Policy 8.1.2, with a new clause regarding reverse sensitivity. It is my opinion that notified objective 6.1.6 and policy 6.1.7 sufficiently address reverse sensitivity around infrastructure and the amendment sought is not required.
52. Paula Dudley [328.10] seeks an amendment to Policy 8.1.2 (b)(iv) ‘*provide for the safety of the community by establishing fencing on side and rear boundaries;*’ (as notified) to also include wording that will ‘*ensure the relevant style/type of fencing and lighting is negotiated with neighbouring property owner(s)*’. With respect to fencing, it is my opinion that this is suitably addressed in the General Policies RMP (section 8.2 – Fencing) and in particular, Policy 3; ‘*Council shall in each case determine the type of fence appropriate to the character, use and environs of the park, and follow the procedures prescribed by the Fencing Act 1978 accordingly*’. The Fencing Act (1978) sets out the process for objections to proposed fences (Part 3 – Section 11, clauses (1)-(3)) and it is my opinion that this addresses the concerns of the submitter regarding fencing.
53. With respect to lighting, it is unclear as to what the submitter’s specific concerns are regarding lighting and I invite the submitter to expand on their reasoning. I note that the objectives and policies (Section 5.3 – Lighting) of the General Policies RMP seek to ensure that lighting has minimal effects on neighbours, including controls on hours of operation and controls on light spill but does not extend to the inclusion of negotiation requirements with neighbours. In my

view, were such a clause to be added to Policy 8.1.2, it may create situations where no lighting was to be undertaken on reserves as it may be difficult to get all the neighbouring property owners to be in agreement. This in turn may create issues of safety and crime.

54. I note that there appears to be a reserve proposed adjacent to the submitter's property as a part of the southern interchange for the Hamilton Section of the Expressway as shown in Figure I (below). It is my understanding from NZTA that the form of the reserve is currently being worked through with iwi and that the reserve will be within NZTA's designation and will be maintained by NZTA. In addition, the land in question under the PWDP is zoned as Country Living. Accordingly, the Reserve Zone rules will not be applicable to this and the submitter's concerns lie with the requiring authority of that land, being NZTA.

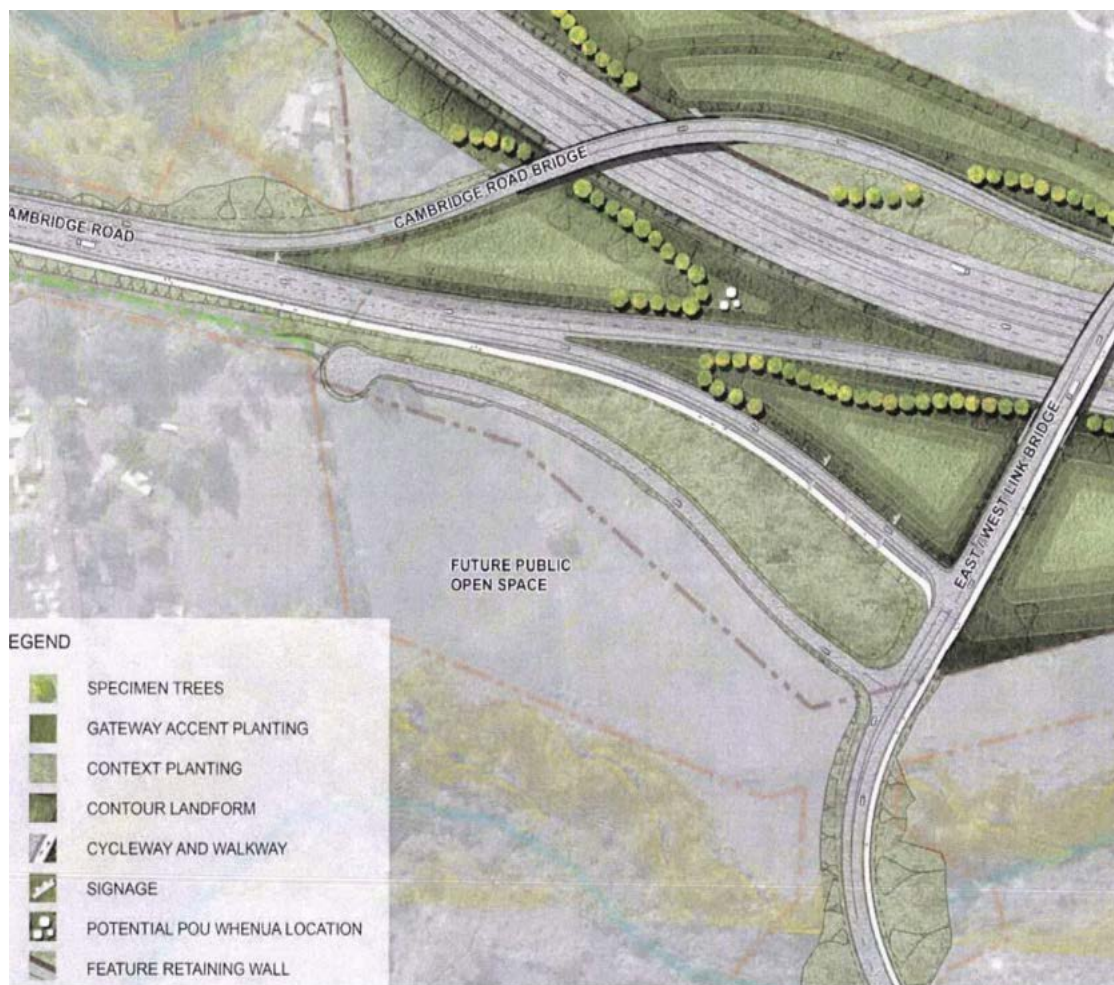


Figure I – Proposed reserve

55. Tainui o Tainui [942.65] seek an amendment to Policy 8.1.2 such that a section 33 vesting to the appropriate iwi should be considered where Council does not want to manage small scale areas of significance to Maaori. It is my understanding that Section 33 – Transfer of powers of the RMA (1991) refers to the transfer of functions, powers or duties, rather than vesting of land per se. Developers can always offer up land to iwi through the consent process and iwi would be best placed to negotiate appropriate vesting in their ownership in their discussions with the consent applicants. Accordingly, I do not consider it necessary to amend the PDP as the process and ability for land to go into the ownership of iwi already exists.

56. With respect to Waikato District Health Board [923.129], their submission seeks to retain as notified Policy 8.1.2 - Policies – Provision, use and development of public open space and reserves. As I have recommended an amendment to this policy, I am not fully agreeable to the relief sought.

4.5.4 Recommendations

57. For the reasons above I recommend that the Hearings Panel:

- (a) **Reject** Adrian Morton [499.15] and Mercury NZ Limited [FS1387.505]
- (b) **Reject** Karen White [757.16] and Mercury NZ Limited [FS1387.1110]
- (c) **Accept in part** Counties Manukau Police [297.47] to the extent that the submission seeks inclusion of the principles of Crime Prevention Through Environmental Design (CPTED) and **Reject** Mercury NZ Limited [FS1386.317]
- (d) **Reject** KiwiRail Holdings Limited (KiwiRail) [986.75]
- (e) **Reject** Paula Dudley [328.10]
- (f) **Reject** Tainui o Tainui [942.65]
- (g) **Accept in part** Waikato District Health Board [923.129] to the extent that the submission seeks retention of the notified policy 8.1.2 except for the amendments that I have recommended and **Reject** Mercury NZ Limited [FS1387.1533]

4.5.5 Recommended amendments

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

- (a) Ensure that subdivision and development contribute 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 well-being.
- (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.

4.5.6 Section 32AA evaluation

- 58. The following points evaluate the recommended change under Section 32AA of the RMA. Of note, the original s32 report for reserves (page 20) had regard to effects on people's health and safety, so adding a reference to CPTED would be consistent with the existing text.

4.5.7 Other reasonably-practicable options

- 59. Other than recommending the amendment above, the other reasonably-practicable options are to either include the wording within the policy as sought by the submitter, include the wording in an objective or as a standalone objective, or to not have the proposed amendment wording at all (i.e. retain the status quo of the notified version).

4.5.7 Effectiveness and efficiency

- 60. While the relevant Objective (8.1.1) to this policy does not appear to have any explicit link to Crime Prevention Through Environmental Design (CPTED) currently, with the focus being on the needs of communities, there are aspects of CPTED that link to this, as public open space/reserves that are unsafe will not be used by the community and therefore will not meet those needs.

4.5.8 Costs and benefits

- 61. There is potential for additional costs on applicants for subdivision consents that involve vested reserves, as it would require an additional layer of assessment to an application and may result in design changes to the reserve itself. The amendment does not make conformance with Crime Prevention Through Environmental Design (CPTED) mandatory and as such, offers a degree of flexibility.
- 62. There are, however, likely to be wider social benefits through the reduction of crime. It may also reduce fear in people, attract people to a reserve and to help convey confidence (of a place). A good layout, as prescribed in the CPTED guidelines, may also reduce the dependency on directional signage which allows people to be more aware of their surroundings. If less crime occurs, this in itself may have positive flow-on effects for society. For example, a mugging may result in the victim having to take time off work and as such, any reduction in these types of incidents occurring will likely lead to less time taken off work. It would also free up police resourcing. Ultimately, in terms of the reserve itself, it will assist in the desirability of the reserve in attracting people to utilise it, which then has a flow on effect for people's health and wellbeing.

4.5.9 Risk of acting or not acting

- 63. 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.

4.5.10 Decision about most appropriate option

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

4.6 Policy 8.1.3 - Esplanade reserves and walkways

4.6.1 Introduction

65. Policy 8.1.3 sets out the acquisition, provision and development of esplanade reserves and walkways.

4.6.2 Submissions

66. Nine submissions were received on Policy 8.1.3 and these submissions included the seeking of retention of the policy, amendment to the policy to implement Council's Walking, Cycling and Bridle Trails strategy within existing land, request for a hui with iwi, request for exclusion of esplanade reserves for rural land and for conformance of CPTED principles.

Submission point	Submitter	Decision requested
18.2	Waikato RiverCare Incorporated	Retain Policy 8.1.3(b)(iv) Esplanade reserves and walkways
<i>FSI386.15</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 18.2</i>
830.4	Linda Silvester	Add provisions in Policy 8.1.3 Esplanade reserves and walkways that will give effect to the Waikato District Council's Walking, Cycling and Bridle Trails Strategy to create links within existing and new developments.
<i>FSI387.1340</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 830.4</i>
<i>FSI348.27</i>	<i>Perry International Trading Group Limited</i>	<i>Support submission 830.4</i>
499.16	Adrian Morton	Amend Policy 8.1.3 to add provision for new cycle/walkways, not only in major new developments but to implement to Councils Walking, Cycling and Bridle Trails strategy
<i>FSI388.506</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 499.16</i>
<i>FSI276.58</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support submission 499.16</i>
757.17	Karen White	Add provision for new cycle/walkways, not only in major new developments, to implement Council's Walking, Cycling and Bridle Trails Strategy.
<i>FSI276.57</i>	<i>Whaingaroa Environmental Defence Inc. Society</i>	<i>Support submission 757.17</i>
<i>FSI387.1111</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 757.17</i>
942.66	Tainui o Tainui	Amend Policy 8.1.3 Esplanade reserves to require that a hui be organised for Ngati Tahinga and Tainui landowners to discuss any proposed before decisions are made.

680.118	Federated Farmers of New Zealand	Amend Policy 8.1.3 Esplanade reserves and walkways, as follows: (a) <u>With the exception of subdivision in the Rural Zone, to Acquire</u> 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. AND Any consequential changes needed to give effect to this relief.
FS1387.183	Mercury NZ Limited	Oppose submission 680.118
FS1307.6	New Zealand Walking Access Commission	Oppose submission 680.118
923.130	Waikato District Health Board	Retain Policy 8.1.3 Esplanade reserves and walkways, as notified.
433.12	Auckland Waikato Fish and Game Council	Retain Policy 8.1.3 Esplanade reserves and walkways, as notified.
FS1307.4	New Zealand Walking Access Commission	Support submission 433.12
FS1223.72	Mercury NZ Limited	Support submission 433.12
297.48	Counties Manukau Police	Amend Policy 8.1.3 (b)(ii) Esplanade reserves and walkways as follows: (ii) incorporating safety and security for neighbours and walkway users <u>by conforming to the national guidelines for CPTED;</u>
FS1386.318	Mercury NZ Limited	Oppose submission 297.48

4.6.3 Analysis

67. Tainui o Tainui [942.66] seeks an amendment to Policy 8.1.3 to reflect the concerns/opposition that they have regarding the opening of the West Coast beaches in the north for vehicular access (reasoning from their original submission). The undertaking of a hui/consultation with Iwi as a part of any subdivision consent process that may result in the creation of public access is something that can be considered by the processing planner. Alternatively, it may be a matter for Council's Open Spaces Team to undertake consultation if public access were to be created by other means outside of the RMA (1991).
68. Linda Silvester [830.4], Karen White [757.17] and Adrian Morton [499.16] have all sought identical relief and have provided identical reasons for their submission points. They have stated in their submissions that 1.10.2.3 includes the strategy (Council's Walking, Cycling and Bridle Trails Strategy) but that there is no timeframe for its implementation and they go further to state that 'Without support from the District Plan it is unlikely that most of the strategy will be achieved' and 'The lack of progress indicates that opportunities are not taken with subdivisions and that more detail needs to be included in the District Plan'. Linda Silvester [830.4] is supported by Perry International Trading Group Limited [FS1348.27] as it would allow for greater enabling of cycle paths in the Rural Zone and the benefit to tourism that they give. Karen White [757.17] and Adrian Morton [499.16] are supported by Whaingaroa Environmental Defence Inc. Society

([FS1276.57] and [FS1276.58] respectively) as new cycleways are supported by the Blueprint and Raglan Naturally, while also improving health and reducing parking/congestion issues.

69. With respect to the reasons provided by the submitters, I make the following comments;
- (a) This strategy referred to by the submitters (which I have assumed is the Waikato District Council Trails Strategy 2016, Walkways, Cycleways & Bridle Trails), does not appear within 1.10.2.3 - Waikato Region strategies and plans. Despite this, I note the comments provided regarding timeframes. The strategy itself does specify a timeframe of sorts, but dictates that the priority projects will be driven by Council as funding allows (such as through the LTP) and acknowledges opportunities for individual/s or community groups to drive the development of the trails (which is not precluded under the notified rules).
 - (b) In my opinion, the Trails strategy is the main driving force to the on-going and future formation of the trails themselves and the Proposed District Plan rules regarding this are of a supporting nature. Policy 8.1.3(b) is to acquire land for trails shown on the planning maps, as well as trails identified in structure plans and the trails strategy.
 - (c) While I acknowledge the submitters' concerns, the alternative rule framework to accommodate their relief sought would be to undertake an aggressive/mandatory approach to acquiring reserves. I disagree with this approach as adding references to the PWDP mandating implementation of the trails strategy will not accelerate construction if the necessary funding is unavailable and it would unnecessarily complicate subdivision applications.
 - (d) An avenue that the submitters could go through to advance their case would be through the next LTP process.
 - (e) Accordingly, I disagree with the relief sought by the submitters.
70. Federated Farmers of New Zealand [680.118] seeks to amend Policy 8.1.3 - Esplanade reserves and walkways (a), such that it does not apply to the Rural Zone. This part of the policy details the acquisition of esplanade reserves or strips during subdivision. The submitter raises issues regarding the likely frequency that people would use the reserves/strips ("...once in their lifetimes...") along with theft and nuisance from dogs. The submitter goes further to outline maintenance issues with impacts upon land flooding, water quality and erosion and fragmentation of said reserves/strips as a result of the subdivision rule.
71. The submission also notes that; *any requirement to acquire esplanade reserves or strips should be accompanied by a strategy which identifies waterways where acquisition of esplanade reserves is a priority for the purposes listed in section 229 and 230 of the RMA.*
72. The submission is opposed by New Zealand Walking Access Commission [FS1307.6] who states that the ability to acquire esplanade strips and reserves is central to the provision of and enhancement to, public outdoor access.
73. Section 6 of the RMA states that access to and along coast lakes and rivers is a matter of national importance. The RMA section 230 requires 20m wide esplanades to be set aside from all subdivisions where allotments less than 4 ha are created. District plans can vary these requirements, including by identifying areas where council would like to consider esplanade reserve in instances over 4ha. Appendix 4 of the Proposed District Plan has identified the 'high priority areas' and these contain primarily rural zone properties where additional esplanade land may be required.

74. Issues regarding maintenance are an operational matter with the Open Spaces Team to manage and these can be assessed at time of subdivision with input from the Open Spaces Team. While there is the potential for fragmented strips/reserves to occur, the subdivision rule allows for a passive approach to acquiring reserves (as outlined previously in my report).
75. With respect to the comments on the frequency of use by the submitter, it is my opinion that those routes would be utilised much more. Speaking from my own experience as a walker/runner/photographer, I make multiple visits to the same areas if the access/tracks in question allow it. While this does open up opportunities for crime and dog attacks on stock, this does not, in my opinion, outweigh denying people the opportunity to gain access to these areas and even more so, given the direction of Part 6 of the RMA. Furthermore, it should be noted that the trails strategy to create public access has a long time frame. While esplanade sections may initially be isolated, they are expected eventually to join and make through routes and connections.
76. It should be noted that this exemption sought by the submitter is not present in any of the adjoining districts' council plans. Taking the above into consideration, I disagree with the relief sought by Federated Farmers of New Zealand [680.118].
77. Waikato District Health Board [923.130] and Auckland Waikato Fish and Game Council [433.12] both seek the retention of Policy 8.1.3 - Esplanade reserves and walkways, as notified. The New Zealand Walking Access Commission [FS1307.4] support [433.12] as it considers these are key aspects of ensuring sufficient public access. Given that I am not recommending amendments to 8.1.3, I am supportive of the relief sought by the submitters.
78. Waikato RiverCare Incorporated [18.2] seek to retain Policy 8.1.3 (b)(iv). As I have not recommended any amendments to this part of the policy, I am supportive of this submission.
79. Counties Manukau Police [297.48] request an amendment to Policy 8.1.3 to include conformance to Crime Prevention Through Environmental Design (CPTED) as part of the policy to ensure that there is an obligation to consider CPTED, reducing victimisation, making people safe and making people feel safe. I note that the submitter has made a number of requests for similar amendments across a number of policies through the PDP. While I agree with the outcomes sought by the submitter, the amendment sought as worded is effectively catered for within the existing Policy with line (b)(ii) - *incorporating safety and security for neighbours and walkway users*. In my opinion this would give the processing planner the ability to look at CPTED principles. In addition, I note that Council's Trail Strategy states on page 21 that:
- New local purpose accessway reserves will be required to be at least 7 metres wide to allow adequate space for a trail and also achieve Crime Prevention through Environmental Design principles.*
- Accordingly, I disagree with the relief sought.
80. I would like to bring to the Panel's attention an issue with Policy 8.1.3 (b)(ii) in that it is only directed at neighbours and walkway users. Given that (b) is applicable to walkways/cycle ways and bridle ways it would appear that (ii) is not catered for cycle way or bridle way users. To correct this error, it would be a case of deleting the word 'walkway' and leave (ii) worded as "...for neighbours and users;". This should be done in conjunction with the renaming of Policy 8.1.3 such that it is not exclusive to 'walkways' but also includes cycle ways and bridleways. I am uncertain as to whether or not there is scope within the Counties Manukau Police submission [297.48] to address this issue but I have highlighted these issues nevertheless.

4.6.4 Recommendations

- (a) **Accept** Waikato RiverCare Incorporated [18.2] and **Reject** Mercury NZ Limited [FS1386.15]
- (b) **Reject** Linda Silvester [830.4] and Mercury NZ Limited [FS1387.1340] and Perry International Trading Group Limited [FS1348.27]
- (c) **Reject** Adrian Morton [499.16], Mercury NZ Limited [FS1388.506] and Whaingaroa Environmental Defence Inc. Society [FS1276.58]
- (d) **Reject** Karen White [757.17], Mercury NZ Limited [FS1387.1111] and Whaingaroa Environmental Defence Inc. Society [FS1276.57]
- (e) **Reject** Tainui o Tainui [942.66]
- (f) **Reject** Federated Farmers of New Zealand [680.118], Mercury NZ Limited [FS1387.183] and New Zealand Walking Access Commission [FS1307.6]
- (g) **Accept** Waikato District Health Board [923.130]
- (h) **Accept** Auckland Waikato Fish and Game Council [433.12] and **Accept** New Zealand Walking Access Commission [FS1307.4] and **Reject** Mercury NZ Limited [FS1223.72]
- (i) **Reject** Counties Manukau Police [297.48] and Mercury NZ Limited [FS1386.318]

4.6.5 Section 32AA evaluation

81. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

4.7 Section 8.2 – Natural Values and Section 8.3 - Commercial Activities and Temporary Events

4.7.1 Introduction

82. Section 8.2 – Natural Values, sets out the need to maintain and enhance natural values for reserves during their use and development, including Outstanding Natural Landscapes (ONLs), Outstanding Natural Features (ONFs), Natural Character Areas (NCAs) and Significant Natural Areas (SNAs).
83. Objective 8.2.1 – Natural Values, sets out the need to maintain and enhance natural values for reserves.
84. Section 8.3 provides the framework for commercial activities and temporary events within the reserve zone; in particular, that they are to remain ancillary to and promote the purpose of the reserve.

4.7.2 Submissions

85. One submission seeks to retain Section 8.2 – Natural Values (as a whole), two submissions seek to retain Objective 8.2.1 – Natural values and one submission seeks to retain Section 8.3 - Commercial Activities and Temporary Events. One submission seeks to amend section 8.2.

Submission point	Submitter	Decision requested
81.225	Waikato Regional Council	Retain Section 8.2 Natural Values.
368.15	Ian McAlley	Amend Section 8.2, to clearly state it relates to existing Reserves
367.14	Mercer Residents and Ratepayers Committee	Retain Section 8.3 Commercial Activities and Temporary Events.
433.13	Auckland Waikato Fish and Game Council	Retain Objective 8.2.1 Natural values, as notified
942.64	Tainui o Tainui	No specific definition sought, but the submitter supports Objective 8.2.1 Natural Values.

4.7.3 Analysis

86. In terms of the relief sought by Waikato Regional Council [81.225], as I have recommended amendments to Policy 8.2.2, I disagree with the relief sought.
87. With respect to the relief sought by Auckland Waikato Fish and Game Council [433.13] and Tainui o Tainui [942.64], as I have not recommended any amendments to Objective 8.2.1, I am agreeable to the relief sought.
88. In the matter of the relief sought by Mercer Residents and Ratepayers Committee [367.14], I have not recommended any amendments to Section 8.3 and as such, I am supportive of the relief sought.
89. With respect to the relief sought by Ian McAlley [368.15], it is my opinion that this is unnecessary as Chapter 8 is headed as 'Reserves' and Policy 8.2 is contained within said chapter.

4.7.4 Recommendations

90. For the reasons above I recommend that the Hearings Panel:
 - (a) **Reject** Waikato Regional Council [81.225]
 - (b) **Accept** Auckland Waikato Fish and Game Council [433.13]
 - (c) **Accept** Tainui o Tainui [942.64]
 - (d) **Accept** Mercer Residents and Ratepayers Committee [367.14]
 - (e) **Reject** Ian McAlley [368.15]

4.7.5 Section 32AA evaluation

91. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

4.8 Policy 8.2.2 – Natural values

4.8.1 Introduction

92. Policy 8.2.2 – Natural Values, sets out the need to enhance natural values for reserves.

4.8.2 Submissions

93. Four submissions were received on Policy 8.2.2 – Natural values. One submission seeks the retention of the policy while three submissions seek its amendment, including that the policy is to only relate to mapped areas, deletion of the entire policy and the restriction on the protecting and enhancing of SNAs to those in district and regional strategies.

Submission point	Submitter	Decision requested
368.16	Ian McAlley	Amend Policy 8.2.2 - Natural Values, to relate to Outstanding Natural Landscapes, Outstanding Natural Features, Natural Character Areas and Significant Natural Areas that are identified on the District Plan Maps.
433.14	Auckland Waikato Fish and Game Council	Retain Policy 8.2.2 Natural values, as notified.
576.22	Transpower New Zealand Ltd	Delete Policy 8.2.2 Natural values. AND Amend the Proposed District Plan to make consequential amendments to address the matters raised in the submission.
18.3	Waikato RiverCare Incorporated	Amend Policy 8.2.2(a)(ii) as follows: (ii) protecting and enhancing Significant Natural Areas <u>as identified in regional and district strategies.</u>
<i>FS1035.2</i>	<i>Pareoranga Te Kata</i>	<i>Support submission 18.3</i>

4.8.3 Analysis

94. Ian McAlley [386.16] seeks to amend Policy 8.2.2 such that the Policy only relates to those landscapes/features and areas that are shown as such on the planning maps. In my opinion such an amendment may have undesirable consequences as it may mean that Policy 8.2.2 would not be applicable to any areas created by way of restoration, which is a key component of the policy. For example, restoration undertaken may not be shown on the planning maps as an ONL, ONF, NCA or SNA but these restorations do enhance the natural environment during the use and development of reserves. Accordingly, I disagree with the amendments sought.
95. Transpower [576.22] seeks the deletion of Policy 8.2.2 in its entirety, with the reasoning being that clauses (i) and (ii) are already contained within Chapter 3 – Natural Environments, and that (iii) does not give any recognition of the scale of the habitat or its significance. I acknowledge that Policy 8.2.2 (a) (i) and (ii) are double-ups with equivalent policies contained within Chapter 3 – Natural Environment. If the wording (or similar wording with the same effect) were to remain within Chapter, 3 then it is my opinion that 8.2.2 (i) and (ii) should be deleted. With

respect to (iii), I acknowledge the concerns expressed by the submitter and in my opinion, the policy could be worded with a bit more flexibility with the inclusion of '*where appropriate and practicable*', which would allow for recognition of the scale/significance. In addition, this flexibility would give more discretion as to where/if restoration and linking habitats were to occur.

96. Auckland Waikato Fish and Game Council [433.14] seek the retention of Policy 8.2.2 as notified. Given that I am recommending amendments to the policy, I am only agreeable to the relief sought in part.
97. With respect to the amendment sought by Waikato RiverCare Incorporated [18.3], given that I am recommending that Policy 8.2.2 (a)(ii) is to be deleted due its duplication, I do not agree with the amendment sought here. However, it could be considered as a part of the Significant Natural Areas/Landscape topics (Hearings 21 and 21A).

4.8.4 Recommendations

98. For the reasons above I recommend that the Hearings Panel:
 - (a) **Reject** Ian McAlley [368.16]
 - (b) **Accept in part** Transpower [576.22] to the extent that Policy 8.2.2 (a)(i) and (ii) are deleted and (iii) is amended.
 - (c) **Accept in part** Auckland Waikato Fish and Game Council [433.14] to the extent that Policy 8.2.2(a)(iii) is retained, except for those parts proposed to be amended.
 - (d) **Reject** Waikato RiverCare Incorporated [18.3] and Pareoranga Te Kata [FS1035.2]

4.8.5 Recommended amendments

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.

4.8.6 Section 32AA evaluation

Other reasonably-practicable options

99. With respect to the deletion of (i) and (ii), the other alternatives would be to retain the policy as notified or to insert new sections to the policy that would give effect to Objective 8.2.1.
100. With respect to additional wording to 8.2.2 (a) and (iii), the other alternatives would be to retain the policy as notified.

Effectiveness and efficiency

- 101. The proposed deletion of 8.2.2 (a)(i) and (ii) reduce duplication throughout the plan and accordingly increase the effectiveness and efficiency of the District Plan.
- 102. The remaining policy will still ensure that Objective 8.2.1 is given effect to, in particular, with regard to 'enhancement'. The inclusion of the term 'maintain' is more consistent with the wording of Objective 8.2.1 while the use of '...and/or...' is reflective of the flexibility afforded to the policy.

Costs and benefits

- 103. In my opinion there are no costs in removing the duplicated policies as any resource consent application that involved Outstanding Natural Landscapes, Outstanding Natural Features and Natural Character Areas and Significant Natural Areas would make the respective assessments through Chapter 3 – Natural Environment. The benefits to plan users are through the reduction in duplication.

Risk of acting or not acting

- 104. 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

- 105. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

5 Chapter 25 – Reserve Zone

5.1.1 Introduction

- 106. Chapter 25 contains all of the rules for the Reserve Zone. This section analyses the activity rules within the Reserve Zone and 47 submissions were received on these rules. The rules establish the activity status for land uses and therefore determine whether resource consent is required.

5.1.2 Submissions

- 107. Seven submissions were received on the entirety of Chapter 25 – Reserve Zone. Three of the submissions were from the Ngaruawahia Golf Club which seeks provisions to allow for golf courses, associated commercial activities, 'other' recreational activities or the approach undertaken by Hamilton City Council with their district plan. One submission sought the addition of a statement of purpose, one submission seeks provisions to allow for clubs to use Lakes Waahi and Kainui for selected jet ski racing events while the remaining two submissions were to correct grammatical errors.

Submission point	Submitter	Decision requested
19.2	Jet Ski Racing New Zealand Inc	Amend Section C Rules to allow approved and correctly controlled clubs to use Lakes Waahi and Kainui for selected jet ski racing events during the calendar year, excluding shooting months.
<i>FSI386.16</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 19.2</i>
194.2	Ngaruawahia Golf Club Inc	Amend Chapter 25: Reserve Zone to provide opportunities to develop land for small-scale commercial activities as a Restricted Discretionary Activity, consistent with the objectives of the Reserve Zone - Chapter 8: Reserves. OR Delete the Reserves Zone from the Proposed District Plan and replace with the approach used by Hamilton City Council which individually classifies recreation spaces according to their purpose.
<i>FSI386.189</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 194.2</i>
194.3	Ngaruawahia Golf Club Inc	Amend Chapter 25: Reserve Zone to allow other recreation activities to be accommodated as Restricted Discretionary Activities, consistent with the objectives of the Reserve Zone - Chapter 8: Reserves. OR Delete the Reserves Zone from the Proposed District Plan and replace with the approach used by Hamilton City Council which individually classifies recreation spaces according to their purpose.
<i>FSI386.190</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 194.3</i>
194.1	Ngaruawahia Golf Club Inc	Add a Permitted or Controlled Activity to Rule 25.1 Land Use - Activities for golf courses and their ancillary uses OR Delete the Reserves Zones from the Proposed District Plan and replace with the approach used by Hamilton City Council which individually classifies recreation spaces according to their purpose.
<i>FSI386.188</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 194.1</i>
923.3	Waikato District Health Board	Amend Chapter 25: Reserve Zone to add a statement of purpose and anticipated outcomes of corresponding zone or subzone, and where appropriate, make links to health and wellbeing considerations.
<i>FSI387.1480</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 923.3</i>
697.1015	Waikato District Council	Amend Chapter 25 Reserve Zone heading as follows: Chapter 25: Reserve Zone - <u>Rules</u>

FS1387.770	Mercury NZ Limited	Oppose submission 697.1015
697.1016	Waikato District Council	Amend Rule 25(2) Reserve Zone, as follows: The rules that apply to subdivision in the Reserve Zone are contained in Rule 25.4 <u>and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change (Placeholder).</u>
FS1387.771	Mercury NZ Limited	Oppose submission 697.1016

5.1.3 Analysis

108. It appears from the submission that Jet Ski Racing New Zealand Inc [19.2] is seeking the use of the lakes (Waahi and Kainui) for Jet Ski racing events. The submission states that there are resources at these sites for power boats, but jet skis are excluded, and that one of the reasons for the relief sought is ‘to get greater use of existing facilities’ and that ‘Existing conditions limit Small events to less than 500 people involved, this is in place and would not need to be altered’. In my opinion this is an operational matter for Council’s Open Spaces Team and there does not appear to be any standards of Rule 25.1.2 P4 – Permitted Activities – Temporary Event that would preclude jet ski events from occurring with the exception of (f) *Consistency with the relevant Reserve Management Plan*. I have reviewed the Operative Lake Kainui Recreation and Esplanade Reserves Management Plan (RMP) and it appears from Objective 6.2.9 – Events (of the RMP) that the rules for events on Lake Kainui are still to be established with the Lake Kainui Reserve Committee. It is my understanding from the Open Spaces Team that the Waikato Regional Safety and Navigation Bylaw prohibit the use of personal water craft (jet ski) for Lake Kainui (1.24.1(a)).
109. With respect to Lake Waahi, this appears to be managed through the General Policies RMP, which states the following:
- 6.3 Events**
- Any proposed use for special events requires due consideration of the extent of possible damage to reserves, any effects on other use or users, and any effects on adjoining land use or users, before approval is given. The Council reserves the right to close reserves or to decline applications for use where conditions warrant. Events can enhance the public use and enjoyment of reserves and contribute to the diversity and vibrancy of the community. Events with large numbers of people and activities can also adversely affect the park and its neighbours. Council therefore needs to retain full discretion over the number, nature and organisation of any event on Council reserves or in a Council owned/operated building or facility*
- Use of reserves for an organised event requires prior approval of the Council. See also Policy 7.2.2 Licences (other than Grazing).*
110. Sections 6.3 and 7.2.2 of the General Policies RMP include objectives and policies. Once again, this would appear to be an operational matter to be addressed through the relevant Reserve Management Plan(s) and not through explicit rules or provisions.
111. I note that the lakes in question are zoned Rural with some margin areas zoned as Reserve, as shown in Figures 2 and 3 (below). As such, this submission point also needs to be addressed as a part of the Rural Land use topic (Hearing 18), as the notified temporary activities rule (22.1.2 – P2) specifies a maximum number of 3 events per 12-month period which may be somewhat restrictive for the submitter.

112. In addition to the above, the Open Spaces Team have provided more generalised feedback that given the current structure of the notified version, the express provision for individual activities within Reserves within the Proposed Waikato District Plan may become difficult from an administrative perspective. It may be more efficient for individual activities to be addressed by way of a lease and any necessary RMP change (if necessary) rather than by way of a resource consent process. A transition to the National Planning Standards (NPS) zoning in due course may be able to cater for such activities if they fall within the relevant zones that have been specified. A wider discussion on the NPS transition is provided for further in my report.

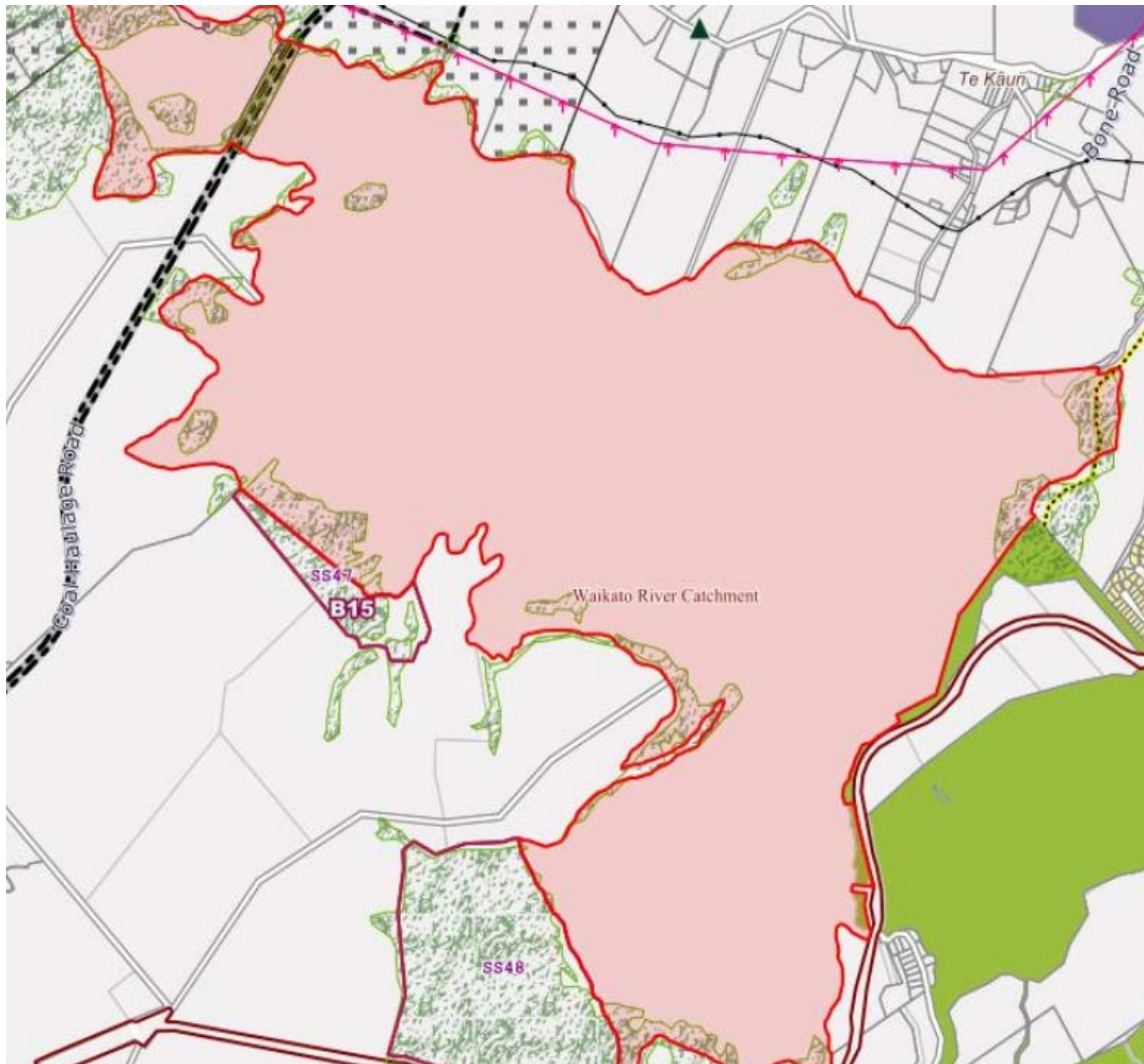


Figure 2 - Lake Waahi (outlined red). The lake is zoned Rural with the exception of a small strip of Reserve zoning on the south-eastern edge

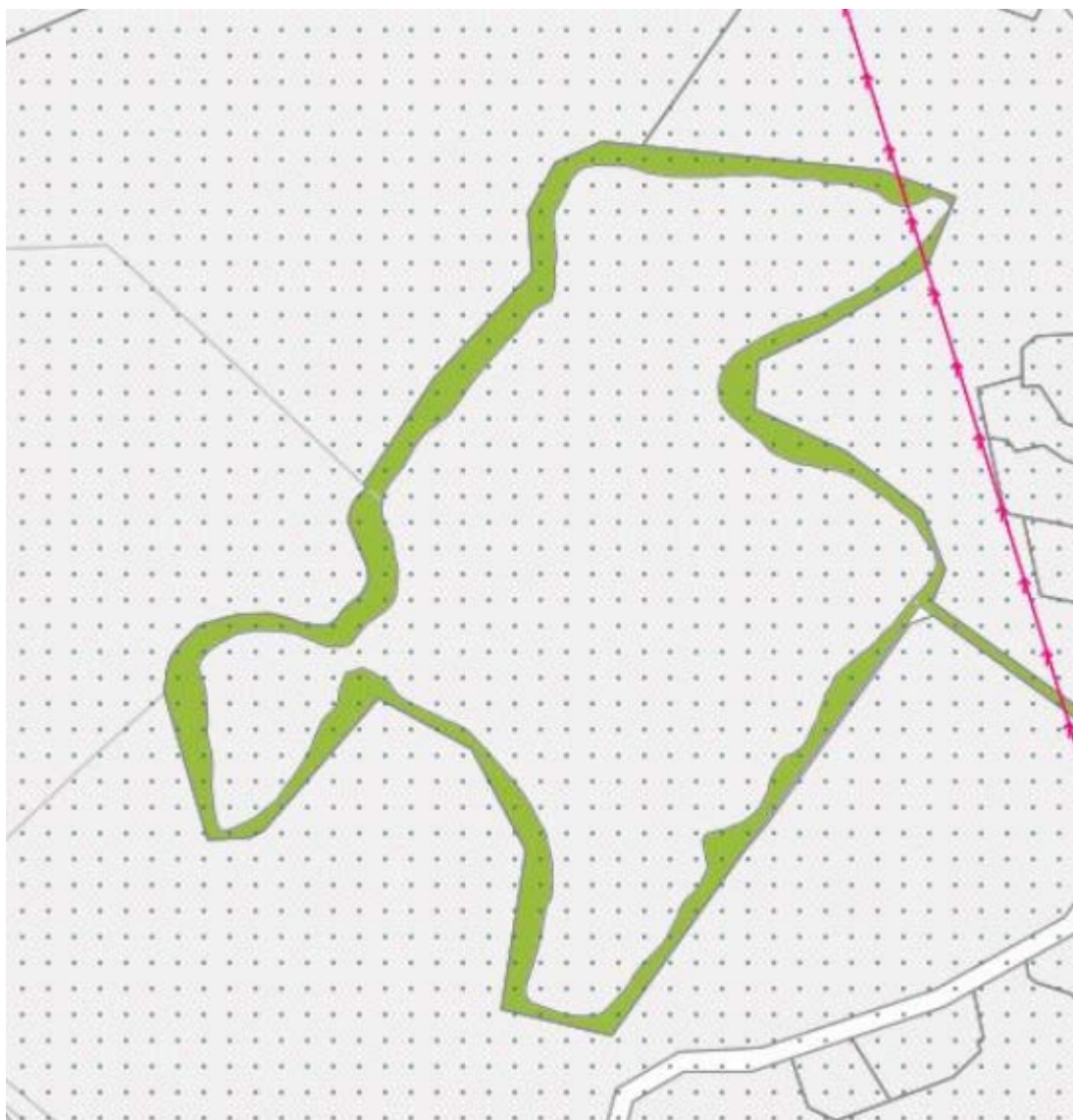


Figure 3 - Lake Kainui, Reserve zoning along the edges and a Rural zoning for the lake itself.

113. With respect to Ngaruawahia Golf Club Inc [194.2], the submitter states in their submission that they seek the formalisation of the existing driving range to include a small number of fee paying participants along with club members. The submitter raises concerns regarding the Non-Complying activity status under the notified provisions. The fee paying aspect means that it would be a commercial activity.
114. As background, the site is classified as a Reserve under the Reserves Act 1977. The site is currently leased by Ngaruawahia Golf Club from Waikato District Council. The golf club use the land as a golf course and utilise the building on site as a club house for golf club members, and also operate a retail golf shop and café, both of which are open to the public. Extensive car parking is provided on site, located in close proximity to the building used as the club house, retail shop and café. The course was established on the present site in 1964 as a 9-hole course within the Ngaruawahia Race Course. It was developed into the present 18-hole course in 1971.
115. The submitter presents a number of reasons for their relief sought, including a concern around the lack of flexibility in the plan (for small scale commercial activities), the lack of a reserve

management plan for the Ngaruawahia Golf Club and whether the use of Reserve Management Plans in general are the most appropriate given that they sit outside of the RMA.

- I 16. I note that while the Ngaruawahia Golf Club does not have a specific RMP for their site, the site is covered by the Sports Park RMP which specifically includes the Ngaruawahia Golf Club (2.6.6, pages 53-54). I also note that activities that are provided for in the RMP are permitted activities under Rule 25.1.2 PI (subject to compliance with the other relevant rules of Chapter 25). Accordingly, if the RMP were to be changed to reflect the desires of the Ngaruawahia Golf Club, then said commercial activities would likely be permitted. The RMP notes that there is no specific development proposed at this time (with respect to the golf course).
- I 17. I acknowledge that Objective 8.3.1/Policy 8.3.2 provides for some commercial activities:
- Objective 8.3.1 states;
- 8.3.1 Objective - Commercial activities and temporary events*
- Commercial activities and temporary events remain ancillary to, and promote the purpose of, the reserve.*
- And this objective is supported by Policy 8.3.2 (with respect to commercial activities);
- 8.3.2 Policy - Commercial activities*
- a) Restrict the scale, type and extent of commercial activities on reserves to:
- i. those compatible with the reserve's primary use; and
- ii. those compatible with surrounding residential amenity values.
- I 18. Despite this though, Rule 25.1.4 provides that any commercial activity/other recreational activity aside from 'informal recreation' that is not within a RMP is automatically a Non-Complying activity.
- I 19. Giles Boundy (former WDC Senior Environmental Planner), who was one of the authors involved in the drafting of the Reserve Zone provisions has advised me that the Objective 8.3.1 and Policy 8.3.2 (with respect to commercial), were to address temporary commercial (such as coffee carts), and to provide direction when addressing any instances of a full-blown commercial activity (a) where there is no reserve management plan in place and (b) where a reserve management plan doesn't cover such uses.
- I 20. In addition, Council's Open Spaces Team has provided the following comments on this matter;
- Providing a blanket rule in the District Plan for 'small scale commercial activities' sounds somewhat problematic - This is primarily because it would apply to the entire Reserve Section of the DP. We know that there are many different classifications of reserve, or reserves that are correctly classified, but are not appropriate for any commercial development zoned Reserve under this Section. This would also require every corresponding RMP to specifically state otherwise to ensure unwanted reserve development is appropriately administered.*
- I 21. Given the above, it would appear that the intention of Objective 8.3.1 and Policy 8.3.2 is to cover instances of either a temporary commercial activity (perhaps fitting within the temporary activity provision) or for those instances where a Non-Complying activity is sought if said commercial activity were not within an RMP. Going forward, I would anticipate that a future plan change (to give effect to the directions set within the NPS on the Reserve Zone along with all of the other work that will be required, such as updates to the RMPs), will likely address the

submitter's concerns. I provide comments regarding the NPS at the end of my report. Ultimately at this time, I disagree with the relief sought.

122. For the benefit of the submitter and their future development planning (in particular any commercial elements), I highlight below some potential hurdles.

If the activity is not in accordance with the underlying reserve classification, then it will need to go through public notification under the Reserves Act in addition to any necessary resource consents and permissions/lease arrangements with the Open Spaces Team. These additional requirements may be problematic for the Ngaruawahia Golf Club as the commercialisation of activities on their site would require the following:

- (a) Activities not in accordance with the classification require public notification or will need inclusion into an RMP which is also subject to public notification;
- (b) Change to the lease as the current lease does not allow for commercial activities and it is unclear if this can be achieved or not; and
- (c) Permission from Council as representative/landlord

Alternatively, a change to the classification of the reserve could be sought, but this would be subject to the right of First Refusal, which could be a complicated process for the Ngaruawahia Golf Club.

123. With respect to Ngaruawahia Golf Club Inc [194.3], the submitter states in their submission that the 'other recreational activities' relate to a potential future fitness suite and squash court. It is unclear from the submission as to whether the facilities would be for the exclusive use of the club members or if they would be for fee paying customers. If they are for fee paying customers then the analysis and comments made above with respect to their submission [194.2] are also applicable here.

124. If the activities were to be for the exclusive use of the club members, it would be an easier pathway if they were to go through the pathway offered by Rule 25.1.2 P1 as they would need to initiate a review of the RMP or otherwise go through a public notification process under the Reserves Act 1977. Ultimately an express provision within Chapter 25 would create additional cost and uncertainty given that the RMP would require amending anyway. As such, I am disagreeable to the relief sought.

125. With respect to the first leg of the submitter's request, (Ngaruawahia Golf Club [under 194.1]) being express provision of activities for golf courses and their ancillary uses as either permitted or controlled, it is my opinion that this approach may be problematic as it would give the signal that it is anticipated that all reserves could include golf courses and associated activities when this should not be the case. As discussed previously with respect to Jet Ski Racing New Zealand Inc submission [19.2], it is not desirable to have individual provisions for reserve users. It would be more desirable to have these areas allocated by way of the relevant NPS zone which I address further in my report. Accordingly I disagree with the relief sought.

126. I note that all three of the Ngaruawahia Golf Club submission points [194.1, 194.2 and 194.3] contain a second leg, such that they request deletion of the Reserve Zone and replacement with the zones utilised by the Hamilton City District Plan. The Hamilton City District Plan contains the following zones:

- a) Chapter 15: Open Space Zones
- b) Chapter 16: Community Facilities Zone
- c) Chapter 17: Major Facilities Zone

127. The s32 analysis looked at the potential of a range of recreation zones but stated with respect to the appropriateness that; *“This option would be complex potentially and not warranted for many reserves where a reserve management plan is in place.”* And *“This option would be less optimal as it would add administrative complexity given a more complex set of zoning across reserves.”*
128. In my view, the change to these zones would be unnecessary at this stage as they would in time be supplemented by the zones required under the NPS which is discussed at the end of my report. Taking this into account, I disagree with the relief sought.
129. With respect to the submission points from Waikato District Council [697.1015] and [697.1016], these seek amendments to clarify the rules/plan. It is my opinion that the amendments will increase the readability of the plan and as such, I am agreeable to them with the exception of [697.1016] which no longer requires the word ‘placeholder’ as Stage 2 has now been notified.
130. Waikato District Health Board [923.3] seeks amendments to Chapter 25 – Reserves to add a statement of purpose and outcomes for the zone. I note that the Hearings report for Topic 2 – All of Plan, addressed a number of identical submission points for the other zones, with only the Country Living Zone and the Reserve Zone not being addressed. It is unclear as to why these two zones were not addressed as a part of Topic 2. Despite this, I agree with the comments made by the Hearings report writer and that *‘a zone introduction/purpose is not required by the National Planning Standards and adding these to the PWDP now will be inefficient and create unnecessary rework’* and accordingly I disagree with the amendments sought.

5.1.4 Recommendations

131. For the reasons above, I recommend that the Hearings Panel:
- (a) **Reject** Jet Ski Racing New Zealand Inc [19.2] and Mercury NZ Limited [FS1386.16]
 - (b) **Reject** Ngaruawahia Golf Club Inc [194.2] and Mercury NZ Limited [FS1386.189]
 - (c) **Reject** Ngaruawahia Golf Club Inc [194.3] and Mercury NZ Limited [FS1386.190]
 - (d) **Reject** Ngaruawahia Golf Club Inc [194.1] and Mercury NZ Limited [FS1386.188]
 - (e) **Reject** Waikato District Health Board [923.3] and Mercury NZ Limited [FS1387.1480]
 - (f) **Accept** Waikato District Council [697.1015] and **Reject** Mercury NZ Limited [FS1387.770]
 - (g) **Accept in part** Waikato District Council [697.1016] and **Reject** Mercury NZ Limited [FS1387.771]

5.1.5 Recommended amendments

Chapter 25: Reserve Zone Rules

- (1) The rules that apply to activities in the Reserve 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 Zone are contained in Rule 25.4 and the relevant rules in 14 Infrastructure and Energy; and 15 Natural Hazards and Climate Change.

5.1.6 Section 32AA evaluation

132. The recommended amendments are grammatical changes to clarify the plan text without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

6 Rule 25.1.2 - Land Use Activities - Permitted activities

6.1 Introduction

133. Rule 25.1.2 sets out the permitted activities for the Reserve Zone.

6.2 Submissions

134. One submission was received which seeks amendments to correct grammatical errors.

Submission point	Submitter	Decision requested
697.1018	Waikato District Council	Amend Rule 25.1.2(1) Permitted Activities, as follows: (1) The activities listed below are permitted activities if they meet all the <u>following</u> : (a) <u>Activity-specific conditions</u> ; (b) Land Use - Effects rules in Rule 25.2 (unless the activity-specific rule and/or conditions identify a condition(s) that does not apply); (c) Land Use - Building rules in Rule 25.3 (unless the activity-specific rule and/or conditions identify a condition(s) that does not apply);. (d) Activity-specific conditions.
<i>FS1387.773</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.1018</i>

6.3 Analysis

135. Waikato District Council [697.1018], seeks amendments to clarify the rules/plan. It is my opinion that the amendments will increase the readability of the plan and as such, I am agreeable to them. There is however an additional change required to the numbering of (b) and (c) to reflect the relief sought.

6.4 Recommendations

136. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept** in part Waikato District Council [697.1018] to the extent of the relief sought and **Reject** Mercury NZ Limited [*FS1387.773*]

6.5 Recommended amendments

25.1.2 Permitted Activities

(l) The activities listed below are permitted activities if they meet all the following:

(a) Activity-specific conditions:

(~~a~~b) Land Use – Effects rules in Rule 25.2 (unless the activity-specific rule and/or conditions identify a condition(s) that does not apply);

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

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

6.6 Section 32AA evaluation

137. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

7 Rule 25.1.2 Land Use Activities - Permitted activities - P3 (A conservation activity)

7.1 Introduction

138. Rule 25.1.2 (P3) sets out a permitted activity for 'conservation activity'. A conservation activity includes the likes of walking track formation.

7.2 Submissions

139. Two submission points were received with respect to Rule 25.1.2 P3 – Conservation activity. The submissions are identical and appear to be duplicates and seek either thresholds/activity status for any associated vegetation clearance or a change to the definition.

Submission point	Submitter	Decision requested
81.243	Waikato Regional Council	Amend Rule 25.1.2 P3 Permitted Activities to include appropriate thresholds or activity status for the clearance of indigenous vegetation as a result of establishing walking, cycling tracks or accessory buildings. AND/OR Amend the definition to exclude the establishment of walkways, cycle ways and accessory buildings.
FS1223.61	Mercury NZ Limited	Support submission 81.243

81.242	Waikato Regional Council	Amend the definition of "Conservation Activity" in Chapter 13: Definitions to exclude the establishment of walkways, cycle ways and accessory buildings. AND/OR Amend Rule 25.1.2 P3 Permitted Activities to include appropriate thresholds or activity status for the clearance of indigenous vegetation as a result of establishing walking, cycling tracks or accessory buildings.
FS1051.7	Colette Shona Hanrahan	Support submission 81.242
FS1340.28	TaTa Valley Limited	Oppose submission 81.242
FS1342.23	Federated Farmers	Support, in part submission point 81.242. Provisional support is extended but more detail is required to allow a more informed decision to be made.

7.3 Analysis

140. I note the submitters concern regarding the loss of biodiversity that could occur as a result of the notified rule. However, it is important to consider that while the activity itself is permitted per se, it may still trigger consent if it involves vegetation clearance from SNA areas (Rule 25.2.8). I also acknowledge the likely low risk of vegetation clearance occurring with track formation/creation given that Council would typically seek to minimise (or avoid) the amount of indigenous clearance that occurs.
141. I have corresponded with the Waikato Regional Council regarding their submission [81.242] and [81.243] to elaborate on their position and their response was as follows:

Auckland Council Unitary Plan has some thresholds that might be helpful. The Auckland Council owns and operates a lot of regional parks and local reserves. The Unitary Plan provides for the maintenance of existing tracks as a permitted activity. It does not provide for new tracks except as a discretionary activity. This approach allows councils to carry out necessary maintenance without needing consents, but provides the opportunity for good design and for avoiding adverse effects as much as possible when putting in new tracks. In my experience parks staff are not necessarily sufficiently knowledgeable about the natural values to be able to work out the best route for new tracks in terms of minimising damage. I don't think that new tracks should be a permitted activity within indigenous vegetation in the reserves zone.

The Unitary Plan has the following permitted activity for vegetation outside the Rural Urban Boundary and for all riparian and coastal areas (my emphases) (for the avoidance of doubt – this is the yellow highlighted text shown below):

(A9) Vegetation alteration or removal for routine operation, maintenance and repair of existing tracks, lawns, gardens, fences, shelterbelts and other lawfully established activities

That clearance needs to meet the following standard:

E15.6.4. Vegetation alteration or removal for routine operation, maintenance and repair of existing tracks, lawns, gardens, fences, shelterbelts and other lawfully established activities in riparian areas, coastal areas, all zones outside the RUB and in overlays identified in Table E15.4.2 [other than the significant ecological areas in the coastal marine area – SEA-M]

- (1) Vegetation alteration or removal must be undertaken within 1m either side of existing tracks or fences.
- (2) Vegetation alteration or removal must not include trees over 6m in height, or 600mm in girth.
- (3) Vegetation alteration or removal must not result in greater than 25m² of vegetation removal from within a Significant Ecological Areas Overlay, Outstanding Natural Features Overlay, Outstanding Natural Character Overlay, High Natural Character Overlay or the Outstanding Natural Landscapes Overlay per site.
- (4) Vegetation alteration or removal must not result in greater than 50m² of vegetation removal from areas not identified as significant ecological areas per calendar year.

We would be happy with a similar approach in the Waikato District Plan.

142. I have undertaken an analysis of adjacent territorial authorities and their respective district plans and have found that a variety of rules are utilised where some (such as the Hauraki District Plan (Proposed – Appeals version)) while some other adjacent district council's have rules controlling or limiting the amount of indigenous vegetation clearance within policy areas (such as the Waipa District Plan below).

- (a) The Waipa District Plan has rules regarding the removal of indigenous vegetation for the construction of new tracks (24.4.1.1 (h)) and the following applies:

24.4.1.1	Activities	Most restrictive		Moderate restriction	Least restrictive
		Significant Natural Areas (SNAs) (Appendix N5)	Bush Stands (Appendix N8)	Biodiversity Corridors (Map 49)	District Wide indigenous Vegetation
(h)	Removal of indigenous vegetation for construction of new tracks (excluding conservation activities and the Te Awa Cycleway).	NC National or Regional SNA RD Local SNA	NC	C Where clearance is less than 1 hectare RD Where clearance is 1 hectare or more	P

The Biodiversity Corridors are between 250m-750m depending on the order of the stream/river that they are applied to. These corridors are shown on Map 49 of the Waipa District Plan.

143. I also note that rule 14.12.1 P8 permits off-road pedestrian and cycle facilities in all zones, outside identified areas such as SNAs and landscape areas. There are no thresholds for indigenous vegetation clearance in that rule. In my opinion, it would be inconsistent to have a vegetation clearance condition only for the Reserve Zone when the formation of walkways and cycleways will likely occur on land outside the Reserve Zone. There is no scope to make these consistent within either the Waikato Regional Council submission [81.242]/[81.243] or the other submissions specific to Rule 14.12.1.P8.
144. While Council does have in-house expertise on-hand to evaluate the ecological impact from establishing new tracks, it is not guaranteed that this expertise will remain with Council permanently. While this will have a financial impact upon Council due to increased costs of having to go through the consent process for track formation, it would most likely need to, regardless, due to Rule 14.12.1.8 as most of the Walkway/Cycleway/Bridleway locations are either within identified areas or will be within the setback (25.3.5.2 – Building setbacks –

Waterbodies in particular given a track will most likely be located within 32m of a river/lake/wetland).

145. In my opinion, without suitable controls/restrictions, there is the potential for adverse ecological effects to occur under the notified provisions (i.e. without any restrictions), albeit at a low chance of occurring. It is appropriate to utilise similar provisions to those contained within the Auckland Unitary Plan. I acknowledge that this will create an inconsistency with Rule 14.12.1 P8 which is undesirable but unavoidable given the scope issue identified.
146. As a consequence of the above, there will need to be an amendment to the definition of 'Conservation Activity'.
147. I also note the further submission from Federated Farmers [FS1342.23] which supports the original submission [81.243] in part, subject to more detail. TaTa Valley Limited [FS1340.28] opposes the relief sought as they are seeking 'conservation activities' within their own proposed zone. They are correct that the 'conservation activities' definition is only applicable to the Reserve Zone (as notified). However, its application as notified could result in unacceptable indigenous vegetation clearance and it is appropriate for thresholds to be applied and for a consent process to be undertaken if those thresholds are exceeded.
148. It is my opinion that the above amendments are supported by the objectives and policies contained within Chapter 3, in particular, Objective 3.1.1 – Biodiversity and ecosystems and Policy 3.1.2.

7.4 Recommendations

149. For the reasons above, I recommend that the Hearings Panel:
- (a) **Accept in part** Waikato Regional Council [81.243] to the extent that thresholds and activity statuses are applied and **Reject** Mercury NZ Limited [FS1223.62].
 - (b) **Accept in part** Waikato Regional Council [81.242] to the extent that the definition of conservation activity has been amended to reflect the changes to Rule 25.1.2 and 25.1.2A and **Accept in part** Colette Shona Hanrahan [FS1051.7], Federated Farmers [FS1342.23] and **Reject** TaTa Valley Limited [FS1340.28]

7.5 Recommended amendments

<u>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>Off-road pedestrian, 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> (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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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.

7.6 Section 32AA evaluation

7.6.1 Other reasonably-practicable options

150. With respect to other reasonably practicable options, the rule could be retained as notified which would allow for unrestricted indigenous vegetation clearance to occur for track formation or to allow for a different amount/size/girth of indigenous vegetation clearance to occur before triggering the need for resource consent.

7.6.2 Effectiveness and efficiency

151. The recommended amendments, in my view, align better with the relevant objectives and policies of both Chapter 3: Natural Environment and Chapter 8: Reserves.

7.6.3 Costs and benefits

152. The proposed amendments may result in additional cost for Council and/or community groups who are looking to construct Off-road pedestrian, cycleways and bridleways through the need to go through the resource consent process. Despite this, it is my view that this will be minimal given that the notified Chapter 14 rules will likely require resource consent regardless as Rule 14.12.1.8 requires that they are not located within an identified area and comply with the relevant setbacks for the zone. It would appear that most of the walkway/bridleway/cycleways shown on the planning maps are located within identified areas and/or would be located within the setback from water which has been notified at the same width as a theoretical esplanade reserve.

153. There are benefits for the environment, however, as this will allow for a closer evaluation and assessment of projects that involve relatively large areas of indigenous vegetation clearance.
154. In addition, the proposal rule will be nearly identical to that utilised in Auckland Council and as such, provides a unified approach to the rule, which will assist plan users.

7.6.4 Risk of acting or not acting

155. 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.

7.6.5 Decision about most appropriate option

156. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

8 Rule 25.1.2 - Land Use Activities - Permitted activities - P4 (Temporary event)

8.1 Introduction

157. Rule 25.1.2 (P4) sets out a permitted activity for 'temporary event'.

8.2 Submissions

158. Three submissions were received on Rule 25.1.2 P4 – Temporary event. One submission seeks the differentiation of summer events for reserves. One submission seeks traffic restrictions for temporary events and the other is for grammatical corrections.

Submission point	Submitter	Decision requested
831.52	Raglan Naturally	Amend Rule 25.1.2 P4 (a) Permitted Activities to differentiate between summer events and other events.
742.156	New Zealand Transport Agency	Retain Rule 25.1.2 P4 Temporary events, except for the amendments sought below AND Add a new condition to Rule 25.1.2 P4 Permitted Activity - Temporary Event, as follows: <u>(g) There is a maximum of 100 vehicle movements per day, and no more than 15% of these are heavy vehicle movements.</u> AND Add a new Restricted Discretionary Activity rule for temporary activities not complying with 25.1.2 P4(g), with discretion restricted to the effects on the safety

		and efficiency of the transport network; OR Amend Rule 14.12.1.4 Transportation - Permitted Activities, by adding a threshold for traffic generation within the Reserve Zone. AND Request any consequential changes necessary to give effect to the relief sought in the submission
<i>FSI387.891</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 742.156</i>
697.1019	Waikato District Council	Amend Rule 25.1.2 P4 Temporary event, as follows: (a) The event occurs no more than 15 times per calendar year <u>consecutive 12 month period:...</u> (d) The site is returned to its original <u>previous</u> condition no more than 3 days after the end of the event:...
<i>FSI387.774</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.1019</i>
<i>FSI264.30</i>	<i>Bootleg Brewery</i>	<i>Seek that either the submission point is disallowed OR The Matangi site is excluded/exempt from these rules, on the basis effects from the operation of the site on local community are addressed through a bespoke precinct zone, commercial agreement, or effects are negligible and there is no need to apply a restriction.</i>

8.2.1 Submissions deferred from other topics

159. Hearing 12 – Country Living Zone, deferred the following submission point to this topic:

Submission point	Submitter	Decision requested
328.6	Paula Dudley	Amend Rule 23.1.1 P3 (c) Permitted Activities for Operating hours of temporary events to be shortened with some flexibility during daylight savings.
<i>FSI386.897</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 328.6</i>

8.2.3 Analysis

160. Raglan Naturally [831.52] seek an amendment to the Temporary Activity rule (25.1.2 P4 (a)) to differentiate between summer events and those held during the remainder of the year. They have noted 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”. While I generally agree with the submitter in this regard for Raglan’s reserves (Wainui Reserve in particular with commercial type events), it is my opinion that in the short term, this would be better addressed through the relevant reserve management plans (RMP) as this would allow for a bespoke approach to the management of events within reserves. In the long term it may be addressed as a part of a future plan change to give effect to the NPS.

161. This issue detailed by the submitter is one that the Open Spaces Team are aware of and Council is currently undertaking the Raglan Coastal Reserves Management Plan which will touch on some aspects of the issues created by summer events. In addition, Council's Community Venues and Events Team also consider event spacing/timing in their decision-making process. Accordingly, it is my opinion that the matters raised by the submitter are addressed by the operational staff at Waikato District Council and an amendment to the rule is unnecessary.
162. New Zealand Transport Agency [742.156] are seeking an additional standard to the Temporary Activity rule (and associated matters of restricted discretion) to restrict the number of vehicle movements to a maximum of 100 of which no more than 15% are heavy vehicle movements per day. It would appear that this is a replication of Rule 14.12.1.4 with respects to the Residential and Village Zones. As such this would appear to be a fairly onerous restriction to be imposed. In addition, this process is effectively already undertaken by Councils events team where there is a requirement for Traffic Management Plans to be provided to Council prior to an event if it were to create 'unusually high volumes of traffic' and has to be approved by Council. Accordingly it is unnecessary to duplicate the process by way of a resource consent process and ultimately I disagree with the relief sought.
163. With respect to Waikato District Council [697.1019], it is my opinion that the amendments sought are appropriate as they increase the usability of the rule. However, it also requires the deletion of 'calendar year' to read correctly. With respect to the further submission by Bootleg Brewery [FS/264.30], it is unclear as to how an amendment to a Reserve zone rule will impact upon their site, which itself is zoned Industrial. Accordingly, I invite the submitter to provide evidence and/or reasoning as to how the proposed amendments will "unnecessarily restrict or result in additional cost to operators, which there is no significant adverse effect to be managed. The anticipated effects are either negligible or can be managed through commercial outcomes. On this basis, the proposed rules will have a negative effect on economic growth and regeneration of the site, which will benefit the local community."
164. With respect to Paula Dudley [328.6], the submitter states in their reasons in their submission;
Safety concerns with public entry and activity(s) on neighbouring historical reserve to property owners and residents.
165. The s42A report writer for Hearing 12 - Country Living Zone, stated in their analysis (paragraph 216):
Paula Dudley [328.6] seeks to shorten the hours of temporary events. The reason provided in the submission is in relation to safety concerns for residences neighbouring reserves and the public use of the reserve. I note that although Ms Dudley's submission is on the Country Living Zone rule, the concerns stem from use of a public reserve for temporary events. The use of a reserve is managed under the Reserve Zone, and not managed through the Country Living Zone. Although I have addressed the submission point in my report, the submission point will be addressed in Hearing 16 relating to the Reserve Zone. However, I consider that the hours of operation as the rule was notified are sensible in the approach where a temporary event can only occur up to three times a year, and only operate until 8:30pm. I consider this is not unreasonable and allows members of the communities to come together. In relation to the safety aspect, I consider this to be a policing matter. I recommend that the panel reject Paula Dudley [328.6], and that this matter is more fully explored in Hearing 16.

166. I have addressed another submission point by Paula Dudley [328.10] previously in my report with respect to amendments sought on Policy 8.1.2 (b)(iv) where I note that the neighbouring historical reserve of concern to the submitter is to be administered by NZTA and is not zoned as Reserve. Even if it was zoned Reserve, I concur with the s42A report writer for Hearing 12 - Country Living Zone in their analysis, as Council's events team consider event hours in their decision-making process and security is a policing matter. Accordingly, it is my opinion that the matters raised by the submitter are addressed by the operational staff at Waikato District Council and an amendment to the rule is unnecessary.

8.2.4 Recommendations

167. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Raglan Naturally [831.52]
 - (b) **Reject** New Zealand Transport Agency [742.156] and Mercury NZ Limited [FS1387.891]
 - (c) **Accept in part** Waikato District Council [697.1019] to the extent of the amendment sought exclusive of other changes required and **Reject** Mercury NZ Limited [FS1387.774] and **Reject in part** Bootleg Brewery [FS1264.30]
 - (d) **Reject** deferred submission - Paula Dudley [328.6] and Mercury NZ Limited [FS1386.897]

8.2.5 Recommended amendments

P4	Temporary event	<ul style="list-style-type: none">(a) The event occurs no more than 15 times per calendar year consecutive 12-month period;(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.
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8.2.6 Section 32AA evaluation

168. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

9 Chapter 8/Rule 25.1 – Land Use Activities – Educational Facilities

9.1 Introduction

169. The Reserve Zone as notified has no express provision for educational facilities, although there are pathways by way of a permitted activity (if it is in an RMP) or as a Non-Complying activity.

9.2 Submissions

170. Two submission points have been received with respect to educational facilities, with one seeking a provision for such activities and the other seeking a supporting policy.

Submission point	Submitter	Decision requested
781.17	Ministry of Education	<p>Add a new Restricted Discretionary Activity rule to Rule 25.1 Land Use - Activities as follows:</p> <p><u>25.1.3 Restricted Discretionary Activities</u></p> <p><u>(1) The activities listed below are restricted discretionary activities</u></p> <p><u>(2) Discretion to grant or decline consent and impose conditions is restricted to the matters of discretion set out in the following table:</u></p> <p>Activity</p> <p><u>RDI Education facilities</u></p> <p>Council's discretion shall be restricted to the following matters:</p> <p><u>The extent to which it is necessary to locate the activity in the Reserve Zone.</u></p> <p><u>Reverse sensitivity effects of adjacent activities.</u></p> <p><u>The extent to which the activity may adversely impact on the transport network.</u></p> <p><u>The extent to which the activity may adversely impact on the streetscape.</u></p> <p><u>The extent to which the activity may adversely impact on the noise environment.</u></p>
<i>FS1387.1221</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 781.17</i>
<i>FS1333.24</i>	<i>Fonterra Limited</i>	<i>Oppose submission 781.17</i>
781.5	Ministry of Education	<p>Add a new policy to Chapter 8: Reserves to provide for education facilities in reserves as follows:</p> <p><u>Policy - Education Facilities and Reserves</u></p> <p><u>Allow activities which are compatible with the role, function and predominant character of the Reserves, while managing the effects of the</u></p>

		<u>activities on the environment, including: Education facilities</u>
FS1387.1214	Mercury NZ Limited	Oppose submission 781.5

9.3 Analysis

171. In terms of the Ministry of Education submission points [781.17] and [781.5], the submitter seeks the inclusion of a provision and a supporting policy for education facilities to be provided for as a Restricted Discretionary Activity within the Reserve Zone. It is my opinion, however, that the Reserve Zone is an inappropriate location for such facilities given the recommended amendment proposed by the Hearing 5 (Definitions) authors where 'Educational facility' has the following meaning;

"means land or buildings used for teaching or training by childcare services, schools, and tertiary education services, including any ancillary activities."

172. It would be more appropriate for these types of activities to be provided for within areas such as the Residential and Village Zones. In addition to this, it is likely that the classification of the land may make the locating of such activities within Reserve-zoned land problematic as 'Educational facility' will likely have limited recreation ability, which may cause issues depending on the reserve classification. I note that the General Policies RMP discusses childcare facilities as below:

7.0 Occupation of reserves

7.1 Multipurpose facilities

Some existing reserve facilities could sustain higher levels of use, and the sharing of such facilities would prevent unnecessary duplication and cost.

Sub-letting of facilities by sports bodies can generate revenue and spread the load of paying for overheads such as power. Such uses must however be consistent with the purposes for which the reserve is held. For example, commercial activities such as offices may not be appropriate on recreation reserves whereas a childcare facility may be if it can be demonstrated that the facility is ancillary to the use of the reserve (i.e. children are cared for while caregivers use the reserve). Other than in this case, commercial child care facilities and kindergartens are generally incompatible with the purpose for which Council administers the reserve.

173. The important part of the above wording is 'Such uses must however be consistent with the purposes for which the reserve is held'. In a hypothetical scenario, a childcare might be established at The Dr John Lightbody Reserve and the Tuakau Sports Club, which has an existing lease and has the underlying reserve classification of recreation.
174. In this case, the reserve users could be the club members training at the Sports Club situated on the reserve. These users are undertaking an activity of recreation while their children (and only their children) are cared for on-site (at a hypothetical childcare facility). This facility allows the players to continue their recreational activities on the reserve without detracting from its underlying purpose (Recreation). A legal concession for this facility would still need to be approved and processed by the appropriate Council staff.
175. It would be preferable that if the Ministry of Education desired an educational facility to occur in the Reserve Zone, it went through the Reserve Management Plan process under the Reserves Act and the associated notification that would likely occur. Alternatively, allowance could be

made for its assessment on a case by case basis through the consent process as a Non-Complying Activity.

176. Fonterra Limited [FS1333.24] has opposed the Ministry of Education submission [781.17] due to concerns over potential reverse-sensitive effects from the Rototuna Recreation Reserve, which is located in close proximity to their Te Rapa Dairy Factory site. It would appear that the only area of Reserve zoned land under the PDP within close proximity of the Te Rapa Dairy Factory is the Horsham Downs Golf Club. Despite this, while I am agreeable with the submitter in their opposition to the original submission, given my recommendation to reject the relief sought, it should be noted that one of the matters of restricted discretion that was proposed by the submitter includes 'reverse sensitivity', which would primarily address this concern.

9.4 Recommendations

177. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Ministry of Education [781.17] and Mercury NZ Limited [FS1387.1221] and Fonterra Limited [FS1333.24]
 - (b) **Reject** Ministry of Education [781.5] and Mercury NZ Limited [FS1387.1214]

9.5 Recommended amendments

178. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

10 Rule 25.1.3 – Discretionary Activities

10.1 Introduction

179. Rule 25.1.3 sets out the Discretionary activities for the Reserve Zone.

10.2 Submissions

180. Two submissions were received on Rule 25.1.3 to correct grammatical errors.

Submission point	Submitter	Decision requested
697.1020	Waikato District Council	Amend Rule 25.1.3 Discretionary activities, as follows: Any permitted activity that does not comply with <u>one or more</u> any activity-specific conditions in Rule 25.1.2
697.1021	Waikato District Council	Delete Rule 25.1.3(D2), Discretionary Activities.
FS1387.775	Mercury NZ Limited	Oppose submission 697.1021

10.3 Analysis

181. With respect to the submission points from Waikato District Council [697.1020] and [697.1021], these seek amendments to clarify the rules/plan. It is my opinion that the amendments will increase the readability of the plan and as such, I am agreeable to them.

10.4 Recommendations

182. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept** Waikato District Council [697.1020]
- (b) **Accept** Waikato District Council [697.1021] and **Reject** Mercury NZ Limited [FS1387.775]

10.5 Recommended amendments

25.1.3 Discretionary Activities

- (1) 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 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.

10.6 Section 32AA evaluation

183. The recommended amendments are grammatical changes to clarify the plan text without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

11 Rule 25.1.1 – Land Use Activities - Prohibited activities

11.1 Introduction

184. Rule 25.1.1 sets out the Prohibited activities for the Reserve Zone.

11.2 Submissions

185. One submission was received on Rule 25.1.1 to correct grammatical errors.

Submission point	Submitter	Decision requested
697.1017	Waikato District Council	Amend Rule 25.1.1 PRI Prohibited activities, as follows: Any building, structure, objects or vegetation that obscures the sight lines of the Raglan navigation beacons <u>for vessels entering Whaingaroa</u>

		(Raglan Harbour) (refer to as identified in Appendix 7) (Raglan Navigation Beacon) for vessels entering Raglan Harbour (Whaingaroa).
FSI387.772	Mercury NZ Limited	Oppose submission 697.1017

11.3 Analysis

186. With respect to Waikato District Council [697.1017], this submission seeks amendments to clarify the rules/plan. It is my opinion that the amendments will increase the readability of the plan and as such, I am agreeable to them. It would also be consistent with the notified rule 16.1.1 – Prohibited Activities, contained within Chapter 16: Residential Zone. I note that the navigation beacon policy area includes Reserve Zone land.

11.4 Recommendations

187. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Waikato District Council [697.1017] and **Reject** Mercury NZ Limited [FSI387.772]

11.5 Recommended amendments

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:

PRI	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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11.6 Section 32AA evaluation

188. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

12 Rule 25.2.1.1 – Noise

12.1 Introduction

189. Rule 25.2.1.1 – Noise, sets out the permitted levels and measurement requirements/assessment.

12.2 Submissions

190. Three submissions have been received on Rule 25.2.1.1 – Noise. One submission seeks amendments for a number of technical matters while the other two submissions seek amendments to correct grammatical errors.

Submission point	Submitter	Decision requested
923.164	Waikato District Health Board	<p>Amend Rule 25.2.1.1 P1, P2, P3, P4, and D1 Noise - General, as follows:</p> <p>P1</p> <p>(a) Crowd noise, <u>excluding any amplified sound or music;</u></p> <p>(b) Noise generated by emergency generators and emergency sirens.</p> <p>P2</p> <p><u>Sound received outside the Reserve Zone, 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 the site where sound is received.</u></p> <p>(a) Noise measured within the notional boundary on any site in the Residential Zone, Village Zone, Country Living Zone and Rural Zone must not exceed:</p> <p>(a) 50dB (LAeq), 7am to 7pm, every day;</p> <p>(ii) 45dB (LAeq), 7pm to 10pm, every day;</p> <p>(iii) 40dB (LAeq) and 65dB (LAmax), 10pm to 7am the following day;—</p> <p>P3</p> <p>(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 permitted noise levels for that zone.—</p> <p>P4</p> <p>(a) Noise levels shall be measured in accordance with the requirements of NZS 6801:2008 "Acoustics Measurement of Environmental Sound."</p> <p>(b) Noise levels shall be assessed in accordance with the requirements of NZS 6802:2008 "Acoustic Environmental Noise."</p> <p>D1</p> <p>(a) <u>Sound that is outside the scope of NZS 6802:2008 or a permitted activity standard; and</u></p> <p>(b) <u>Sound Noise that does not comply with Rule 25.2.1.1 P1, <u>or</u> P2, P3 or P4.</u></p>

697.1022	Waikato District Council	<p>Delete Rule 25.2.1.1 P3 and P4 Noise - General; AND</p> <p>Amend Rule 25.2.1.1 P2, to read as follows:</p> <p>(a) Noise measured 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 (LAeq), 7am to 7pm every day;</p> <p>(ii) 45dB (LAeq), 7pm to 10pm every day; and</p> <p>(iii) 40dB (LAeq) and 65dB (LMax), 10pm to 7am the following day.</p> <p>(b) <u>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.</u></p> <p>(c) <u>Noise levels must be measured in accordance with the requirements of NZS 6801:2008 "Acoustics - Measurement of Environmental Sound".</u></p> <p>(d) <u>Noise levels must be assessed in accordance with the requirements of NZS 6802:2008 "Acoustic- Environmental noise".</u></p> <p>AND</p> <p>Make consequential amendment to Rule 25.2.1.1 D1, as follows: Noise that does not comply with Rule 25.2.1.1 P1, P2, P3 or P4.</p>
697.1023	Waikato District Council	<p>Amend Rule 25.2.1.2 P1 Noise - Construction, as follows: (a) Construction noise must <u>not exceed</u> meet the limits in NZS 6803:1999 (Acoustics - Construction Noise); and...</p>

12.3 Analysis

191. With respect to the Waikato District Council submission points [697.1022] and [697.1023], they generally seek to clarify the rules. [697.1022] seeks to relocate the requirements of P3 and P4 into P2, of which I am generally agreeable to with additional amendments undertaken to reflect the rule format presented within Hearing 12: Country Living Zone. I note that the submission [697.1022] seeks to delete P1 and P3 but leave P2 and P4. It is not clear as to why it is proposed to delete P1, as no reasons are provided on this matter nor is it clear why P4 is proposed to remain when the same submission seeks its deletion as well. I have recommended the use of the words/letters 'P1 or P2' instead.
192. The Waikato District Health Board submission point [923.164] seeks a number of amendments to Rule 25.2.1.1 as it is their opinion that the notified rule has the following issues:
- (a) *Incorrect terminology has been used in conflict with the standards specified,*
 - (b) *No provision has been made for sound sources outside the scope of NZS 6802,*

- (c) *The measurement and assessment standards are an integral part of the noise limits and cannot be a separate permitted activity standard,*
- (d) *An exemption has been made for “crowd noise” but this could potentially permit a wider range of sounds than intended.*

193. I acknowledge that the above submission is generic across all zones and has been dealt with as a part of the Country Living Zone (Hearing 12 – section 6.3 of the s42A report and section 7 of the closing statement) where the s42A author recommended accepting the equivalent submission (in part). The author also addressed the application of the rule to different zone boundaries aspect of the submission. I agree with the report writer on these matters and, accordingly, shall not repeat them here. The addition to this is with respect to the relief sought regarding the exclusion sought for amplified sound or music for P1. In my opinion, this requested amendment is unnecessary, because the noise generated by a ‘crowd’ would typically consist of singing, cheering or clapping, rather than the crowd generating noise by way of amplified music or sound.

12.4 Recommendations

194. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept in part** Waikato District Health Board [923.164] insofar as the submission seeks to remove the noise limits and have them apply at different zone boundaries and to require sound outside the technical standard to be a Discretionary Activity.
- (b) **Accept in part** Waikato District Council [697.1022] insofar as the submission seeks to delete P3 and P4.
- (c) **Accept** Waikato District Council [697.1023]

12.5 Recommended amendments

25.2.1.1 Noise - General

P1	Crowd noise, noise generated by emergency generators and emergency sirens.
P2	<p>(a) Noise measured <u>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:</u></p> <p><u>(i) 55dB (L_{Aeq}), 7am to 7pm every day;</u></p> <p><u>(ii) 45dB (L_{Aeq}), 7pm to 10pm every day; and</u></p> <p><u>(iii) 40dB (L_{Aeq}) and 65dB (L_{Amax}), 10pm to 7am the following day.</u></p>
P3	<u>(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.</u>

P4	(a) Noise levels must be measured in accordance with the requirements of New Zealand Standard NZS 6801:2008 Acoustics – Measurement of environmental sound. (b) Noise levels must be assessed in accordance with the requirements of New Zealand Standard NZS 6802:2008 Acoustics – Environmental noise.
DI	(a) Noise that is outside the scope of NZS 6802:2008 or a permitted activity standard and; (b) Noise that does not comply with Rule 25.2.1.1 P1, or P2, P3 or P4.

25.2.1.2 Noise - Construction

PI	(a) Construction Noise must meet <u>not exceed</u> the limits in New Zealand Standard NZS 6803:1999 Acoustics – Construction noise. (b) Construction noise must be measured and assessed in accordance with the requirements of New Zealand Standard NZS6803:1999 Acoustics – Construction noise.
RDI	(a) Construction noise that does not comply with Rule 25.2.1.2 P1. (b) Council's discretion is restricted to the following matters: (i) Effects on amenity values; (ii) Hours and days of construction; (iii) Noise levels; (iv) Timing and duration; (v) Methods of construction.

12.6 Section 32AA evaluation

195. With respect to the amendment sought on Rule 25.2.1.2, the recommended amendment is a grammatical change to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.
196. With respect to the amendments on Rule 25.2.1.1 Noise – General, the s32AA evaluation has been undertaken (below).

12.6.1 Other reasonably-practicable options

197. One option is to maintain the notified version of the rule. However, incorrect terminology was used in the proposed rule. This would lead to conflict with the standard specified in the rule.

12.6.2 Effectiveness and efficiency

198. Changing the terminology within the rule will ensure consistency in application of the standard and consistency across the various zones. The recommended amendments will be the most appropriate way in giving effect to Policy 8.3.2 – Commercial activities and Policy 8.3.3 – Temporary events.

12.6.3 Costs and benefits

199. The benefits are that there will be clarity when applying the noise standard and will provide consistency with the recommendations of other s42A report writers (such as Hearing 12 – Country Living Zone).

12.6.4 Risk of acting or not acting

200. 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 rule.

12.6.5 Decision about most appropriate option

201. The recommended amendment to Rule 25.2.1.1 Noise – General is a minor and will assist in aligning the rule with the relevant policies for the Reserve Zone.

13 Rule 25.2.3 - Glare and artificial light spill

13.1 Introduction

202. Rule 25.2.3 sets restrictions on the amount of glare and artificial light spill that can occur.

13.2 Submissions

203. Two submissions were received on Rule 25.2.3. One submission sought its retention while the other sought amendments to correct grammatical errors.

Submission point	Submitter	Decision requested
742.157	New Zealand Transport Agency	Retain Rule 25.2.3 PI Glare and artificial light spill, as notified. AND Retain Rule 25.2.3 RD1 Glare and artificial light spill, as notified.
697.1024	Waikato District Council	Amend Rule 25.2.3 PI Glare and artificial light spill, as follows: (a) Illumination from glare and artificial light spill must not exceed 10 lux measured horizontally and vertically at any other site <u>zoned Residential, Village or Country Living Zone.</u>

13.3 Analysis

204. Waikato District Council [697.1024] seeks an amendment to Rule 25.2.3 - Glare and artificial light spill to provide consistency through chapters as *“The focus of the rule in the Reserve Zone should be to control light spill outside the Reserve Zone into the residential zones”*. I am agreeable to the amendments sought and the reasons provided. It is my opinion that the amendment to the rule suggested by the submitter should also include the Rangitahi Peninsula Zone which has a

small area of land bordered by a Reserve-zoned site as shown in Figure 4 (below). Accordingly, I am partially supportive of the New Zealand Transport Agency submission [742.157], as it seeks to retain Rule 25.2.3.PI as notified.

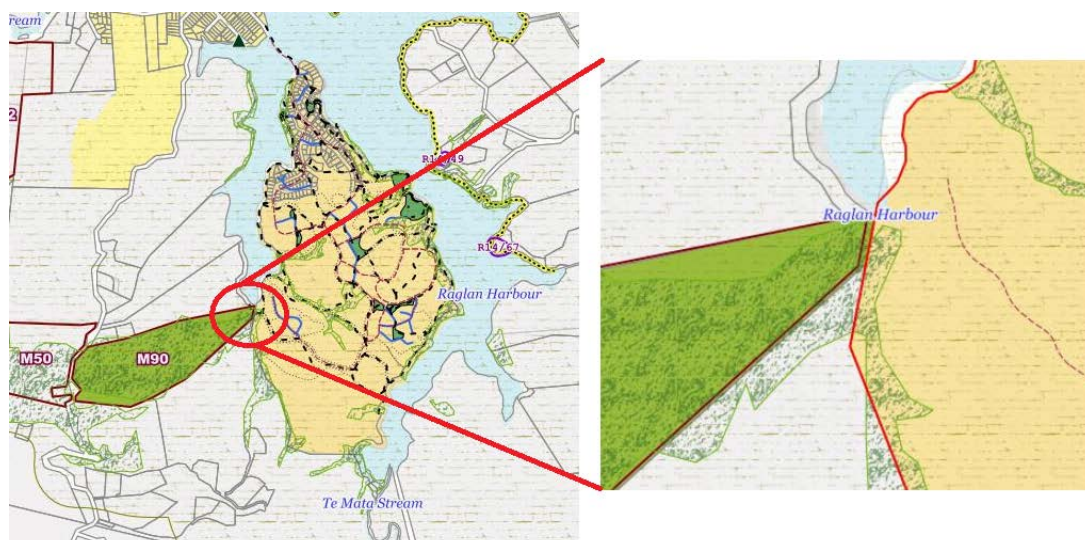


Figure 4 – Location of Rangitahi Peninsula Zone (red outline) in relation to the Reserve Zone (green).

13.4 Recommendations

205. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept in part** New Zealand Transport Agency [742.157] insofar as it relates to the wording of Rule 25.2.3 PI that is not changed by my recommended amendment.
- (b) **Accept in part** Waikato District Council [697.1024] to the extent of their amendments proposed.

13.5 Recommended amendments

25.2.3 Glare and artificial light spill

PI	<p>(a) Illumination from glare and artificial light spill must not exceed 10 lux measured horizontally and vertically at any other site <u>zoned Residential, Village, Rangitahi Peninsula or Country Living Zone.</u></p> <p>(b) Rule 25.2.3 PI (a) does not apply to streetlights, navigation lights or from vehicles or equipment used in <u>f</u>arming activities.</p>
RD1	<p>(a) Illumination from glare and artificial light spill that does not comply with Rule 25.2.3 PI.</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.

13.6 Section 32AA evaluation

206. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

14 Rule 25.2.4.1 – Earthworks

14.1 Introduction

207. Rule 25.2.4.1 sets out restrictions on earthworks activities.

14.2 Submissions

208. Five submissions were received on Rule 25.2.4.1. One submission seeks a setback from infrastructure, another seeks the change of the requirement for re-vegetation for stabilisation. Two submissions seek changes to accommodate the duplication of a national grid rule from Chapter 14 and one submission seeks a wide number of amendments to ensure that the rule is consistent with other chapters.

Submission point	Submitter	Decision requested
986.103	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 25.2.4.1 PI(a) Earthworks General as follows (or similar amendments to achieve the requested relief): (i) Be located more than 1.5m from <u>infrastructure, including</u> a public sewer, open drain, overland flow path or other service pipe AND Any consequential amendments to link and/or accommodate the requested changes.
FS1176.316	Watercare Services Ltd	<i>Support submission 986.103 in principle. However, Watercare is seeking additional changes to protect existing infrastructure.</i>
986.115	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 25.2.4.1 PI(a)(iv) Earthworks general as follows (or similar amendments to achieve the requested relief): (iv) Areas exposed by the earthworks are <u>stabilized to avoid runoff within 1 month of the cessation</u> re-vegetated to achieve 80% ground cover 6 months of the commencement of the earthworks AND Any consequential amendments to link and/or accommodate the requested changes

697.1025	Waikato District Council	Amend Rule 25.2.4(1) Earthworks, as follows: (1) Rule 25.2.4.1 - Earthworks General provides the permitted rules for earthwork activities in the Reserves Zone. <u>This rule does not apply in those areas specified in rules 25.2.4.1A, 25.2.4.2, 25.2.4.3 and 25.2.4.4.</u>
FS1350.103	Transpower New Zealand Limited	Oppose submission 697.1025
697.1026	Waikato District Council	<p>Add to Rule 25.2.4(2) Earthworks, as follows: There are specific standards for earthworks within rules: (a) Rule 25.2.4.1A - Earthworks within the National Grid Yard (a b) Rule 25.2.4.2 - Maaori Sites and Maaori Areas of Significance; (b c) Rule 25.2.4.3 - Significant Natural Areas; (c d) Rule 25.2.4.4 - Landscape and Natural Character Areas. AND Add new rule after Rule 25.2.4.1, as follows: <u>25.2.4.1A Earthworks - within the National Grid Yard P1 (a) The following earthworks within the National Grid Yard: (i)Earthworks undertaken as part of domestic cultivation; or repair, sealing or resealing of a road, footpath or driveway; (ii)Vertical holes not exceeding 500mm in diameter that are more than 1.5m from the outer edge of the pole support structure or stay wire, (iii) Earthworks for which a dispensation has been granted by Transpower under New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663. P2 (a) Earthworks activities within the National Grid Yard near National Grid support poles or any stay wires must comply with the following conditions: (i)Do not exceed a depth of 300mm within 2.2m of the pole or stay wire; and (ii)Do not exceed a depth of 750mm between 2.2m and 5m of the pole or stay wire. P3 (a) Earthworks within the National Grid Yard near National Grid support towers (including any tubular steel tower that replaces a steel lattice tower) must comply with all of the following conditions: (i) Do not exceed 300m depth within 6m of the outer edge of the visible foundation of the tower; (ii) Do not exceed 3m between 6m and 12m of the outer edge of the visible foundation of the tower; (iii) Do not compromise the stability of a National Grid support structure; (iv) Do not result in the loss of access to any National Grid support structure; and (v) Must be less than the minimum ground to conductor clearance distances in Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663. RDI (a) Earthworks within the National Grid Yard that do not comply with one or</u></p>

		<p>more of the conditions of Rules 25.2.4.1A P1, P2 or P3. (b) Discretion is restricted to: (i) Impacts on the operation, maintenance, upgrading and development of the National Grid; (ii) The risk to the structural integrity of the affected National Grid support structure(s); (iii) Any impact on the ability of the National Grid owner (Transpower) to access the National Grid; (iv) The risk of electrical hazards affecting public or individual safety, and the risk of property damage.</p>
FS1350.104	Transpower New Zealand Limited	Oppose submission 697.1026
697.1027	Waikato District Council	<p>Amend Rule 25.2.4.1 Earthworks - general, as follows: (a) Earthworks (<u>excluding the importation of fill material</u>) within a site must meet all of the following <u>conditions</u>: (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 (iii) Not exceed an area of more than 1,000m² <u>over any single consecutive 12 month period</u> within a site; (iv) 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); (v) <u>Earthworks are set back at least 1.5m from all boundaries</u>; (vi) Areas exposed by earthworks are re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vii) Sediment resulting from the earthworks is retained on the site through implementation and maintenance of erosion and sediment controls; (viii) <u>Does</u> not divert or change the nature of natural water flows, water bodies or established drainage paths; and (ix) Do not result in the site being unable to be serviced by gravity sewers. P2 <u>Earthworks for the purpose of creating a building platform within a site using imported fill material.</u> P23 (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 conditions.</u> The importation of fill material to a site must meet all of the following conditions; in addition to the conditions in P1. (i) Must Does 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 filled area in stable ground does must not exceed 1.5m with a maximum slope of 1:2 (1m vertical to 2m horizontal); (iv) <u>Fill material is setback at least 1.5m from all boundaries</u>; (v) Does not restrict the ability for land to drain; (vi) Is not located within 3m of a</p>

		<p>property boundary, with the exception of the following: A. Landscaping bunds; (b) Where a retaining wall exists, the fill is placed to the same level as the retaining wall. (v) Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vi) Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; (vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths.</p> <p>RD1 (a) Earthworks that do not comply with Rule 25.2.4.1 PI or P23. (b) Council's discretion is restricted to the following matters: (i) Amenity values and landscape effects; (ii) Volume, extent and depth of earthworks; (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. <u>NCI Importation of cleanfill to a site</u></p>
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14.3 Analysis

209. KiwiRail [986.103] also seek an amendment to Rule 25.2.4.1 PI (a)(i) so that the 1.5m setback is also from infrastructure. The submitter notes that the rail track itself is most susceptible from adverse effects if adjacent earthworks are not adequately set back. In addition, the railways are covered by designations where any activity within said designation corridor would require the approval of the requiring authority, being KiwiRail. I note that there are a number of locations (Great South Road – Ngaruawahia (Figure 5), Murphy Lane – Taupiri, Weaver Lake – Huntly, Ohinewai, Saleyard Road – Te Kauwhata, Oram Road – Meremere, Bollard Road – Tuakau and Matangi Road – Matangi) (where the railway is adjoining and generally, the railway track itself is located at least 5m from the legal boundary of the reserve-zoned land. I also consider here my recommendation on the submission by Waikato District Council [697.1027] (which I assess below) where I have recommended the inclusion of a 1.5m setback from boundaries for earthworks. As such, a 1.5m setback would achieve no additional protection. I note that Watercare [FS1176.316] support the original submission in principle. However, this does not alter my recommendation.
210. Rule 24.2.4.1 PI (a)(vi) already requires a setback from boundaries of 1.5m and as such, there is no need for the same setback from railway infrastructure. In addition, the railways are covered by designations where any activity within said designation corridor would require the approval of the requiring authority, being KiwiRail. I acknowledge that the s42A report writer for Hearings 9 (Business) and 10 (Residential) recommended that the equivalent Kiwirail submissions for this rule were to be accepted. I respectfully disagree with the position of the

s42A report writers in this regard. I further note that the author for Hearing 12 (Country Living) has recommended rejecting the same relief sought. The author provides a number of reasons for this (paragraph 334) and I agree with the reasons stated. Accordingly, I disagree with the relief sought here by KiwiRail.

211. KiwiRail [986.115] seek to amend the wording of Rule 25.2.4.1 PI (a)(iv). The relief is sought to include other methods of stabilisation, including building or hard cover development. I acknowledge that the requirement does not address situations where a building is placed on the earthworks area and, therefore in a technical regard, that requirement could never be met. Despite this, it is my opinion that it is common sense that the earthworks area underneath a building would not be subject to the requirement for re-vegetation, but there could be value in specifically excluding said areas from being subject to revegetation requirements. That would, however, fall outside the scope of the KiwiRail submission [986.115]. It is my opinion that the 80% ground cover requirement is not just for stability/runoff, but also for amenity purposes, and this would not be covered or addressed by the amendment sought by KiwiRail. I also understand that the 80% requirement is reflective of best practice. I acknowledge the comments made by the author for Hearing 12 (Country Living) in that there are other methods to stabilise earthworks, including the amendments proposed and I agree with the author in this matter. Accordingly, I am partially agreeable to the relief sought by KiwiRail.
212. With respect Waikato District Council [697.1025] and Transpower [FS1350.103], these matters have been addressed within Topic 6 – Village Zone and I agree with the recommendations made by the Hearings report author. Accordingly, it shall not be repeated here, but I highlight that I disagree with the inclusion of 25.2.4.1A, but otherwise agree with the rest of the amendments proposed in [697.1025].
213. Waikato District Council submission [697.1026] seeks to duplicate the national grid rules from Chapter 14 (mixture of rules within 14.4.1) to make them easier to find. While I agree that it is easier to find in the context of the individual zone chapter, in my opinion, it is an unnecessary duplication of rules and undermines the purpose of having the entire infrastructure and energy-related rules in one specific chapter. Alternatively, the use of hyperlinking within the final E-Plan product could achieve the same intent that the submission seeks. I note that Transpower submission [FS1350.104] opposes [697.1026] for similar reasons. Ultimately the National Planning Standards may require rearrangement of plan material at a later stage, but that would best proceed having regard to the plan as a whole.
214. Waikato District Council submission [697.1027] seeks to amend Rule 25.2.4.1 Earthworks – general as; *“This rule appears to be different from other zone chapter rules. The additional words are required to provide clarity and consistency with the other zones, reflecting activities that occur in the reserves zone. Also enabling the importation of fill for a building platform as a permitted activity”*. I agree with the reasons provided by the submitter and the proposed amendments will make the rule generally consistent with the other earthworks rules within the PDP. A number of additional grammatical amendments are required to give effect to the relief sought, namely the different amendments sought to:
 - (a) PI (a)(ii) as the rule provided in the submission for amendment does not match that of the notified version.
 - (b) Re-numbering of P3
 - (c) Additional amendment to RDI (a) to include P2
 - (d) Inclusion of (a) to NCI



Figure 5 – Location of railway (L1) in proximity to Reserve Zone (green) in Ngaruawahia

215. I note that there appear to be no, or very limited objectives/policies within Chapter 8 (e.g. Policy 8.1.2 (c)(ii)) that would correspond to the earthworks rules 25.2.4.1 Earthworks – General (P1, P2 and RD1). Accordingly, there needs to be amendments made to Chapter 8 to accommodate the amendments that I have recommended to the earthworks rule. It would be, in my opinion, appropriate to adopt Objective 4.2.14 – Earthworks and Policy 4.2.15 – Earthworks.

15.4 Recommendations

216. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** KiwiRail Holdings Limited (KiwiRail) [986.103] and Watercare Services Ltd [FS1176.316]
 - (b) **Accept in part** KiwiRail Holdings Limited (KiwiRail) [986.115] to the extent that other stabilisation methods can be undertaken
 - (c) **Accept in part** Waikato District Council [697.1025] to the extent of the amendments sought with the exception of reference to rule 25.2.4.1A and **Accept in part** Transpower New Zealand Limited [FS1350.103] to the extent that the submission opposes the inclusion of reference to rule 25.2.4.1A
 - (d) **Reject** Waikato District Council [697.1026] and **Accept** Transpower New Zealand Limited [FS1350.104]

- (e) **Accept in part** Waikato District Council [697.1027] to the extent sought by the submission, excluding the additional grammatical/numbering amendments required.

14.5 Recommended amendments

8.5 Objective – Earthworks

1. 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;
 - (iv) The importation of cleanfill is avoided in the Reserve Zone.
- (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.

25.2.4 Earthworks

- (1) Rule 25.2.4.1 – Earthworks General provides the permitted rules for earthwork activities in the Reserve 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.

25.2.4.1 Earthworks - General

PI	<p>(a) Earthworks <u>(excluding the importation of fill material)</u> within a site must meet all of the following <u>conditions</u>:</p> <ul 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 <u>within a site over a single consecutive 12-month period</u>; (iii) The height of the resulting cut, filled areas or fill batter face in stable ground, <u>not including any surcharge</u>, 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</u> not divert or change the nature of natural water flows, water bodies or established drainage paths; <u>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 conditions. The importation of fill material to a site must meet all of the following conditions, in addition to the conditions in P1.</u></p> <ul 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 slope height 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) Fill material is setback at least 1.5m from all boundaries; (v) Areas exposed by filling are revegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks; (vi) Sediment resulting from the filling is retained on the site through implementation and maintenance of erosion and sediment controls; (vii) Do not divert or change the nature of natural water flows, water bodies or established drainage paths (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: <ul 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, <u>P2</u> or <u>P23</u>.</p> <p>(b) Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (i) Amenity values and landscape effects; (ii) Volume, extent and depth of earthworks; (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.
<u>NC1</u>	<u>(a) Importation of cleanfill to a site.</u>

14.6 Section 32AA evaluation

217. With respect to the bulk of the amendments to 25.2.4.1, it is my opinion that those that are recommended provide clarification to assist with the understanding and interpretation of the rules and/or improve upon the consistency of the rules, in particular, given that the notified rule

is very different to that of the same rule contained within other zones. Accordingly, no s32AA evaluation has been required to be undertaken.

218. With respect to the consequential amendments to Chapter 8, being the additional objective and policy, it is my opinion that these amendments improve upon the usability of the plan as the notified version and ensures that the earthwork provisions are not orphan rules.

14.6.1 Other reasonably-practicable options

219. With respect to the remaining amendments that do not fall into the above, being:
- (a) Amended Rule 25.2.4.1 P3 (a) (ii – vii)
220. The alternative would be to retain the provisions as notified, or to create different conditions to address the same potential issues (such as erosion and sediment controls).

14.6.2 Effectiveness and efficiency

221. With regard to the above amendments, it is my opinion that they give effect to the additional objective and policy that I have recommended to be included as a consequential amendment.

14.6.3 Costs and benefits

222. The amendments do add additional matters of compliance for earthworks and as such, increase the likelihood that a resource consent would be required and, as such, this will impose a financial cost. Some benefits may be derived for plan users, however, as the consistency of the rule provisions (such as those around erosion and sediment controls) increase the efficiency and ease of use of the District Plan and the ability to utilise other methods of stabilisation affords plan users more flexibility.

14.6.4 Risk of acting or not acting

223. 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.

14.6.5 Decision about most appropriate option

224. The amendment is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

15 Rule 25.2.7 – Signs

15.1 Introduction

225. Rule 25.2.7 sets out controls regarding signs (general and those directed at traffic).

15.2 Submissions

226. Seven submissions were received regarding the rules contained within 25.2.7. One submission seeks an amendment to sites with road frontage, three submissions seek retention of rules, one submission seeks changes to Rule 25.2.7.2 P1 such that it includes controls on words and graphics, one submission seeks additional controls on signs near level crossings, while the other submission seeks grammatical corrections.

Submission point	Submitter	Decision requested
194.4	Ngaruawahia Golf Club Inc	Amend Rule 25.2.7 Signs to provide for 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 maximum sign area of 3m ² (or similar wording).
742.158	New Zealand Transport Agency	Retain Rule 25.2.7.1 P1 Signs - General, as notified. AND Retain Rule 25.2.7.1 RDI Signs - General, as notified.
<i>FSI 135.1</i>	<i>Ngaruawahia Golf Club Inc</i>	<i>Oppose submission 742.158</i>
742.159	New Zealand Transport Agency	Retain Rule 25.2.7.1 P2 Signs - General, as notified.
742.160	New Zealand Transport Agency	Retain Rule 25.2.7.2 P1 Signs - Effects on Traffic, except for the amendments sought below AND Amend Rule 25.2.7.2 P1 (iv) Signs - Effects on Traffic as follows: Contain no more than 40 characters and no more than 6 <u>words</u> , symbols <u>or</u> <u>graphics</u> . AND Request any consequential changes necessary to give effect to the relief sought in the submission.
<i>FSI 135.2</i>	<i>Ngaruawahia Golf Club Inc</i>	<i>Oppose submission 742.160</i>
742.161	New Zealand Transport Agency	Retain Rule 25.2.7.2 DI Signs - Effects on Traffic, as notified.
<i>FSI 135.3</i>	<i>Ngaruawahia Golf Club Inc</i>	<i>Oppose submission 742.161</i>

986.122	KiwiRail Holdings Limited (KiwiRail)	Amend Rule 25.2.7.2 P1 Signs - Effects on traffic as follows (or similar amendments to achieve the requested relief): (a) Any sign directed at road <u>land transport</u> users must: ... (iii) Not obstruct sight lines of drivers turning into or out of a site entrance and intersections or at a level crossing; AND Any consequential amendments to link and/or accommodate the requested changes.
697.1037	Waikato District Council	Amend Rule 25.2.7.1 P2(a)(viii) Signs - general, as follows: (viii) The sign is <u>for the purpose of identification and interpretation</u> not attached to of a Maaori site of significance listed in Schedule 30.3 (Maaori Sites of Significance) except for the purpose of identification and interpretation;
FS1323.92	Heritage New Zealand Pouhere Taonga	Oppose submission 697.1037

15.3 Analysis

227. Ngaruawahia Golf Club Inc [194.4] seeks amendments to the sign rule such that a new controlled activity provision is provided for non-illuminated signs of up to 3m² in size for every 150m of road frontage. The submission states that; *“Under the Proposed Rural Zoning, NGC understand that two or more signs would be deemed a Restricted Discretionary Activity, NGC consider that this is overly onerous and are of the view that provision should be made so that the number of signs on a site is dependant on the length of road frontage. The provision could be that sites with road frontage over 500 metres can install 1 non-illuminated sign per 150 meters of road frontage as a Controlled Activity, with a maximum sign area of 3 square meters”*.
228. The land is zoned as Reserve, rather than Rural and while the sign rule for the Rural Zone - Rule 22.2.6.1 P2 (a)(i) does restrict the number of signs to one per site, the equivalent rule in the Reserve Zone (25.2.7.1) has no such restrictions except that there can be one sign up to 3m² in size and an unlimited number up to 1m² in size. Given the above, I invite the submitter to elaborate as to whether or not the difference between the Rural Zone rule (to which they have appeared to base their submission off) and the equivalent Reserve Zone rule makes any difference to the amendments they are seeking. There is potential that a proliferation of signs between 1m² and 3m² (which could arise from the amendments sought) may have an impact upon character, amenity and traffic safety. Accordingly, I also invite the submitter to include in their elaboration evidence which addresses these matters as well. It should be noted that the General Policies RMP (2015) also addresses signs on reserves (section 5.7), which states (amongst other things) the following:

The use of promotional or advertising signage is one way that organisations are able to raise income over and above levying their membership. However, this situation needs to be carefully managed so that its presence does not adversely affect the amenity of the park. At present there are a number of reserves where commercial/sponsors signs dominate.

And:

That advertising billboards and other commercial signs (as defined in the Council's operative District Plan) viewed from outside the reserve be prohibited unless approved by Council as part of a naming right or in conjunction with a specific temporary event. Council will work with clubs to phase out existing signs that can be viewed from outside the reserve.

229. As such, it would appear that the relief sought is at odds with the outcome sought by the General Policies RMP (2015).
230. The New Zealand Transport Agency [746.158] seeks to retain Rules 25.2.7.1 P1 Signs and 25.2.7.1 RDI Signs. The Ngaruawahia Golf Club [FS1/35.1] opposes the submission as they are seeking an amendment to the rule. As I am not proposing amendments to either rule, I am agreeable to the relief sought by the New Zealand Transport Agency.
231. The New Zealand Transport Agency [746.159] seeks to retain Rule 25.2.7.1 P2 Signs – General. As I am not proposing amendments to either rule, I am agreeable to the relief sought by the New Zealand Transport Agency.
232. With respect to the amendments sought by The New Zealand Transport Agency [742.160], I have searched through the Traffic control devices manual 3 and can find no reference or requirement to restrict the number of graphics or words on a sign. I acknowledge that the New Zealand Transport Agency in their tabled evidence for Hearing 10 (Residential Zone) addressed this at paragraphs 5-5.7 and revised their request such that it was the following:
- Contain no more than 40 characters and no more than 6 words and/or symbols;*
233. This wording was recommended by the s42A author in the rebuttal evidence by the s42A author, although I note that the s42A author for the land use rules made specific comments in their report as to why the term 'words' was not required:
- The limit of no more than 40 characters will have the effect of limiting the number of words and hence I do not consider that the term 'word' needs to be included (paragraph 382, page 147)*
234. I respectfully disagree with the recommendations of the s42A report writer for the rebuttal evidence and agree with the comments made by the original s42A report writer with respects to the term 'words'. I invite the submitter to provide expert evidence as to why the term 'words' is required, in particular, for roads which are not state highways. I note that the The Ngaruawahia Golf Club [FS1/35.2] opposes the submission as they are seeking an amendment to the rule.
235. The New Zealand Transport Agency [746.161] seeks to retain Rule 25.2.7.2 DI Signs - Effects on Traffic. As I am not proposing amendments to either rule, I am agreeable to the relief sought by the New Zealand Transport Agency. I note that the The Ngaruawahia Golf Club [FS1/35.3] opposes the submission as they are seeking an amendment to the rule.
236. With respect to the KiwiRail submission point [986.122], I agree with the submitter's reasoning regarding the adverse effects that signs can have on train drivers/land transport users, in particular, that; *It is appropriate to restrict and prevent the placement of signs within required sight lines for vehicles access and intersections, and within the sight lines required for rail crossings.*
237. There is potential that a distracted driver (looking at a sign) may fail to then see warning signals or a train at a level crossing. In my opinion, however, the wording would be better if it read '...or at a level rail crossing'.

238. I note that this submission was made on the equivalent rules in several zones. Report writers have given differing views on the words 'land transport' or 'road user' with the preference from KiwiRail being the use of 'land transport'. At the hearing for the Village Zone (Hearing 6), I outlined my concerns regarding 'land transport', but fundamentally was not opposed to the relief sought by the submitter.
- (a) Hearing 7 – Industrial/Heavy Industrial Zones. The s42A report writer retained the wording 'road user', but recommended that the KiwiRail submission be accepted (which includes changing 'road user' to 'land transport user'). I note that the s42A report writer highlighted the definition of 'land transport' from the Land Transport Act 1998.
 - (b) Hearing 9 – Business and Business Town Centre Zones. The s42A report writer recommended the KiwiRail amendment sought for 'land transport' rather than 'road user'.
 - (c) Hearing 10 – Residential Zone. The s42A report writer recommended the KiwiRail amendment sought for 'land transport' rather than 'road user'.
 - (d) Hearing 12 – Country Living Zone. The s42A report writer recommended retaining the wording 'road user' rather than 'land transport users'.
239. From KiwiRail's legal evidence and submission, it appears that the key concern from KiwiRail is that:
- ...there is no justification for only protecting road users from the adverse effects of signs, but not other land transport users. In our submission, the safe and efficient operation of the rail network should be provided for and protected by the Proposed Plan to the same extent that the road network is.*
240. The concern from KiwiRail appears to be that the rule does not protect railway drivers/operators. If the amendment were to be undertaken, the only difference in place would be that the rule would cover situations where signs were directed at railway users (e.g. a goods locomotive or a passenger train service).
241. I note that the Land Transport (Road User) Rule 2004 defines 'road user' as; *means a driver, rider, passenger, or pedestrian.*
242. The Land Transport Act 1998 defines 'land transport' as; *means transport on land by any means and the infrastructure facilitating such transport; and includes rail, surface-effect vehicles, and harbour ferries.*
243. While I am of the opinion that 'road user' is an easier term for the District Plan user to comprehend, it does create a potential area of uncertainty for scenarios where signs are directed at railway users.
244. One potential solution to this issue is to have Rule 25.2.7.2 Signs – Effects on Traffic, worded such;
- (a) Any sign directed at road or rail users must:
245. In my opinion this solution is desirable as it keeps the language easy for District Plan users, while also ensuring that the rule covers railways.
246. Waikato District Council [697.1037] seeks to clarify the rule. It is unclear from the submission exactly how the amendments will clarify the rule, but it is my opinion that the amendments

sought would create situations where every sign has to be for the purpose of identification and interpretation in order to be permitted. I note that the s42A report writer for Hearing 12 – Country Living addressed this issue (paragraph 358) and developed wording for the rule which addressed the issues that it would have created if the relief was adopted, and I concur with the report author on the amended approach. I accordingly agree with the submission in part, with further amendments made to it to be in line with the recommendations of said author.

247. As a result, I disagree with the relief sought, as it would force nearly every sign in the Reserve Zone through the resource consent pathway. I note that Heritage New Zealand Pouhere Taonga [FS1323.92] oppose the original submission.
248. I note that there appear to be no, or very limited objectives/policies within Chapter 8 that would correspond to Rule 25.2.7.2 Signs - Effects on Traffic. Accordingly, there needs to be amendments made to Chapter 8 to accommodate the amendments that I have recommended to the sign rule if there is scope to undertake these additional amendments. It would be, in my opinion, appropriate to adopt Objective 4.4.1 – Adverse effects of land use and development (albeit with a specification such that it only relates to signs) and Policy 4.4.7 – Managing the adverse effects of signs.

8.6 Objective – Adverse effects of signs

- (a) The health and well-being of people, communities and the environment are protected from the adverse effects of signs.

8.6.1 Policy – Managing the adverse effects of signs

- (a) The location, colour, content, and appearance of signs directed at traffic and/or rail is controlled to ensure signs do not distract, confuse or obstruct motorists, pedestrians and other road users

15.4 Recommendations

249. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Ngaruawahia Golf Club Inc [194.4]
 - (b) **Accept** New Zealand Transport Agency [742.158] and **Reject** Ngaruawahia Golf Club Inc [FS1135.1]
 - (c) **Accept** New Zealand Transport Agency [742.159]
 - (d) **Reject** New Zealand Transport Agency [742.160] and **Accept** Ngaruawahia Golf Club Inc [FS1135.2]
 - (e) **Accept** New Zealand Transport Agency [742.161] and **Reject** Ngaruawahia Golf Club Inc [FS1135.3]
 - (f) **Accept in part** KiwiRail Holdings Limited (KiwiRail) [986.122] to the extent of the proposed amendments with the additional word ‘railway’ for Rule 25.2.7.2 PI (a)(iii) and the intent of the amendment sought for Rule 25.2.7.2 - PI (a).
 - (g) **Accept in part** Waikato District Council [697.1037] to the extent of the intent of the amendment sought and **Reject in part** Heritage New Zealand Pouhere Taonga [FS1323.92].

15.5 Recommended amendments

25.2.7.1 Signs - General

PI	A public information sign erected by a government agency.
P2	<p>(a) A sign must comply with all of the following conditions:</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.1m² 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 is for the purpose of identification and interpretation; (ix) The sign is set back at least 5m from the boundary of the Residential Zone and Village Zone or Country Living Zone.
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.

25.2.7.2 Signs - Effects on Traffic

PI	<p>(a) Any sign directed at road <u>and/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 level railway crossing</u>; (iv) Contain no more than 40 characters and no more than 6 symbols;
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	(v) Have lettering that is at least 200mm high; and (vi) Comply with the following where the sign directs traffic to a site entrance: 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.

15.6 Section 32AA evaluation

Other reasonably-practicable options

250. With respect to the recommended amendments to Rule 25.2.7.2 PI(a) and (a)(iii): Other reasonable options regarding this recommended amendment would be to have a rule that is specific to railways and level railway crossings, although this would result in potential duplication of rules, or to retain the notified version where there are no applicable rules in relation to railways and level railway crossings.

Effectiveness and efficiency

251. With regards to the above amendments, it is my opinion that they give effect to the additional objective and policy that I have recommended to be included as a consequential amendment.

Costs and benefits

252. There are potential costs as a result of the recommended amendments, in that people who erect signs directed at traffic and at rail users would have an additional level of compliance, compared to that of the notified wording. This may, as a result, restrict locations where they could place signs and/or require them to go through the resource consent process.
253. There are potential benefits to people and the community, as the recommended amendment would ensure that signs (directed at traffic and rail) could not be placed without resource consent in areas which would obstruct sight lines at level rail crossings. As a consequence, this increases the safety at rail level rail crossings, as drivers will have their respective sight lines clear so as to see oncoming trains. Fewer crashes at level rail crossing have not only a direct benefit for KiwiRail, but also for the wider community.

Risk of acting or not acting

254. 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

255. The amendment gives effect to the new objective and policy and it is considered to be more appropriate in achieving the purpose of the RMA than the notified version.

16 Rule 25.3.1.1 – Height and Rule 25.3.2 Daylight admission

16.1 Introduction

256. Rule 25.3.1.1 sets out the maximum height restriction while Rule 25.3.2 sets out the respective daylight admission plane.

16.2 Submissions

257. Three submissions were received on Rules 25.3.1.1 - Height and 25.3.2 – Daylight admission, all of which were regarding grammatical corrections.

Submission point	Submitter	Decision requested
697.407	Waikato District Council	Amend Rule 25.3.1.1 P1(b) Height - Building general, as follows: (b) Any building must not exceed a maximum height of 5m in any of the following landscape and natural character areas:
697.408	Waikato District Council	Amend Rule 25.3.1.1 P2 (b) Height - Building general, as follows: (b) Any floodlight must not exceed a maximum height of 5m in any of the following landscape and natural character areas:
697.410	Waikato District Council	Amend Rule 25.3.2 Daylight admission, as follows: P1 Any building must not protrude through a height control plane rising at an angle of 37 degrees commencing at an elevation of 2.5m above ground level at every point of the boundary. RD1 (a) Any building that does not comply with Rule 25.3.2 P1. (b) Council's discretion is restricted to the following matters: (i) Height of the 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 adjacent any other sites; (iv) Privacy of on other sites; (v) Amenity values of the locality.

16.3 Analysis

258. With respect to the relief sought by Waikato District Council [697.407] and [697.408], it is appropriate given that the planning maps show both 'Outstanding Natural Character Area' and High Natural Character Area' as 'Natural Character'. As such, the amendment will reduce potential confusion for plan users.
259. Waikato District Council [697.410] seeks a number of amendments to Rule 25.3.2 RD1. The inclusion of the words; 'the' to (i) and 'on' rather than 'of' for (iv) improves the readability of the rule. The proposed amendment to (iv) acknowledges that shading can extend beyond the

adjacent site. It is my opinion, however, that the term 'extent' is more appropriate than 'level'. The deletion of (iii) is appropriate as it appears to be a double up of (iv).

260. I note that other s42A authors have recommended a change to the daylight angle from 37 to 45 degrees. I do not have scope here to recommend a similar change, but it may be a matter to be addressed as a part of the integration hearing.

16.4 Recommendations

261. For the reasons above, I recommend that the Hearings Panel:

- (a) **Accept** Waikato District Council [697.407]
- (b) **Accept** Waikato District Council [697.408]
- (c) **Accept** Waikato District Council [697.410].

16.5 Recommended amendments

25.3.1.1 Height - Building general

PI	<ul style="list-style-type: none"> (a) Any building must not exceed a maximum height of 10m. (b) Any building must not exceed a maximum height of 5m in any <u>of the following landscape and natural character areas</u>: <ul 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. (c) Any building must not exceed 7.5m in a Significant Amenity Landscape.
P2	<ul style="list-style-type: none"> (a) Any floodlight must not exceed a maximum height of 12m; or (b) Any floodlight must not exceed a maximum height of 5m in any <u>of the following landscape and natural character areas</u>: <ul 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 (c) Any floodlight must not exceed 7.5m in a Significant Amenity Landscape.
DI	Any building that does not comply with a condition of Rule 25.3.1 I PI and P2.

25.3.2 Daylight admission

PI	<u>Any</u> building must not protrude through a height control plane rising at an angle of 37 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary.
RD1	<ul style="list-style-type: none"> (a) A building that does not comply with Rule 25.3.2 PI. (b) Council's discretion is restricted to the following matters:

	<ul 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 adjacent <u>any other</u> sites; (v) Privacy <u>of</u> on other site; (vi) Amenity values of the locality.
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16.6 Section 32AA evaluation

262. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

17 Rule 25.3.3 - Building coverage

17.1 Introduction

263. Rule 25.3.3 sets out the maximum building coverage for the Reserve Zone.

17.2 Submissions

264. One submission was received on Rule 25.3.3 which seeks grammatical corrections.

Submission point	Submitter	Decision requested
697.411	Waikato District Council	Amend Rule 25.3.3 Building coverage, as follows: 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
<i>FS1387.559</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.411</i>

17.3 Analysis

265. Waikato District Council [697.411] seeks amendments to improve upon the readability of Rule 25.3.3 – Building Coverage and I agree with the amendments sought as they will achieve this.

17.4 Recommendations

266. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Waikato District Council [697.411] and **Reject** Mercury NZ Limited [*FS1387.559*].

17.5 Recommended amendments

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

17.6 Section 32AA evaluation

267. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

18 Rule 25.3.5 – Building setbacks

18.1 Introduction

268. Rule 25.3.5 sets out the setbacks applicable to buildings from roads and zone boundaries.

18.2 Submissions

269. Five submissions were received on Rule 25.3.5, including two from KiwiRail seeking a specific setback from railways and related matters of discretion. Two submissions seek the duplication of the National Grid setback rules from Chapter 14 while one submission seeks the retention of the permitted rule as notified.

Submission point	Submitter	Decision requested
986.61	KiwiRail Holdings Limited (KiwiRail)	Add a new rule to Rule 25.3.5 Building setbacks as follows (or similar amendments to achieve the requested relief): <u>Building setback - railway corridor (a) any new buildings or alterations to an existing building must be setback 5 metres from any designated railway corridor boundary</u> AND Any consequential amendments to link and/or accommodate the requested changes.
FS1031.14	Chorus New Zealand Limited	Oppose submission 986.61 in part
FS1032.14	Vodafone New Zealand Limited	Oppose submission 986.61 in part
FS1033.14	Spark New Zealand Trading Limited	Oppose submission 986.61 in part
986.70	KiwiRail Holdings Limited (KiwiRail)	Add new matters of discretion relating to non-compliance with the 5m Building setback - railway

		<p>corridor (sought elsewhere in other submission points) in Rule 25.1 Land Use Activities as follows (or similar amendments to achieve the requested relief): <u>1. The size, nature and location of the buildings on the site.</u> <u>2. The extent to which the safety and efficiency of rail and road operations will be adversely affected.</u> <u>3. The outcome of any consultation with KiwiRail.</u> <u>4. Any characteristics of the proposed use that will make compliance unnecessary.</u></p> <p>AND</p> <p>Any consequential amendments to link and/or accommodate the requested changes.</p>
697.405	Waikato District Council	<p>Amend Rule 25.3.5 Land Use - Building, as follows: <u>(3) Rule 25.3.5.3 Buildings and structures within the National Grid Yard</u></p> <p>AND</p> <p>Add the following in Rule 25.3.5 Building setbacks: <u>(3) Rule 25.3.5.3 Buildings and structures within the National Grid Yard</u></p> <p>AND</p> <p>Add a new rule after Rule 25.3.5.2 as follows: <u>25.3.5.3 Buildings and structures within the National Grid Yard P1 (a) Within the National Grid yard, building alterations and additions to an existing building or structure must comply with the following conditions: (i) Not involve an increase in the building height or footprint; (ii) 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. P2 (a) Within the National Grid yard, the maximum height of fences are 2.5m within 5m from the nearest National Grid Pole or 6m from the nearest National Grid tower. P3 Within the National Grid yard, new buildings and structures that are not for a sensitive land use must comply with the following conditions: (i) 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. (ii) Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless it is: A. A building or structure where Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663. NC1 Any building alterations or additions within the National Grid Yard that does not comply with Rule 25.3.5.3 P1. NC2 Any new</u></p>

		buildings or structures within the National Grid Yard that does not comply with Rule 25.3.5.3 P2 or P3.
FS1350.121	Transpower New Zealand Limited	Oppose submission 697.405
FS1387.558	Mercury NZ Limited	Oppose submission 697.405
697.406	Waikato District Council	<p>Add to Rule 25.3.5 Building Setbacks, as follows:</p> <p>(4) Rule 25.3.5.4 Building setback - Sensitive landuses AND</p> <p>Add after new Rule 25.3.5.3: <u>25.3.5.4 Sensitive land uses P1 (a) Any building for a sensitive land use must be set back a minimum of: (i) 10m from the centre line of any electrical distribution or transmission lines, not associated with the National Grid, that operate at a voltage of up to 110kV; (ii) 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. P2 (a) Within the National Grid yard, alterations or additions to a building used for an existing sensitive land use must comply with all the following conditions: (i) Not increase the building height or footprint; and (ii) 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 (iii) Locate a minimum 12m from the outer visible foundation of any National Grid tower and locate a minimum 12m from any pole and associated stay wire, unless Transpower has given written approval in accordance with clause 2.4.1 of the New Zealand Electrical Code of Practice for Electrical Safe Distances 34:2001 ISSN 0114-0663 D1 Any building for a sensitive land use that does not comply with Rule 25.3.5.4 P1. NC1 Any activity within the National Grid Yard that does not comply with Rule 25.3.5.4 P2. NC2 Any new building for a sensitive land use within the National Grid Yard NC3 Any change of use of an existing building to a sensitive land use within the National Grid Yard NC4 The establishment of any new sensitive land use within the National Grid Yard</u></p>
FS1350.122	Transpower New Zealand Limited	Oppose submission 697.406
742.162	New Zealand Transport Agency	Retain Rule 25.3.5.1 P1 Building setbacks - General as notified.

18.3 Analysis

270. KiwiRail [986.61] seeks a 5m setback to be applied to all new buildings/alterations from the designated boundary of a railway corridor and [986.70] seeks matters of discretion for the 5m setback rule. The submitter notes that a 5m setback from all buildings would account for safety, building maintenance, vehicle maintenance and the like. I acknowledge my earlier recommendation in Topic 6: Village Zone to accept the submission from KiwiRail on an identical rule sought. Upon reflection and upon seeing the evidence and arguments come forth from the preceding hearings (such as the Industrial and Residential Zones), I have changed my mind on this matter and agree with those s42A report writers that the requested setback should not be agreed upon.
271. I note that Chorus New Zealand Limited [FS1031.14], Vodafone New Zealand Limited [FS1032.14] and Spark New Zealand Trading Limited [FS1033.14] all oppose in part, but this does not change my opinion here.
272. Waikato District Council submission points [697.405] and [697.406] seek to duplicate the national grid rules from Chapter 14 (mixture of rules within 14.4.1) to make them easier to find. While I agree that it is easier to find in the context of the individual zone chapter, in my opinion, it is an unnecessary duplication of rules and undermines the purpose of having the entire infrastructure and energy-related rules in one specific chapter. I note that submission Transpower [FS1350.121 and FS1350.122] opposes the original submissions for similar reasons. Alternatively, the use of hyperlinking within the final E-Plan product could achieve the same intent that the submission seeks.
273. With respect to the New Zealand Transport Agency [742.162], as I am not recommending any amendments to Rule 25.3.5.1 PI, I am agreeable to the relief sought.
274. While not raised by any submission, there appears to be an error with 25.3.5 – Building Setbacks (1). The text “...*Different setback distances apply based on the type of building.*” appears to be irrelevant for this particular rule as Rule 25.3.5.1 PI does not differentiate between the types of buildings.

18.4 Recommendations

275. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** KiwiRail Holdings Limited (KiwiRail) [986.61] and **Accept** Chorus New Zealand Limited [FS1031.14], Vodafone New Zealand Limited [FS1032.14] and Spark New Zealand Trading Limited [FS1033.14]
 - (b) **Reject** KiwiRail Holdings Limited (KiwiRail) [986.70]
 - (c) **Reject** Waikato District Council [697.405], **Accept** Transpower New Zealand Limited [FS1350.121] and Mercury NZ Limited [FS1387.558]
 - (d) **Reject** Waikato District Council [697.406], **Accept** Transpower New Zealand Limited [FS1350.122]
 - (e) **Accept** New Zealand Transport Agency [742.162].

18.5 Section 32AA evaluation

276. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

19 Rule 25.3.4.2 Building setbacks – Waterbodies

19.1 Introduction

277. Rule 25.3.4.2 sets out setbacks from waterbodies, including lakes, wetlands and the Waipa and Waikato Rivers.

19.2 Submissions

278. Three submissions were received on Rule 25.3.4.2. One submission sought amendments to the rule to align it with the requirements for esplanade reserves, another sought changes to ensure consistent terminology. The other sought amendments to align it with the requirements for esplanade reserves and introduce a specific rule for artificial wetlands.

Submission point	Submitter	Decision requested
697.412	Waikato District Council	Amend Rule 25.3.5.2 Building setbacks - Waterbodies, as follows: (a) Any building must be set back a minimum of 32 <u>26m</u> 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 37-31m from the banks of the Waikato River and the Waipa River. (c) Any building must be set back a minimum of: (i) 32 <u>26m</u> from mean high water springs
<i>FSI 387.560</i>	<i>Mercury NZ Limited</i>	<i>Oppose submission 697.412</i>
697.470	Waikato District Council	Amend Rule 25.3.5.2 Building setback - Waterbodies, to be consistent in terms of the terminology of structures across all zone chapters.
<i>FSI 139.18</i>	<i>Turangawaewae Trust Board</i>	<i>Oppose submission 697.470</i>
<i>FSI 108.19</i>	<i>Te Whakakitenga o Waikato Incorporated (Waikato-Tainui)</i>	<i>Oppose submission 697.470</i>
662.54	Blue Wallace Surveyors Ltd	Amend Rule 25.3.4.2 PI (a) Building setback - Waterbodies as follows: (a) Any building must be setback a minimum of: 32 from: (i) the margin of any: lake over 4ha with a bed of 8ha or more AND Amend Rule 25.3.5.2 Building setback -

		Waterbodies to require the following setback for managed wetland to match the amendments sought for other zones: (v) 10m from a managed wetland AND Any consequential amendments.
FS1387.127	Mercury NZ Limited	Oppose submission 662.54

19.3 Analysis

279. With respect to Waikato District Council [697.412], the reasoning provided in the submission for the amendment sought is to align the setback with the required widths for the esplanade reserve (20m or 25m in the case of the Waikato and Waipa Rivers) and the relevant yard setback. It appears that the notified plan has given a 'Rural' zoning to some of the lakes/rivers and streams (like Lake Waahi), some are zoned Recreation (Lake Rotokauri) while others appear to have no zone at all (upper reaches of the Waipa River). I note that Chapter 12 states that *"Lakes and rivers appear with a blue shading to assist users with orientation. Although the rivers and lakes are not given a zone shading, they are in a zone. All waterbodies are zoned Rural, except for Lake Hakanoa and Lake Puketirini, both of which are zoned Reserve and have reserve management plans applying to them."* As these areas do not appear to be zoned either Village or Residential, the relevant yard setback for a building would be 3m under Rule 25.3.5.1 PI (a) (iv) – Building setbacks – General. Accordingly, the setback for (a) should be 23m, not the 26m proposed and likewise for (b), the setback should be 28m rather than 31m and (c) should be 23m. It is my opinion that these requirements are unnecessary as you would be highly unlikely to need land for an esplanade reserve where the land in question is already zoned as Reserve.
280. It is important to note that the reason for the setback is not only for the relevant esplanade setback and the building setback, but also to protect the natural character of the coastal environment, wetlands and lakes and rivers and their margins. This particular issue has been addressed in Topic 6 – Village Zone. Without having sufficient evidence or reasoning (at the time of writing of this report), I recommend that submission point [697.412] be rejected.
281. Waikato District Council [697.470] seeks an amendment to the rule such that the terminology of structures is consistent across all zone chapters. While I agree in principle that terminology should be consistent within a plan, it is unclear from the submitter as to what the amendment may entail and, as such, I disagree with the submitter. I note that the further submission by Turangawaewae Trust Board [FS1139.18] and Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) [FS1108.19] opposes this submission as it is 'Unclear as to what is sought by the submission'.
282. The first part of Blue Wallace Surveyors Ltd [662.54] seeks a minimum size restriction to be applied to a 'Lake' before the setbacks are triggered. It is my understanding that the sizes specified in the operative rule correspond with the respective sizes specified in the esplanade reserves and esplanade strips rule. As noted in my comments above, the setback proposed also aims to protect the natural character of the coastal environment, wetlands and lakes and rivers and their margins. There is potential that if sizes were specified in the rule, a situation could arise where, incrementally, the natural character of lesser areas of lakes are permanently changed. At the time of writing I have been unable to receive expert advice on what may be an appropriate size restriction (if any) for lakes if a size limit were to be utilised, and as such, I invite the submitters to expand on their positions by providing evidence with particular regard to the natural character that the setback rule is also aimed at protecting.

283. Alternatively, this may be dealt with as a part of another zone chapter or in an overarching topic such as the integration hearing, given that there are other submission points requesting the same relief (such as [943.19] for the Rural Zone).
284. With respect to the second part of the amendment sought by Blue Wallace Surveyors Ltd [662.54], being the new clause (v), I generally agree with the submitter's reasons on this matter, and from my consenting experience I have seen consents granted that reduced setbacks to 10m. The 'managed wetlands', in my experience, have a strong artificial appearance, in particular with their shape, presence of stormwater devices and associated safety barriers (if required). While the Reserve Zone itself would be unlikely to encounter issues regarding the setback given their general open nature and numerous opportunities for building locations, it would be preferable if the rule was consistent across all zones. I note that the authors for Hearing 9, 10 and 12 have provided recommendations on the matter of the proposed 10m setback from 'managed wetlands' and those authors have been agreeable to this part of the relief sought.
285. I note that the format of the rule (25.3.5.2) is different to that of other zones (i.e. the Reserve Zone sets out '32m' within the line (a) whereas the Country Living Zone sets out the '32m' within (a)(i). While I do not have scope from the submissions here to correct this inconsistency in format, it is a matter that can be addressed within the later Integration hearing.

19.4 Recommendations

286. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Waikato District Council [697.412] and **Accept** Mercury NZ Limited [FS1387.560]
 - (b) **Reject** Waikato District Council [697.470] and **Accept** Turangawaewae Trust Board [FS1139.18] and Te Whakakitenga o Waikato Incorporated (Waikato-Tainui) [FS1108.9]
 - (c) **Accept in part** Blue Wallace Surveyors Ltd [662.54] insofar as it relates to the relief sought on 'managed wetlands' and 'artificial wetlands' and **Reject** Mercury NZ Limited [FS1387.127]

19.5 Recommended amendments

25.3.5.2 Building setbacks – Waterbodies

PI	<ul style="list-style-type: none"> (a) Any building must be set back a minimum of 32m from: <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (i) 32m from mean high water springs. (d) Conditions (a), (b) and (c) do not apply to any: <ul style="list-style-type: none"> (i) public walkway, cycle way, or bridleway; (ii) boat launching facility; (iii) pump shed up to 25m²; (iv) public amenity up to 25m².
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19.6 Section 32AA evaluation

Other reasonably-practicable options

287. Other reasonably-practicable options include the retention of the rule as notified. However, I believe this to be unreasonable in a managed wetland situation.

Effectiveness and efficiency

288. In my opinion, the proposed amendment supports a more efficient and effective use of the land than the notified rule acknowledging the lesser 'naturalness' that a managed wetland provides, whilst still linking to the relevant objectives and policies.

Costs and benefits

289. There are no additional costs, therefore costs are likely to be the same. The proposed amendment will be consistent with other amendments recommended in other zone topics and provides a consistent approach.

Risk of acting or not acting

290. The primary risk of not acting is that there may be instances where the setback rule prevents development on a site without the necessity of resource consent. There is sufficient information on the costs to the environment, and benefits to people and communities, to justify the amendment to the rules.

Decision about most appropriate option

291. The proposed amendments are considered to be more appropriate in achieving the objectives and policies for the Reserve Zone than the notified version and the purpose of the RMA.

20 Rule 25.4 – Subdivision

20.1 Introduction

292. Rule 25.4 requires any subdivision within the Reserve Zone to be a Discretionary activity.

20.2 Submissions

293. Two submissions were received on Rule 25.4 with one seeking an amendment to account for the impact on infrastructure, while the other was a grammatical correction.

Submission point	Submitter	Decision requested
405.85	Counties Power Limited	Add the following to Rule 25.4 (a) D1 Subdivision: The subdivision layout and design in regard to how this may impact on the operation, maintenance, upgrading and development of existing infrastructure assets;
697.421	Waikato District Council	Amend Rule 25.4 Subdivision heading, as follows: 25.4 Subdivision <u>Rules</u>
FS1387.561	Mercury NZ Limited	Oppose submission 405.82

20.3 Analysis

294. Counties Power Limited [405.85] seeks to add to Rule 25.4 (a) (D1) wording such that it is to prevent the assets from becoming landlocked. Similar submissions were received from Counties Power and discussed in the s42A report for Hearing 6: Subdivision/Hearing 12: Country Living. There is one important difference between these, however, in that those other requests were on subdivision rules that were Restricted Discretionary. In this instance, the rule itself as notified is Discretionary and a Consents Planner already has the ability to assess the potential adverse effects of a subdivision on the assets and Policy 6.1.17 - Reverse sensitivity and infrastructure will ensure that this is assessed as a part of the decision making process for a resource consent. Accordingly, the relief sought is unnecessary and I disagree with it.
295. With respect to Waikato District Council [405.85], the proposed amendment is to improve upon the readability of the plan and as such, I agree with the relief sought by the submitter.

20.4 Recommendations

296. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Counties Power Limited [405.85]
 - (b) **Accept** Waikato District Council [697.421] and **Reject** Mercury NZ Limited [FS1387.561]

20.5 Recommended amendments

25.4. Subdivision Rules

20.6 Section 32AA evaluation

297. The recommended amendments are grammatical changes to clarify the plan text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

21 Rule 25.5.2.1 – Signs - Tamahere Village Green

21.1 Introduction

298. Rule 25.5.2.1 sets out the restrictions on signs in the Tamahere Village Green which are largely a replication of the respective rule from the Operative Waikato District Plan.

21.2 Submissions

299. Two submissions were received on Rule 25.5.2.1, with one seeking retention and a more restrictive rule on the number of signs allowed. The other submission seeks retention of the Restricted Discretionary rule 25.5.2.1 RDI.

Submission point	Submitter	Decision requested
742.163	New Zealand Transport Agency	Retain Rule 25.5.2.1 PI Signs - Tamahere Village Green, except for the amendments sought below AND Add a new clause to Rule 25.5.2.1 PI (a) Signs - Tamahere Village Green as follows: <u>(vi) one sign per site.</u> AND Request any consequential changes necessary to give effect to the relief sought in the submission.
742.164	New Zealand Transport Agency	Retain Rule 25.5.2.1 RDI Signs as notified.

21.3 Analysis

300. New Zealand Transport Agency [742.163] seeks to restrict the number of signs that could be erected on the Tamahere Village Green to one. I note that the equivalent rule 25.2.7.1 - Signs - General does not restrict the number of signs for other Reserve zoned land. It is also worth noting that the 'Tamahere Village Green' overlay to which Rule 25.5.2.1 Signs – General pertains to a small area located behind the commercial area (shown as a teal dashed outline in Figure 14 (below)) and does not encapsulate the entire greenspace in this location. The purpose of this rule is to manage the effects from signs on the green space area that is intended to be developed as a part of the Tamahere Village Concept Area (shown in the Operative Waikato District Plan under 23B.4 – Tamahere Village Concept Plan). To avoid confusion, the Tamahere Village Green does not appear to be visible from State Highway One while the Tamahere Park is.
301. It is my understanding that the rules for the Tamahere Village Green/Tamahere Park have been replicated from the Operative Waikato District Plan (Schedule 28A). With the operative rules, the Tamahere Park (Tamahere Recreation Zone under the ODP) has the Signs – advertising signs, rule apply to it (ODP Rule 28.35) as it is not included within the exceptions list. It is clear there that ODP Rule 28A.12 is to apply to the Village Green only.

In both the Operative Waikato District Plan and the Proposed Waikato District Plan, the 'Signs – Effects on Traffic' rule applies to these areas (Rule 28.36 in the OWDP and 25.2.7.2 in the PWDP). This can create some duplication with the Tamahere Village Green, as a sign that is directed at traffic and visible from a public place would be subject to compliance with Rules 25.2.7.2 and 25.5.2.1. However, both rules look at different matters and do not appear to conflict with each other. Notably, the restriction on the number of signs from a traffic safety perspective is at odds with the notified Rule 25.2.7.2 Signs – effects on traffic where the submitter has not made any request to restrict the number of signs.

Operative Waikato District Plan:

28A.2 Rules applying in the Tamahere Recreation Zone and Village Green

In addition to the following rules, all rules in Chapter 28: Recreation Zone also apply in the Tamahere Recreation Zone except for rules 28.10, 28.38, 28.39, 28.40...

302. It appears that the Proposed District Plan has not carried this forward the same as the operative plan, in that the signs general rule (25.2.7.1) has been excluded from both Tamahere Village Green and Tamahere Park, when under the operative plan it was only excluded from the Village Green. I am uncertain as to whether or not there is scope within this topic to address this; however, it is possible that it could be addressed as a part of the integration hearing.
303. New Zealand Transport Agency [742.164] seeks the retention of Rule 25.5.2.1 RD1 Signs. As I have not recommended any amendments to this rule, I am agreeable to the relief sought.



Figure 14 – Tamahere Village Green (teal dashed outline).

21.4 Recommendations

304. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept in part** New Zealand Transport Agency [742.163] to the extent that Rule 25.5.2.1 PI is retained.
 - (b) **Accept** New Zealand Transport Agency [742.164]

21.5 Section 32AA evaluation

305. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

22 Rule 25.5.3.2 - Building - Tamahere Village Green

22.1 Introduction

306. Rule 25.5.3.2 sets out the height and building coverage restrictions for buildings in the Tamahere Village Green which are largely a replication of the respective rule from the Operative Waikato District Plan.

22.2 Submissions

307. One submission has been received seeking a grammatical correction.

Submission point	Submitter	Decision requested
697.422	Waikato District Council	Amend Rule 25.5.3.2 PI Building - Tamahere Village Green, as follows: (a) Any building in the Tamahere Village Green must comply with the following conditions: (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.

22.3 Analysis

308. Waikato District Council [697.422] seeks an amendment to Rule 25.5.3.2 - Building - Tamahere Village Green to delete PI (b). I disagree with the amendment sought as 25.5.1(e)(ii) states “Rule 25.5.3.2 Building applies instead of Rule 25.3.1 Height – General...”, and as such, the amendment would result in no height rule being applicable.

22.4 Recommendations

309. For the reasons above I recommend that the Hearings Panel:
- (a) **Reject** Waikato District Council [697.422]

23 Miscellaneous - Reserve Extent

23.1 Submissions

310. One submission has been received seeking the retention of a zone extent at a particular site.

Submission point	Submitter	Decision requested
368.35	Ian McAlley	Retain the extent of reserve proposed near 24 Wayside Road, Te Kauwhata.

23.2 Analysis

311. With respect to Ian McAlley [368.35], the reason for this submission point is;

The reserve size as shown is considered to be appropriate (subject to final design) for the location and the type of development proposed.

312. I note that the reserve area has been confirmed through the Environment Court decision (Consent Order ENV-2018-AKL-000069 Te Kauwhata Land Limited v Waikato District Council, dated 1 October 2019) as shown in Figure 15 (below) and this differs from the notified zone extent (Figure 15).



Figure 15 – Extent of reserve from the Consent Order (ENV-2018-AKL-000069 Te Kauwhata Land Limited v Waikato District Council, dated 1 October 2019)

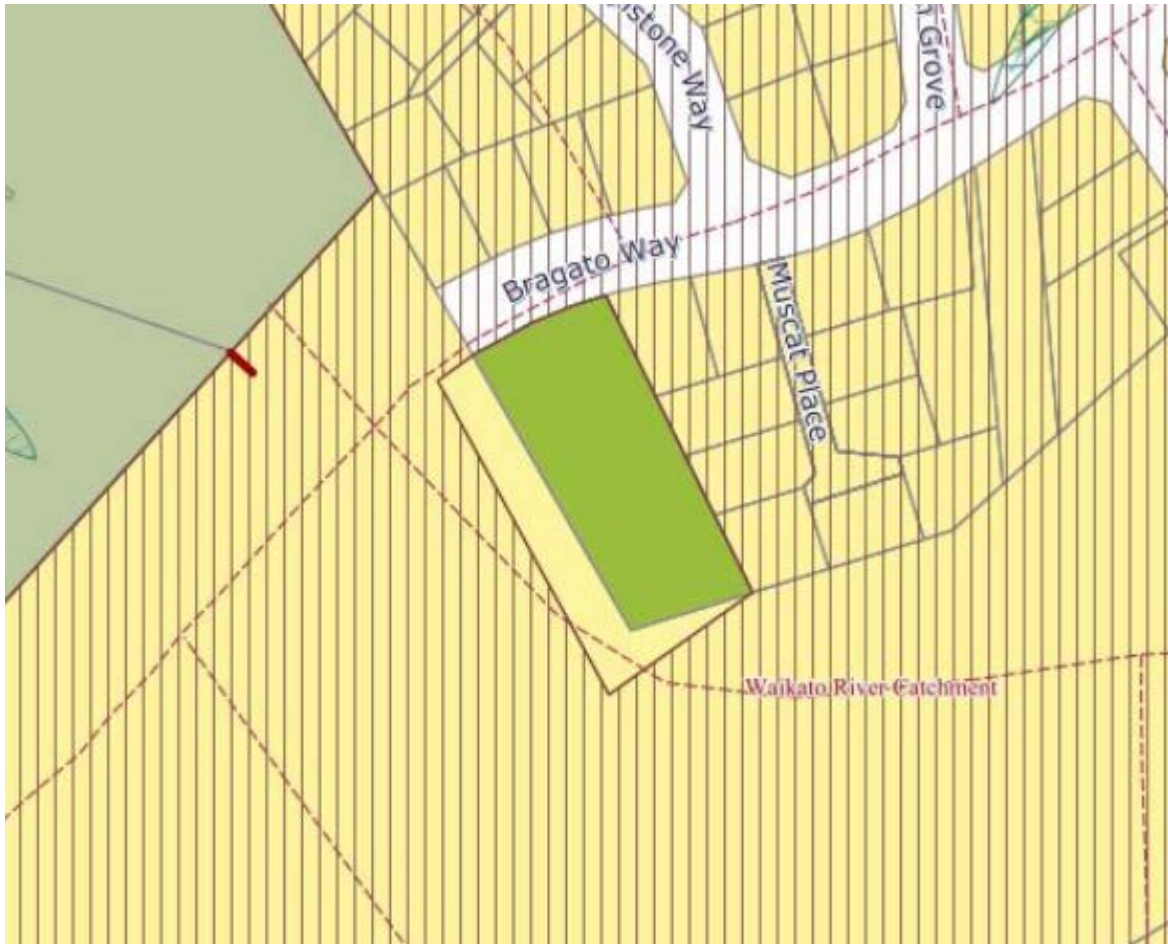


Figure 16 – Notified Reserve Zone extent

313. This area differs from that of the Notified planning maps, where Lot 209 is shown as Residential zoning. I am not aware of any submission that seeks to change the extent of the Reserve zoning in this locality and as such, while this is an obvious error, as a result of the timing between notification of the PDP and the Consent Order, there does not appear to be any scope to correct it. Despite this, Neighbourhood Parks are a permitted activity within the Residential Zone (16.1.2 – P8) and as such, there is no operational or management issue regarding the different/split zoning that would apply.

23.3 Recommendations

314. For the reasons above I recommend that the Hearings Panel:
- (a) **Accept** Ian McAlley [368.35]

23.4 Section 32AA evaluation

315. There are no recommended amendments. Accordingly, no s32AA evaluation has been required to be undertaken.

24 Chapter 29 – Appendices - Appendix 4 – Esplanade Priority Areas

24.1 Introduction

316. Appendix 4 – Esplanade Priority Areas states the following in its first paragraph:

The following table lists where the Council wishes to secure esplanades and public access, both to and along waterbodies and the coast. The esplanade reserve or strip width is 20 metres, unless an alternative width is stated below or a greater width is needed to ensure practical access along the reserve or strip, as determined on a case-by-case basis. Esplanade reserves have several purposes, including maintaining or enhancing the environment, mitigating natural hazards, public access and recreation (see section 229 of the Resource Management Act).

24.2 Submissions

317. One submission has been received on Appendix 4, seeking an update to legal descriptions contained within the appendix.

Submission point	Submitter	Decision requested
697.318	Waikato District Council	Amend Appendix 4 (Esplanade Priority Areas) to ensure legal descriptions are correct and accurately reflect the properties they relate to.

24.3 Analysis

318. I have undertaken an analysis of the Appendix 4, noting that it is an exact replication of that contained within the Operative Waikato District Plan. It is my understanding that it is based off a strategy that Council had in place in 2000 and the legal descriptions have not been updated since.

319. As a result of subdivisions that have occurred over the last 20 years, a number of these legal descriptions are now incorrect. I have corrected these where applicable and append the corrected document as Appendix 5 to this report along with the analysis undertaken. While beyond the scope of the submission, it would be beneficial if the properties concerned could be illustrated within the Appendix 4 itself (at the point of time the analysis was undertaken).

24.4 Recommendations

320. For the reasons above I recommend that the Hearings Panel:

- (a) **Accept** Waikato District Council [697.318]

24.5 Recommended amendments

321. Replace Appendix 4 with the new document.

24.6 Section 32AA evaluation

322. The recommended amendments are minor changes to clarify the appendix text, without changing planning outcomes. Accordingly, no s32AA evaluation has been required to be undertaken.

25 National Planning Standards (NPS)

323. It is noted that the National Planning Standards directs Councils to implement the following zones:

<i>Natural open space zone</i>	<i>Areas where the natural environment is retained and activities, buildings and other structures are compatible with the characteristics of the zone.</i>
<i>Open space zone</i>	<i>Areas used predominantly for a range of passive and active recreational activities, along with limited associated facilities and structures.</i>
<i>Sport and active recreation zone</i>	<i>Areas used predominantly for a range of indoor and outdoor sport and active recreational activities and associated facilities and structures.</i>

324. It would be desirable to implement these zones as a part of the Proposed District Plan process for efficiency and cost savings. Despite this, there is a significant amount of work that is required to undertake this change and, in my opinion (partially based on feedback from the Open Spaces Team), it would not be feasible to undertake the work within the timeframes of the hearings process. The work involves (but is not limited to), the following:
- (a) Audit of all uses of reserves (including leases going back 30 years or more);
 - (b) Potential changes to RMPs such that they do not conflict with the three NPS zones;
 - (c) Mapping of relevant zones and associated GIS work. This may be complicated in some reserves where a range of activities are undertaken which may fall into all three NPS zones, such as the Wainui Reserve at Raglan or potentially where different zone activities overlap each other;
 - (d) Audit of Reserve-zoned land and relevant corrections made. It appears that while there are a multitude of reserves across the district that the Waikato District Council administers, only a fraction are zoned for such purpose, with the rest having a zoning that matches the surrounding land (e.g. Rural zone). Due to staff turnover it is not clear as to the reasoning behind some reserve land being zoned as Reserve while other land was not; and
 - (e) Changes to the relevant reserve classifications where necessary.

In addition, the notified plan does not contain a full suite of objectives, policies and rules to fit each zone.

325. This work could be undertaken as a part of a future plan change and as I understand it, work on this work stream has begun. In the interim, the notified rule framework can be developed through the Proposed District Plan process, and an Open Space Zone can be adopted as this generally fits with the Reserve-zoned land within the district. In the long term, the NPS approach would likely result in a situation where the District Plan prescribes the activities that will occur within the zones, leaving the RMPs to be more simplified and reflective of 'day to day' management. This change will go some way to addressing the concerns expressed by the Ngaruawahia Golf Club [194.1, 194.2 and 194.3] previously regarding the fact that the RMPs sit outside of the RMA. Although it will not remove the requirements or processes that need to be undertaken that they may have under the Reserves Act.

26 Conclusion

326. This report has provided an assessment of submissions received in relation to Chapters 8 and 25. The primary amendments that I have recommended relate to:
- a) Deletion of duplicated policies
 - b) Inclusion of objectives and policies for earthworks and signs
 - c) Technical/grammatical corrections
 - d) Changes to bring consistency with other zone chapters
 - e) Inclusion of rules for indigenous vegetation clearance regarding off-road pedestrian, cycleways and bridleways
 - f) Updating of the Esplanade Priority Areas appendix
327. I consider that the submissions on the Reserve Zone matters should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of each analysis and in Appendix I.
328. I recommend that provisions in Chapters 8 and 25 be amended as set out in Appendices 2-3 for the reasons set out in the report above.
329. I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA (especially for changes to objectives), the relevant objectives of this plan and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken and included in this report.

No rei ra

Teena Koutou Katoa.