

# **Concluding Hearing Report**

## **Hearing 24 Reserve Zone**

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5 November 2020

# Waikato



**DISTRICT COUNCIL**  
*Te Kaunihera aa Takiwaa o Waikato*

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# I Executive Summary

1. This concluding hearing report is the result of Hearing 24 and matters discussed by the hearings panel during the hearing.
2. The matters that were discussed during the hearing which required further consideration are as follows:
  - a) Educational facilities
  - b) Commercial activities within the Reserve Zone
  - c) Signage provision for the Ngaruawahia Golf Club
  - d) Rule 25.1.3 – Discretionary Activities
  - e) Clarification regarding the recommended provisions for track maintenance and operation with respect to indigenous vegetation clearance

## 2 Background

3. Hearing 24 for the Reserve Zone was held on the 16<sup>th</sup> of October 2020.
4. In response to the matters discussed by the hearings panel during the hearing, I have provided further clarification on several points that were raised during the course of the hearing.

## 3 Matters raised during the hearing

### 3.1 Educational facilities [CW1]

5. The Ministry of Education has sought provisions and supporting objectives/policies for educational facilities to be located within most zones, including the Reserve Zone. The submitter has stated in their evidence that Education facilities such as outdoor education centres, sports training establishments and early childhood education centres may need to be located within reserve areas and these need to be provided for. My s42A report highlighted issues that this approach would have the underlying classification of reserve zoned land and with the General Policies RMP.
6. While I have not changed my stance or recommendations with respect to educational facilities, I would like the opportunity to acknowledge (and agree with) the Panels comments that these types of activities are not consistent with the overall aim of the objectives and policies within Chapter 8.

### 3.2 Commercial activities within the Reserve Zone [KC2][CW3]

7. The Ngaruawahia Golf Club sought Restricted Discretionary provisions to allow for the establishment of commercial activities within the Reserve Zone to enable them formalise the existing range to allow for fee paying participants and to allow for 'other recreational activities'. My S42A report highlighted some issues regarding this, namely that a blanket approach across the zone may cause issues with the reserve classifications.
8. I acknowledge the Panels comments with respects to the differences between the Reserve Management Plans and the District Plan and that difficulty that the notified provisions may create for commercial activities defaulting to Non-Complying unless provided for within a Reserve Management Plan. There is a potential sweet spot where a district plan user does not have incorrect expectation while providing an easier pathway through the District Plan. A draft objective, policy and provision has been circulated to the Panel and in my view, this provision will achieve the sweet spot that is desired.

### **3.2.1 Section 32AA evaluation**

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

#### **3.2.1.1 Other reasonably-practicable options**

10. Other than recommending the amendment above, the other reasonably-practicable options are to either include the provisions as sought by the submitter, include the wording or to not have the proposed amendment wording at all (i.e. retain the status quo of the notified version).

#### **3.2.1.2 Effectiveness and efficiency**

11. The recommended amendments (including supporting objective and policy) give effect to the intention of the Reserve Zone, especially given the proposed amendments to section 8.3 which outline that commercial activities are to be supporting and enhancing the use and enjoyment of open space relating to active sport and recreational activities.

#### **3.2.1.3 Costs and benefits**

12. There are potential costs on Council through the administering of commercial activities within the Reserve zoned land.

13. There are, however, likely to be wider social and economic benefits for allowing a resource consent pathway for the provision of commercial activities as it will enable commercial activities to establish (or for current ones to expand) in Reserve zoned land. It will also allow for complementary commercial activities for active sport and recreational activities. It will also 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.

#### **3.2.1.4 Risk of acting or not acting**

14. 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 objective, policy and rules.

#### **3.2.1.5 Decision about most appropriate option**

15. The amendments give effect to the relevant objectives and policies and is considered to be more appropriate in achieving the purpose of the objectives and policies than that of the notified version.

### **3.3 Signage provision for the Ngaruawahia Golf Club**<sup>[CW4]</sup>

16. The Ngaruawahia Golf Club sought more permissive sign rules for their site, to allow for a sign of up to 3m<sup>2</sup> in size for every 150m of road frontage as a Controlled Activity. My s42A report highlights that this would be at odds with the General Policies RMP.

17. I note that the discussion held with respect to commercial activities was also pertinent to the discussion held with respect to the one on signage for the Ngaruawahia Golf Club. This discussion also including the more general comments made with respect to Reserve Management Plans and the District Plan. My opinion on this matter has not changed but I would add that if the Ngaruawahia Golf Club were to desire the additional signs then they would go through a resource consent process as a Restricted Discretionary Activity (Rule 25.2.7.1 RD1) which would not be an impossible hurdle to get through. A resource consent process would also allow for the relevant assessments to be made against the planning framework and the potential adverse effects.

### **3.4 Rule 25.1.3 – Discretionary Activities**<sup>[CW5]</sup>

18. It was highlighted by the Panel during the Reserve Zone Hearing that the Waikato District Council submission point [697.1021] may cause issues as outlined in the following paragraph:

19. Upon further review of the submission that sought to delete Rule 25.1.3 D2, it would appear that deleting such provision could create scenarios where a permitted activity could choose not to comply with either land use effects rules or land use building rules and still be permitted as they would meet the activity-specific requirements.

20. I note that this submission appears to be a generic submission across a number of chapters/zones and as such, will need to be looked at in an integrated manner. Given the potential issue highlighted with the removal of D2, I change my recommendation to reject Waikato District Council submission point [697.1021].

**3.5 Clarification regarding the recommended provisions for track maintenance and operation with respect to indigenous vegetation clearance [CW6][CW7]**

21. During the Reserve Zone hearing it became apparent that the recommended provision for track maintenance and operation with respect to indigenous vegetation clearance did not assess the establishment aspect which was sought by the Waikato Regional Council.

22. While it was the intention within my s42A report to have my recommended provisions to also include track/cycleway/bridlepath establishment, the s42A did not include this and was instead focussed on the on-going maintenance and operation. It appears that the submission by the Waikato Regional Council on this matter was intending to also include the establishment aspect. Upon further consideration, it is my opinion that it would be preferable that the recommended provision within my s42A report were to remain as is, that is, only relating to the on-going maintenance and operation. The reason for this is to avoid unnecessary duplication and potential conflict with the equivalent rule within Chapter 14 and would also avoid issues with scope that I have highlighted with respect to extending vegetation clearance to the Chapter 14 rule.

23. I acknowledge the drafting of the provisions within my recommendations can be subject to interpretation as to whether or not they apply to new track establishment or not. I recommend some minor changes to my recommended provisions (shown in the blue text) to avoid any potential mis-interpretation.

P5	<u>Maintenance, routine operation and repair of existing off-road pedestrian, cycleways and bridleways and associated accessory buildings</u>	<ul style="list-style-type: none"> <li>(a) <u>Any indigenous vegetation alteration or removal must be undertaken within 1m either side of existing tracks</u></li> <li>(b) <u>Any indigenous vegetation alteration or removal must not include any trees over 6m in height, or 600mm in girth</u></li> <li>(c) <u>Any indigenous vegetation alteration or removal must not exceed 50m<sup>2</sup> per site per calendar year.</u></li> </ul>
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**25.1.2A Restricted Discretionary Activities**

<b>Activity</b>	<b>Discretion is restricted to:</b>
RDI	<ul style="list-style-type: none"> <li>(a) <u>Design and construction;</u></li> <li>(b) <u>Visual, ecosystem and amenity effects; and</u></li> <li>(c) <u>The extent to which the indigenous vegetation alteration or removal is necessary to provide for the functional and operational needs of off-road pedestrian, cycleways and bridleways</u></li> </ul>

## **4 Conclusion**

117. It is my view that the revised provisions provide for sustainable development and therefore achieve the purpose of the RMA.

I am happy to answer any further questions that the hearings panel may have.

Kelly Cattermole

5 November 2020