



SECTION 42A REPORT

Activities on the Surface of Water

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Appendix 1: Recommended amendments to Activities on the Surface of Water chapter

Appendix 2: Recommended decisions on submissions to Activities on the Surface of Water chapter

List of Abbreviations

Submitters

Submitter Number	Abbreviation	Full Name of Submitter
S368	FNDC	Far North District Council
S356	NZTA	Waka Kotahi NZ Transport Agency
S217	NZDF	New Zealand Defence Force

Note: This table contains a list of submitters relevant to this topic which are abbreviated, and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.

Others

Abbreviation	Full Term
FNDC	Far North District Council
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement
TMTA	Temporary Military Training Activities



1 Executive summary

1. The Far North Proposed District Plan (“PDP”) was publicly notified on 27 July 2022. The Activities on the Surface of Water Chapter is located in the general district wide matters section of the PDP.
2. Eight original submitters (with 13 individual submission points) and 154 further submitters (with 301 individual submission points) were received on the Activities on the Surface of Water topic. Three original submission points indicated general support for the provisions to be retained as notified, six submission points indicated support in part, with changes requested, whilst one submission points opposed the provisions and three did not say.
3. The submissions can largely be categorised into several key themes:
 - a) Tangata Whenua relationship with water;
 - b) Te Mana o te Wai;
 - c) Framework (not addressed elsewhere);
 - d) Reservoirs;
 - e) Rule formatting; and
 - f) Temporary Military Training Activities.
4. This report has been prepared in accordance with Section 42A of the Resource Management Act (RMA) and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to amending Rules ASW-R1-R3 to remove reference to Waingaro and Manuwai reservoirs and reformatting of the rules to improve clarity and plan interpretation and implementation.

2 Introduction

2.1 Author and qualifications

6. My full name is Jaimee Cannon, and I am a Consultant Planner at Boffa Miskell Limited.
7. I hold the qualification of Master of Planning from University of Otago, and Bachelor of Arts (major in Geography) from the University of Otago. I am a full member of the New Zealand Planning Institute.



8. I have 11 years' experience in planning and resource management including policy development, formation of plan changes and associated Section 32 assessments; Section 42A report preparation; and the preparation of and processing of resource consent applications, outline plans and notices of requirement.
9. I have worked on several district plan reviews at various stages of the Schedule 1 process, including the South Taranaki District Plan Review and New Plymouth District Plan Review, during which I was responsible for preparing proposed provisions, preparing S32 reports and S42A reports across several topics. Since January 2022 I have been working with Far North District (FNDC) District Plan Team on the Proposed Far North District Plan. I was responsible for overseeing the preparation of the Section 32 Reports for Activities on the Surface of Water and Public Access.

2.2 Code of Conduct

10. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 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.
11. I am authorised to give this evidence on the Council's behalf to the PDP hearings commissioners ("Hearings Panel").

3 Scope/Purpose of Report

12. This Section 42A report relates to Hearing Stream 5 – Activities on the Surface of Water. It has been prepared in accordance with Section 42A of the RMA to:
 - a) assist the Hearings Panel in making their decisions on the submissions and further submissions on the PDP; and
 - b) provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
13. This report responds to submissions on activities on the surface of water chapter of the PDP.
14. Wherever possible, I have provided a recommendation to assist the Hearings Panel.

4 Statutory Requirements

4.1 Statutory documents



15. I note that the Activities on the Surface of Water Section 32 report provides detail of the relevant statutory considerations applicable to the activities on the surface of water.
16. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.
17. However, it is important to highlight the higher order documents which have been subject to change since notification of the PDP which must be given effect to. Those that are relevant to the activities on the surface of water are discussed below.

4.1.1 Resource Management Act

18. On 19 December 2023 the coalition Government repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023. The Government has indicated that the RMA will also be repealed, with work on its replacement legislation to being in 2024.
19. The RMA continues to be in effect until new replacement legislation is passed.

4.1.2 Resource Management (Freshwater and Other Matters) Amendment Bill

20. The Resource Management (Freshwater and Other Matters) Amendment Bill was released on 23 May 2024 and includes amendments to the hierarchy of obligations for Freshwater Management for resource consenting while a review and replacement of the National Policy Statement for Freshwater Management (NPS-FM) 2020 is undertaken.
21. The Select Committee is due to consider the Bill on 30 September 2024, and the Bill is expected to be passed by end of 2024. At the time of report writing, the Amendment Bill does not influence plan-making, as plans are still required to give effect to the current direction of the NPS-FM 2020 while a review of the NPS-FM is undertaken.

4.1.3 National Policy Statements

22. The PDP was prepared to give effect to the National Policy Statements (NPSs) that were in effect at the time of notification (27 July 2022). Several amendments to the NPS-FM 2020 (under section 53(1) and 33(2)(a) of the RMA) have been made since July 2022 primarily relating to:
 - Clarifying definition of natural inland wetland
 - Improving the clarity of policies and correct errors.



- Providing a consenting pathway for quarrying activities, landfills and cleanfill areas, mineral mining and some urban development.
23. Except as outlined above, there are no new NPSs or changes to operative NPSs that are of particular relevance to the submissions received on the activities on the surface of water chapter. The relevant NPSs were addressed as part of the Statutory Context within the Public Access Section 32 Report.
24. As mentioned above, the Government is currently undertaking a review of the NPS-FM 2020. As District Plans must be "prepared in accordance with¹" and "give effect to²" a National Policy Statement, the Hearing Panel must apply the NPS as it stands when making recommended decisions to the Council. The government are working on amending the NPS-FM, which they have indicated will take between 18 to 24 months and will include a robust and full consultation process with all stakeholders including iwi and the public. At this stage it is anticipated the revised NPS-FM will come into force sometime in 2026. If a revised NPS-FM comes into force prior to decisions being made, the Hearing Panel will need to consider the implications of the relevant National Policy Statements in their recommended decisions.

4.2 Council's Response to Current Statutory Context

25. The evaluation of submissions and recommendations in this report are based on the current statutory context (that is, giving effect to the current National Policy Statements). I note that the proposed amendments and replacement NPSs do not have legal effect until they are adopted by Government and formally gazetted.
26. Sections 55(2A) to (2D) of the RMA sets out the process for changing District Plans to give effect to NPSs. A council must amend its District Plan to include specific objectives and policies or to give effect to specific objectives and policies in a National Policy Statement (NPS) if it so directs. Where a direction is made under Section 55(2), Councils must directly insert any objectives and policies without using the Schedule 1 process, and must publicly notify the changes within five working days of making them. Any further changes required must be done through the RMA schedule 1 process (such as changing rules to give effect to a NPS).
27. Where there is no direction in the NPS under Section 55(2), the Council must amend its District Plan to give effect to the NPS using the RMA schedule 1 process. The amendments must be made as soon as practicable, unless the NPS specifies a timeframe. For example, changes can be made by way of a Council recommendation and decision in

¹ Section 74(1)(a) of the RMA

² Section 75(3)(a) of the RMA



response to submissions, if the submissions provide sufficient 'scope' to incorporate changes to give effect to the NPS.

28. I have been mindful of this when making my recommendations and believe the changes I have recommended are either within scope of the powers prescribed under Section 55 of the RMA or within the scope of relief sought in submissions.

4.2.1 National Planning Standards

29. The NPSs determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered, and certain definitions that must be included. The Public Access provisions proposed and recommended in this report are consistent with the NPSs.

4.2.2 Treaty Settlements

30. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

4.2.3 Iwi Management Plans – Update

31. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview reports. Council took these management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, two have been revised since notification of the PDP:

- a) Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan
- b) Ahipara Takiwā Environmental Management Plan.

Ngāti Hine Environmental Management Plan

32. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with the Council in 2022, after notification of the PDP in July 2022. In respect of the activities on the surface of water chapter the Ngāti Hine Environmental Management Plan provides direction on Water and Land (Wai me te Whenua): Ngāti Hine aims to protect water as a sacred resource, enhance its mauri (life force), and manage it in an integrated manner alongside soil and air. They seek to manage, monitor, and enhance mātaītai sites, develop water quality standards, maintain healthy riparian margins, and manage biosecurity risks. They also aim to protect areas of customary value and implement robust protection systems.



Ahipara Takiwā Environmental Management Plan

33. The Ahipara Takiwā Environmental Management Plan was in draft form at the time of the notification of the PDP. This was updated, finalised and lodged with Council in 2023, after notification of the PDP in July 2022. In respect of the activities on the surface of water chapter, the Environmental Management Plan provides direction in relation to Wai Māori – Water: Ngā Marae o Ahipara value water in all its forms and aims to recognise the traditional rights of water ownership and allocation and the cultural significance of water to Nga Marae o Ahipara. They seek for the waters of Ahipara Catchment to be healthy and support customary uses and no discharge of human and animal waste directly into water. They also aim to promote ecological integrity and ensure consistency with the cultural values of Ngā Marae o Ahipara.

Patukeha Hapu Management Plan

34. At the time of writing this report, FNDC anticipates that the Patukeha Hapu Management Plan will be finalised in October 2024.

4.3 Section 32AA evaluation

35. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.

36. The s32AA further evaluation for each key issue considers:

- a) Whether the amended objectives are the best way to achieve the purpose of the RMA.
- b) The reasonably practicable options for achieving those objectives.
- c) The environmental, social, economic and cultural benefits and costs of the amended provisions.
- d) The efficiency and effectiveness of the provisions for achieving the objectives.
- e) The risk of acting or not acting where there is uncertain or insufficient information about the provisions.

37. The s32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

4.4 Procedural matters



38. Due to the clarity of submissions, no correspondence or meetings with submitters needed to be undertaken and there are no procedural matters to consider for this hearing.

5 Consideration of submissions received

5.1 Overview of submissions received.

39. A total of 13 individual submission points (from 8 original submitters) and 301 further submission points (from 155 further submitters) were received on the Activities on the Surface of Water Chapter.

40. The main submission points on the Activities on the Surface of Water Chapter came from:

- a) Haititaimarangai Marae Kaitiaki Trust ("Haititaimarangai Marae Kaitiaki Trust" / S394) who seek a new provision relating to managing activities adjacent to waterbodies.
- b) Kapiro Residents Association ("Kapiro Residents Association" / S429) who seek to add reference to Te Mana o te Wai.
- c) Te Rūnanga o Ngāti Rēhia ("Te Rūnanga o Ngāti Rēhia" / S559) who seek to insert a new provision relating to the relationship between Tangata Whenua and their ancestral waterways.
- d) Te Hiku Iwi Development Trust ("Te Hiku Iwi Development Trust" / S399) who seek to make amendments to objective ASW-P3 to 'take into account' tangata whenua's relationship with freshwater.
- e) New Zealand Defence Force ("NZDF" / S217) who support the provisions in part but seek to make military defence activities a permitted activity.
- f) FNDC (S368) generally support the provisions but seek to make amendments to refer to reservoirs generally instead of Waingaro and Manuwai reservoirs.

41. The key issues identified in this report are set out below:

- Key Issue 1: Tangata whenua relationship with water
- Key Issue 2: Te Mana o te Wai
- Key Issue 3: Framework
- Key Issue 4: Reservoirs
- Key Issue 5: Rule formatting
- Key Issue 6: Temporary Military Training Activities



42. Section 5.2 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submission points.

5.2 Officer Recommendations

43. A copy of the recommended plan provisions for the Activities on the Surface of Water chapter is provided in **Appendix 1 – Recommended provisions to this report.**

44. A full list of submissions and further submissions on the Activities on the Surface of Water chapter is contained in **Appendix 2 – Recommended Decisions on Submissions to this report.**

45. Additional information can also be obtained from the Summary of Submissions (by Chapter or by Submitter) Submissions database Far North District Council (fndc.govt.nz) the associated Section 32 report on this chapter (fndc.govt.nz) and the ePlan Map - Far North Proposed District Plan (isoplan.co.nz).

5.2.1 Key Issue 1: Tangata whenua relationship with water

Overview

Provision(s)	Officer Recommendation(s)
New objective – Tangata Whenua	Retain as notified - do not insert new objective
New Objective – Activities adjacent to waterbodies	Retain as notified - do not insert new objective
Policy ASW-P3	Retain Policy ASW-P3 as notified

Analysis of Submissions on Key Issue 1

New Objective – Tangata Whenua

Submission

46. Te Rūnanga o Ngāti Rēhia (S559.047) requests the insertion of a new objective relating to the relationship of Tangata Whenua to their ancestral waterways and the maintenance of that relationship.

47. There are five further submissions in support of the submission and one further submission opposing the submission.

Analysis



48. Te Rūnanga o Ngāti Rēhia have not provided a proposed wording for the new objective being sought.
49. Objective TW-O4 of the Tangata Whenua chapter provides for tangata whenua relationships with their ancestral water. This objective highlights the relationship of tangata whenua and their ancestral water ways and the ability to maintain mana whenua in their rohe. Policy ASW-P3 also provides for tangata whenua's relationship with and cultural practices associated with freshwater. There are a number of other objectives and policies which recognise tangata whenua's relationship with water throughout the PDP (as explained in paragraph 87 of the Public Access S42A Report).
50. I consider that the insertion of a new objective within the Activities on Surface of Water chapter would create duplication across the PDP regarding the relationship tangata whenua have with their ancestral waterways. As all of the objectives and policies, including the objectives in the Tangata Whenua chapter, should be read and applied in conjunction, I consider that the PDP is in accordance with s6(e) and s8 of the RMA. Therefore, to avoid unnecessary duplication, no changes are recommended in response to this submission.

Recommendation

51. For the above reasons, I recommend that submission S559.047 is rejected.

New Objective - Activities adjacent to waterbodies

Submission

52. Haititaimarangai Marae Kaitiaki Trust (S394.065) requests the insertion of a new objective as follows:

Activities adjacent to waterbodies are managed in a way that avoids or minimises adverse effects on surface water.

53. There are 146 further submissions in support of this submission.

Analysis

54. Haititaimarangai Marae Kaitiaki Trust are seeking a new objective that aims to avoid or minimise the adverse effects from activities adjacent to the surface of water. I do not support this change because:
- The activities on the surface of water chapter relates to activities located on the surface of water only (it does not seek to manage activities adjacent to water).
 - The maintenance and enhancement of the quality of water in waterbodies and coastal water is primarily the responsibility of the



Regional Council under s30(1)(c)(ii). Northland Regional Council manage effects of adjacent activities through rules relating to:

- i. Activities in the beds of lakes and rivers and in wetlands
- ii. Flood control
- iii. Discharges to land and water
- iv. Land use and disturbance activities

Recommendation

55. For the above reasons, I recommend that submission S394.065 is rejected.

Policy ASW-P3

Submissions

56. Te Hiku Iwi Development Trust (S399.068) requests the following amendment to policy ASW-P3:

Recognise and take into account tangata whenua's relationship with and cultural practices associated with freshwater when managing activities on the surface of water in rivers and lakes, including the ability to undertake customary activities.

57. The Hiku Iwi Development Trust seeks this change because they consider that the word 'recognise' in this Policy does not demonstrate understanding and they consider that a stronger verb is required to make this policy more effective.

Analysis

58. Policy ASW-P3 as notified in the PDP requires persons to "Recognise tangata whenua's relationship with and cultural practices associated with freshwater when managing activities on the surface of water in rivers and lakes, including the ability to undertake customary activities."

59. I understand that under the RMA, Council must:

- a) "recognise and provide for" matters of national importance (such as the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga (S6(e) RMA)).
- b) "take into account" any relevant planning document recognised by an iwi authority such as iwi and hapu management plans (S66(2A) of the RMA); and



c) must also “take into account” the principles of the Treaty of Waitangi (S8 of the RMA).

60. In my experience and professional opinion, “recognise” generally means that actual provision must be made for the listed matters. In contrast, the obligation to “take into account” generally requires the decision-maker to consider that matter, to weigh it up with other relevant factors and to give it the weight that is appropriate in the circumstances. Therefore, the term “recognise” is stronger, and gives more priority to the listed matters, than “take into account”.

61. Using the term “recognise” instead of “take into account” provides for consistency with s6(e) of the RMA and provides greater recognition to tangata whenua’s relationship with and cultural practices associated with freshwater. I am concerned that using the words “recognise and take into account” would weaken the policy intent, would be inconsistent with higher order direction, and would also be inconsistent with the objective and policy language used throughout the PDP.

62. I do not support the requested amendment sought by Te Hiku Iwi Development Trust requesting the insertion of “take into account”, to Policy ASW because I disagree that such wording strengthens ASW-P3. I consider the current policy wording already achieves the outcome sought by the submitter.

63. On this basis I do not recommend any amendment to ASW-P3 in response to the submission from Te Hiku Iwi Development Trust.

Recommendation

64. For the above reasons, I recommend that submission S399.068 is rejected.

Section 32AA evaluation

65. No change to the provisions are recommended and, on this basis, no further evaluation is required under section 32AA of the RMA.

5.2.2 Key Issue 2: Te Mana o te Wai

Overview

Provision(s)	Officer Recommendation(s)
Activities on Surface of Water Chapter	Retain as notified

Analysis of Submissions on Key Issue 2

Matters raised in submissions

66. Kapiro Residents Association (S429.006) seek the fundamental concept of Te Mana o te Wai is applied to all freshwater issues that may be



affected by development throughout the PDP. The submitter seeks that in response to the NPS-FM clause 3.5(4), PDP policies and rules are introduced to promote positive effects and avoid, remedy or mitigate adverse effects (including cumulative effects) of urban development on the health and wellbeing of water bodies and freshwater ecosystems.

Analysis

67. I understand that the same submission points raised by Kapiro Conservation Trust were addressed in paragraph 120 and 124 of the Officers Section 42A Report for Part 1 and General / Miscellaneous (as part of Hearing 1 on the PDP). Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community. I acknowledge that Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in the NPS-FM.
68. I note that the proposed Resource Management (Freshwater and Other Matters) Amendment Bill released on 23 May 2024 proposes some changes to the hierarchy of obligations for Freshwater Management for resource consenting (while a review and replacement of the NPS-FM is undertaken), although this does not influence plan-making under the NPS-FM which is still required to give effect to the current direction of the NPS-FM while the review of the National Policy Statement is undertaken.
69. Despite the above, the NPS-FM, in particular the policy direction of Te Mana o te Wai has been considered and given effect to, to the extent that meets the functions of a Territorial Authority set out in Section 31 of the RMA in drafting the PDP. While the regional council is responsible for the waterbodies themselves the district plan manages their margins and the activities that can occur on land near waterbodies, and activities on the surface of water. The PDP includes provisions for setbacks from lakes, rivers and wetlands and their margins (addressed in the 'natural character' section of the PDP and the associated S42A Report for Hearing Stream 4 of the PDP).
70. I consider that the Activities on the Surface of Water chapter is consistent with and gives effect to direction of the NPS-FM in that it contains the policy direction to:
- a) Recognise tangata whenua's relationship with and cultural practices associated with freshwater when managing activities on the surface of water in rivers and lakes, including the ability to undertake customary activities (Policy ASW-P3).
 - b) Consider effects on cultural and spiritual values, and characteristics and qualities of water bodies (Policy ASW-P4).



Recommendation

71. For the above reasons I recommend that submission point S429.006 regarding implementation of the NPS-FW is accepted in part, insofar as the PDP already implements the NPS-FW within District Council's jurisdiction.

Section 32AA evaluation

72. No change to the provisions is recommended and, on this basis, no further evaluation is required under section 32AA of the RMA.

5.2.3 Key Issue 3: Policy and Rule Framework (not addressed elsewhere)

Overview

Provision(s)	Officer Recommendation(s)
Policy ASW-P3	Retain as notified
Rule ASW-R3	Retain as notified

Analysis of Submissions on Key Issue 3

Matters raised in submissions

73. Submission S394.041 from Haititaimarangai Marae Kaitiaki Trust support and request the retention of ASW-P3, as notified to recognise tangata whenua's relationship with and cultural practices associated with freshwater.
74. There are 146 further submissions in support of this submission.
75. Submission S160.024 from Manulife Forest Management (NZ) Ltd and S356.093 from NZTA support and requests the retention of Rule ASW-R3 (Structures), as notified.
76. There is one further submission (FS346.594) from Forest and Bird opposing submission S160.024 because they consider the rule will result in a loss of indigenous biodiversity values.

Analysis

77. I consider that the Policy ASW-P3, as notified, is appropriate for the reasons stated in the S32 Report for Activities on the Surface of Water.
78. Section 6(e) of the RMA requires all persons to recognise and provide for the relationship Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. The notified provision in the PDP recognises tangata whenua's relationship with, and cultural practices associated with freshwater.
79. I also agree that rule ASW-R3 (Structures) is appropriate, as notified, with the exception of recommended amendments to remove specific



reference to “Waingaro and Manuwai Reservoirs” within the rule for reasons explained under Key Issue 4 of this Report.

Recommendation

80. For the above reasons, I recommend that:

- a) Submission S394.041 is accepted and ASW-P3 is retained as notified; and
- b) Submission S160.024 and S356.093 are accepted in part and ASW-R3 is retained as notified (with the exception of the changes recommended in response to other submissions under Key Issue 4 of this Report).

5.2.4 Key Issue 4: Reservoirs

Overview

Provision(s)	Officer Recommendation(s)
Rules ASW-R1 – R3	Retain as notified with minor amendments to remove specific reference to Waingaro and Manuwai reservoirs.

Analysis of Submissions on Key Issue 4

Matters raised in submissions

81. Submission 368.062, 368.063 and 368.064 from FNDC requests the amendment of ASW-R1, ASW-R2 and ASW-R3 to remove the reference to Waingaro and Manuwai reservoirs in particular, allowing for the inclusion of potential future reservoirs in the provision.

Analysis

82. The Waingaro and Manuwai reservoirs are part of the Kerikeri Irrigation Scheme, built in the early 1980s to support Kerikeri’s horticultural industry. The reservoirs are located in Lake Waingaro and Lake Manuwai near Kerikeri and owned and operated by Kerikeri Irrigation Company Ltd. I understand that there are several new dams within the Far North District including the Matawii Reservoir established by the Tai Tokerau Water Trust adjacent to the Ngawha Enterprise and Innovation Park.
83. I consider that the request to remove reference to Waingaro and Manuwai reservoirs from the rules is appropriate as it would permit irrigation network maintenance (and associated structures) future potential reservoirs, as well as the existing reservoirs in the Far North District. If this change was not made, the rule may have unintended consequences in that irrigation network maintenance and associated structures on reservoirs (except for Waingaro and Manuwai Reservoirs) would require resource consent.



Recommendation

84. For the reasons outlined above I recommend that submissions S368.062, S368.063 and S368.064 are accepted and reference to the Waingaro and Manuwai reservoirs in rule ASW-R1 and ASW-R2 are removed, as follows:

85. For rules ASW-R1 and R2:

PER-3

The craft is used for:

...

e. irrigation network maintenance on ~~Waingaro~~ and ~~Manuwai~~ Reservoirs.

86. For rule ASW-R3:

PER-1

The structure is associated with:

...

f. irrigation network maintenance on ~~Waingaro~~ and ~~Manuwai~~ Reservoirs.

Section 32AA evaluation

87. The recommended amendments primarily clarify the intent and do not materially change the effect of the relevant provisions. The change is appropriate because there are additional reservoirs that require network maintenance. Over the life of the plan, there may be additional reservoirs constructed and it is appropriate that network maintenance of these reservoirs is permitted and treated in the same way as the existing Waingaro and Manuwai Reservoirs.

5.2.5 Key Issue 5: Rule formatting

Overview

Provision(s)	Officer Recommendation(s)
Rule framework for activities on the surface of water	Amend rule formatting to split the rules for “motorised craft” and “non-motorised craft” into separate rules for different purposes / activities, to clarify the intent



Analysis of Submissions on Key Issue 5

Matters raised in submissions

88. Submission S217.022 and S217.023 from NZDF seeks amendments to Rule ASW-R2 (the use of motorised craft) to remove performance standard PER-3 and make amendments to PER-4 as follows:

Rule ASW-R2 Use of motorised craft

Activity status: Permitted

Where:

...

PER-3

The craft is used for search and rescue, scientific investigations, noxious flora and fauna control, maintenance of the habitat of indigenous fauna, or monitoring; or irrigation network maintenance on Waingaro and Manuwai Reservoirs.

PER-4

~~*With the exception of activities provided for in PER-3, the activity does not occur on any of the following water bodies:*~~

...

New Rule ASW-Rx the use of motorised craft

Activity status: Permitted

Where:

The craft is used for search and rescue, scientific investigations, defence purposes, noxious flora and fauna control, maintenance of the habitat of indigenous fauna, or monitoring; or irrigation network maintenance on Waingaro and Manuwai Reservoirs.

Activity status where compliance not achieved with PER-1: Discretionary.

89. The submitter believes performance standard PER-1 and PER-3 are contradictory and the use of craft as described under PER-3 should be provided for in a new rule.

Analysis

90. In terms of the request from NZDF to remove performance standard PER-3 and make amendments to PER-4 in Rule ASW-R2, although I disagree



that performance standard PER-1 and PER-3 contradict each other, I agree that the intent of the rule framework could be more clearly expressed.

91. PER-1 allows the use of non-commercial recreational use of a motorised craft which are defined as:

"the use of land, water bodies and/or buildings for the purpose of the active or passive enjoyment of organised sports (excluding motorsport), recreation or leisure, whether competitive or non-competitive, and whether a charge is made for admission or not."

92. PER-3 relates to craft that is specifically used for "search and rescue, scientific investigations, noxious flora and fauna control, maintenance of the habitat of indigenous fauna, or monitoring; or irrigation network maintenance".

93. My understanding of the intent of Rule ASW-R1, is that an activity is permitted if it complies with:

- c) PER-1 (it is craft for a non-commercial recreation activity or customary activity), **or**
- d) PER-3 (it is craft for one of the listed activities); **and**
- e) PER-2 (it is not used for residential activity (i.e. is not a house boat)).

94. The intent is not clearly expressed which may create some ambiguity and uncertainty amongst plan users. I agree with NZDF that splitting the rule into separate rules for the different activities is appropriate to reduce ambiguity, provide certainty and improve plan implementation.

95. I recommend two separate rules for the different types of motorised craft as shown in Appendix 1 to this Report. As a consequential amendment for consistency, I have also recommended amending the formatting of the rule framework for non-motorised craft (Rule ASW-R2). These formatting changes do not change the effect or alter the intent of the rules, they simply clarify the intent.

96. Any motorised or non-motorised craft that is associated with an activity other than the listed permitted activities in the new rules (shown as ASW-Rx in Appendix 1) would default to a Discretionary activity because they fail to comply with Standard PER-1.

Recommendation

97. I recommend that submission S217.022 and S217.023 from NZDF are accepted in part for the reasons stated above, and the rules are reformatted for clarity as shown in Appendix 1 to this Report. Note the



request that is part of S217.023 to include “defence purposes” in the new rule is addressed in Key Theme 6.

Section 32AA evaluation

98. The recommended amendments to Rule ASW-R2 (and consequential amendment to Rule ASW-R3 for consistency) for rule reformatting are appropriate to clarify the intent of the rules. The change does not alter the effect of the rules and will assist with consistent implementation of the plan.

5.2.6 Key Theme 6: Temporary Military Training Activities

Overview

Provision(s)	Officer Recommendation(s)
Rules for activities on the surface of water	Retain as notified

Analysis of Submissions on Key Issue 6

Matters raised in Submissions

Motorised craft

99. NZDF (S217.023) seek to include defence purposes as a permitted activity under the new rule for “motorised craft for other purposes”. The submitter notes that Temporary Military Training Activities can include the use of motorised craft on the surface of waterbodies. NZDF seeks that “defence purposes” are included in the new rule.

Structures

100. NZDF (S217.024) also seek that rule ASW-R3 (Structures) provides for structures associated with Temporary Military Training Activities as permitted activities. The submitter notes that Temporary Military Training Activities may involve the placement of temporary bridges over rivers and lakes, or temporary dams to enable training with potable water treatment units. The submitter considers that it is appropriate that these structures are not restricted by the district plan, noting that they would be subject to regional planning provisions. The submitter also notes that Rule ASW-R3 provides for various structures as permitted activities and considers it appropriate that structures associated with TMTA are included in the list of permitted structures.

Analysis

101. Temporary Military Training Activities (TMTA) are defined in the PDP as:

a temporary activity undertaken for the training of any component of the New Zealand Defence Force (including with allied forces) for any defence purpose. Defence purposes are those purposes for



which a defence force may be raised and maintained under section 5 of the Defence Act 1990 which are:

- a. the defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act:*
- b. the protection of the interests of New Zealand, whether in New Zealand or elsewhere:*
- c. the contribution of forces under collective security treaties, agreements, or arrangements:*
- d. the contribution of forces to, or for any of the purposes of, the United Nations, or in association with other organisations or States and in accordance with the principles of the Charter of the United Nations:*
- e. the provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency:*
- f. the provision of any public service.*

102. NZDF have provided some context of the types of TMTA that may occur in the Far North District, as follows:

Training activities may include the use of powered machinery, vehicles or aircraft and may involve weapons firing and the use of explosives, in addition to the deployment of personnel. For some exercises, weapons may be carried or set up for realism but not fired. Temporary military training activities may be undertaken over a period of days or weeks on an intermittent or continuous basis, during both day and night.

103. I appreciate that the submitter has provided some information on the nature of temporary military training activities that may occur in or near waterbodies, however, the examples provided in the submission (temporary bridges, and temporary dams) are not "structures" (defined in the PDP as "*any building, equipment, device, or other facility, made by people and which is fixed to land (my emphasis added); and includes any raft*"). The definition of "structure" is defined by the National Planning Standards. In addition, arguably these temporary bridges and dams are not activities on the **surface** of water.

104. The definition for "defence purposes" can be understood by plan users by referring to the definition of TMTP (above) which has been identified within the notified version of PDP. However, the term is very broad in nature. In my view NZDF's submission does not provide sufficient detail on the nature of motorised craft or structures necessary for "defence purposes" on the surface of lake and rivers to enable me to evaluate the



potential benefits and costs of allowing or not allowing these types of activities on the surface of water.

105. Without the benefit of detailed information on the types of motorised craft or structures for defence purposes that may occur on the surface of water in the District, I have reservations that these activities on the surface of water may generate adverse effects on ecological, natural character or cultural values. It is also unclear if the structures detailed in their submission are "activities on the surface of water".

106. I note that "temporary military training activities on land are permitted under the 'Temporary activities' chapter."

Recommendation

107. For the reasons outlined above I recommend that submission 217.023 and 217.024 from NZDF are rejected, however I may reconsider my recommendation if NZDF provide some further information on the type and nature of motorised craft and structures that may occur on the surface of water, associated with "defence purposes" at the hearing.

6 Conclusion

108. This report has provided an assessment of submissions received in relation to the activities on the surface of water chapter. The primary amendments that I have recommended relates to:

- a) Amending Rules ASW-R1-R3 to remove specific reference to Waingaro and Manuwai reservoirs; and
- b) Reformatting of the rules to improve clarity and plan interpretation and implementation.

109. Section 5.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the activities on the surface of water chapter should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and in Appendix 2.

110. I recommend that provisions for the activities on the surface of water matters be amended as set out in Appendix 1 below for the reasons set out in this report.

Recommended by: Jaimee Cannon, Principal Planner, Boffa Miskell

Approved by: Tammy Wooster – Manager Integrated Planning, Far North District Council.

Date: 16 July 2024.