



## SECTION 42A REPORT

### Open Space Zones

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**Appendix 1: Recommended amendments to Open Space Zones**

**Appendix 2: Recommended decisions on submissions to Open Space Zones**

**List of Abbreviations**

**Table 1: List of Submitters and Abbreviations of Submitters' Names**

<b>Submitter Number</b>	<b>Abbreviation</b>	<b>Full Name of Submitter</b>
S368	FNDC	Far North District Council
S512	FENZ	Fire and Emergency New Zealand
S482	Heavy Haulage Assoc Inc	House Movers Section of New Zealand Heavy Haulage Association Inc
S331	MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
S425	Twin Coast Cycle Trail	Pou Herenga Tai Twin Coast Cycle Trail Charitable Trust
S489	RNZ	Radio New Zealand
S511	Forest & Bird	Royal Forest and Bird Protection Society of New Zealand
S521	VKK	Vision Kerikeri (Vision for Kerikeri and Environs, VKK)

**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.



**Table 2: Other abbreviations**

<b>Abbreviation</b>	<b>Full Term</b>
FNDC	Far North District Council
NPS	National Policy Statement
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement
NOSZ	Natural open space Zone
OSZ	Open space Zone
SARZ	Sport and active recreation Zone



## 1 Executive summary

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. The Open Space Zones are located in the Area-Specific Matters section of the PDP.
2. 40 original submitters (with 190 individual submission points) and 18 further submitters (with 237 individual submission points) were received on the Open Space Zones topic. 31 original submission points indicated general support for the provisions to be retained as notified, 63 submission points indicated support in part, with changes requested, whilst 57 submission points opposed the provisions.
3. The submissions can largely be categorised into several key themes:
  - Clarity around definitions and activity types within and between zones
  - Exemptions for public facilities
  - Plan wide integration and consistency
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:
  - a) Amendments to definitions and consequential changes to rules as a result.
  - b) Minor amendments to objectives and policies.
  - c) Exemption pathway for 'Park Furniture'.
  - d) Changes to the rules in the Sport and Active Recreation zone to be clear on what we enable in this zone.
  - e) Minor amendments to the height and setback standards for the Sport and Active Recreation zone.

## 2 Introduction

### 2.1 Author and qualifications

6. My full name is Sarah Trinder, and I am a Senior Policy Planner at Far North District Council.



7. I hold the qualification of a Bachelor of Science (Honours), Majoring in Geography, from The University of Auckland in 2010. I am an Associate member of the New Zealand Planning Institute.
8. I have 13 years' experience in planning and resource management including policy evaluation and development, and associated Section 32 assessments; evidence preparation, and the processing of resource consent applications, outline plans and notices of requirement. I have worked in planning in both government authorities and a private consultancy. During this time, I was involved in the development of the Auckland Unitary Plan, and the Far North District Plan.
9. I previously worked at Barker and Associates which represents a number of clients who are submitters on the PDP. I did not work for Barker and Associates during the original submission process and was not involved with any work for the Far North Proposed District Plan for any of their clients.

## **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 Proposed District Plan hearings commissioners ("Hearings Panel").

## **1.1 Expert Advice**

12. In preparing this report I have relied upon advice and guidance from Robin Rawson, Far North District Council Parks and Reserves Planner, in relation to Council's practices for Parks and Reserves. In Section 5.2 of this report, I have explained where I have relied on advice from Ms Rawson in making my recommendations.

## **3 Scope/Purpose of Report**

13. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
  - a) assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; 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.
14. This report responds to submissions on Open Space Zones.



15. The submissions on Standard 4 (Setback from MHWS) were considered in the Coastal Environment topic. Reporting officers for the PDP have collectively discussed and agreed that:
  - It was more efficient to consider and respond to submissions on setbacks from MHWS as part of the Coastal Environment topic;
  - It is more efficient for controls on buildings in relation to MHWS to be addressed through consistent rules and standards in the Coastal Environment topic; and
  - Setbacks from MHWS (Standard 4) should be deleted from the zone chapters to avoid duplication.
16. As a result, this Report briefly addresses submissions on Standard NOSZ-S4, OSZ –S4 and SARZ-S4 (Setbacks from MHWS). However, Appendix 1 (Recommended amendments to Provisions) recommends deleting Standard NOSZ-S4, OSZ –S4 and SARZ-S4 from the zone chapters for integration and consistency with recommendations in the Coastal Environment and Natural Character topics. The PDP will provide consistent, District-Wide setbacks from MHWS in the Coastal Environment chapter, and setbacks from rivers, lakes and wetlands provided in the Natural Character chapter.
17. I am aware of the following requests for new zones, which apply to land that is currently zoned Natural Open space zone in the PDP:
  - a) S32.001 (Mr Lewis, Thomas Grant, Mr Jake Ryan Lockwood, Mr Luke Stephen Lockwood and Mr Stephen Graham Lockwood) which seeks to introduce a new Special Purpose Zone to land at Motukiekie Island.
18. These submission points will be addressed as part of the rezoning hearing, to enable a full consideration of the zone change requests and relevant submitter evidence, against an agreed set of criteria, alongside other zone request changes and taking into consideration the recommended provisions for the zone chapters.
19. Wherever possible, I have provided a recommendation to assist the Hearings Panel.
20. Separate to the Section 42A report recommendations in response to submissions, Council has made a number of Clause 16(2) amendments to the PDP to achieve consistent formatting of rules and standards, including inserting semi colons between each standard, followed by “and” after the second to last standard (where all of the standards must be met to comply) or “or” after the second to last standard (when only one of the standards must be met to comply). These changes are neutral and do not alter the effect of the rules or standards, they simply clarify the



intent. The Clause 16 corrections are reflected in Appendix 1 to this Report (Officer's Recommended Provisions in response to Submissions).

## **4 Statutory Requirements**

### **4.1 Statutory documents**

21. I note that the Open Space Zones Section 32 report provides detail of the relevant statutory considerations applicable to the Open Space Zones.
22. 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.
23. However, it is important to highlight the higher order documents which have been subject to change since notification of the Proposed Plan which must be given effect to. Those that are relevant to the Open Space Zones are discussed in 4.1.1-4.2 below.

#### **4.1.1 Resource Management Act**

24. The Government elected in October 2023, has repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22<sup>nd</sup> of December 2023 and has reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.

#### **4.1.2 National Policy Statements**

##### **4.1.3 National Policy Statements Gazetted since Notification of the PDP**

25. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section provides a summary of the National Policy Statements, relevant to the Open Space zones that have been gazetted since notification of the PDP. As District Plans must be "prepared in accordance with" and "give effect to" a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.
26. The National Policy Statement for Indigenous Biodiversity (NPS-IB) took effect on 4 August 2023. This was after the PDP was notified (27 July 2022), but while it was open for submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty



of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe.

27. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022, The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, and subdivision of highly productive land and requirements to protect highly productive land from inappropriate use and development.

#### 4.1.4 National Policy Statements – Announced Future Changes

28. In October 2023 there was a change in government and several announcements have been made regarding work being done to amend or replace various National Policy Statements (summarised in **Table 1** below). The below NPS are of general relevance to the submissions received on the Open Space Zones topic.

**Table 1 Summary of announced future changes to National Policy Direction (as indicated by current Government, as of March 2024)**

National Statement	Policy	Summary of announced future changes	Indicative Timing
National Policy Statement for Freshwater Management (NPS-FM)		<ul style="list-style-type: none"> <li>Changes to hierarchy of obligations in Te Mana o Te Wai provisions</li> <li>Amendments to NPS-FM, which will include a robust and full consultation process with all stakeholders including iwi and the public</li> </ul>	<p>End of 2024</p> <p>2024 - 2026</p>
National Policy Statement on Indigenous Biodiversity (NPS-IB)		<ul style="list-style-type: none"> <li>Amendments to the NPS-IB</li> <li>Work to stop/cease implementation of new Significant Natural Areas</li> </ul>	2025 - 2026
National Policy Statement for Urban Development (NPS-UD)		<ul style="list-style-type: none"> <li>Amendments to NPS-UD, including requirements for Tier 1 and 2 Council to 'live zone' enough land for 30 years of housing growth, and making it easier for mixed use zoning around transport nodes.</li> </ul>	By end of 2024
National Policy Statement for Renewable Electricity Generation (NPS-REG)		<ul style="list-style-type: none"> <li>Amendments to NPS-REG, to allow renewable energy production to be doubled</li> </ul>	By end of 2024
National Policy Statement for Electricity Transmission (NPS-ET)		<ul style="list-style-type: none"> <li>Amendments to NPS-ET, but at this stage direction and amendments are unclear.</li> </ul>	By end of 2024





National Policy Statement	Policy	Summary of announced future changes	Indicative Timing
National Policy Statement for Highly Productive Land (NPS-HPL)		<ul style="list-style-type: none"> <li>Amendments to the NPS-HPL in light of needing to enable housing growth and remove consenting barriers. Possible amendments to the definition of 'Highly Productive Land' to enable more flexibility</li> </ul>	2024 - 2025
Proposed National Policy Statement for Natural Hazards (NPS-NH)		<ul style="list-style-type: none"> <li>No update on progress has been provided by current government.</li> </ul>	Unknown

## 4.2 Council's Response to Current Statutory Context

29. 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 National Policy Statements do not have legal effect until they are adopted by Government and formally gazetted.
30. Sections 55(2A) to (2D) of the RMA sets out the process for changing District Plans to give effect to National Policy Statements. 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 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 National Policy Statement).
31. Where there is no direction in the National Policy Statement under Section 55(2), the Council must amend its District Plan to give effect to the National Policy Statement using the RMA schedule 1 process. The amendments must be made as soon as practicable, unless the National Policy Statement specifies a timeframe. For example, changes can be made by way of a Council recommendation and decision in response to submissions, if the submissions provide sufficient 'scope' to incorporate changes to give effect to the National Policy Statements.
32. 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

33. The National Planning Standards determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered. The Open Space Zones



provisions proposed and recommended in this report are consistent with the National Planning Standards.

#### **4.2.2 Treaty Settlements**

34. 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**

35. 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 Report. 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:
  - Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan
  - Ahipara Takiwā Environmental Management Plan.

##### Ngāti Hine Environmental Management Plan

36. 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 Open Space Zones the Ngāti Hine Environmental Management Plan provides the following direction:
  - a) Open Spaces provisions must recognise the rights of access Ngāti Hine have to all wahi tapu, for the harvesting and collection of kaimoana and mahinga kai, fisheries, taonga prized for traditional, customary and cultural uses.
  - b) Restoration, enhancement and management of area of indigenous flora and fauna, their habitats and ecosystems.
37. 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 Open Space Zones, the Environmental Management Plan provides direction in relation to the following:
  - a) Open Spaces provisions must recognise the rights of access to all wahi tapu, for the harvesting and collection of kaimoana and mahinga kai, fisheries, taonga prized for traditional, customary and cultural uses.



### Patukeha Hapu Management Plan

38. 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**

39. 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.
40. 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.
41. 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.

### **1.2 Procedural matters**

42. 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.

#### **1.2.1.1 Proposed Plan Variation 1**

43. FNDC notified Proposed Plan Variation 1 (Minor Corrections and Other Matters) for public submissions on 14 October 2024. The submission period closes on 12 November 2024. Proposed Plan Variation 1 makes minor amendments to; correct minor errors, amend provisions that are having unintended consequences, remove ambiguity and improve clarity and workability of provisions. This includes amendments to the zoning of some properties, and the Coastal flood hazard areas.



44. Plan Variation 1 corrects GIS maps where some private properties were incorrectly zoned as Natural open Space or have other identified GIS errors related to the Natural Open Space zone, these will be evaluated as part of Hearing 15A – Rezoning.

## **5 Consideration of submissions received**

### **5.1 Overview of submissions received.**

45. A total of 190 original submissions and 237 further submissions were received on the Open Space Zones.
46. The main submissions on the Open Space Zones Chapter came from:
  - a) Non-governmental organisations, such as Our Kerikeri Community Charitable Trust (S271) and Royal Forest and Bird Protection Society of New Zealand (S511).
  - b) Central and local government, such as Carbon Neutral NZ Trust (S529) and KiwiRail Holdings Limited (S554.040).
  - c) Individuals, such as Aksel Danger Bech (S186) and Trent Simpkin (S283).
47. The key issues identified in this report are set out below:
  - a) Key Issue 1: Definitions
  - b) Key Issue 2: NOSZ-Rules
  - c) Key Issue 3: OSZ-Rules
  - d) Key Issue 4: SARZ Rules
  - a) Key Issue 5: Exemptions for public facilities, playgrounds or open space areas
  - e) Key Issue 6: NOSZ-Objectives and Policies
  - f) Key Issue 7: NOSZ-R7 – Vegetation planting
  - g) Key Issue 8: OSZ-Objectives and Policies
  - h) Key Issue 9: SARZ-Objectives and Policies
  - i) Key Issue 10: SARZ-R14 Educational Facility
  - j) Key Issue 11: SARZ- Discretionary Rules
  - k) Key Issue 12: SARZ-Standards
  - l) Key Issue 13: Sightlines



- m) Key Issue 14: Transpower
  - n) Key Issue 15: Radio New Zealand
  - o) Key Issue 16: "Consideration" Policy amendments
  - p) Key Issue 17: New Buildings and Structures rule amendments
  - q) Key Issue 18: Impermeable surfaces
  - r) Key Issue 19: Standards – General
  - s) Key Issue 20: Setback From MHWS
  - t) Key Issue 21: Camping grounds
  - u) Key Issue 22: FENZ response
  - v) Key Issue 23: KiwiRail
  - w) Key Issue 24: Heavy Haulage
48. 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

- 49. A copy of the recommended plan provisions for the Open Space Zones chapter is provided in **Appendix 1 – Recommended provisions to this report.**
- 50. A full list of submissions and further submissions on the Open Space Zones chapter is contained in **Appendix 2 – Recommended Decisions on Submissions to this report.**
- 51. 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](http://fndc.govt.nz)) the associated Section 32 report on this chapter [section-32-overview.pdf](#) ([fndc.govt.nz](http://fndc.govt.nz)) the overlays and maps on the ePlan Map - Far North Proposed District Plan ([isoplan.co.nz](http://isoplan.co.nz)).



## 5.2.1 Key Issue 1: Definitions

### Overview

Provision(s)	Officer Recommendation(s)
Definition - Recreation Activity	Change to Sport and Recreation Activity and definition to include ancillary activities
Definition - Leisure Activity	Retain as notified
Definition - Sport and recreation facility	Delete

### Analysis of Submissions on Key Issue 1

#### Analysis

52. There were numerous submissions points from submitters (Our Kerikeri Community Charitable Trust, Kapiro Conservation Trust, Carbon Neutral NZ Trust, VKK, Twin Coast Cycle Trail, Waiaua Bay Limited, Forest and Bird) which can generally be grouped in the Key Issue 1- Definitions, even though they have been tagged to various provisions. The table below groups these submitters and responds generally in relation to definitions.



Definition	Submission Point	Submission reason/request	Response
<b>Recreation Activity</b>	S271.029 S446.030 S529.094 S524.029 S271.030 S446.031 S529.095 S524.030 S271.031 S446.032 S529.096 S271.032 S446.033 S529.097 S524.032 S524.031	<p>In reference to OSZ – R1 and SARZ - R1 where buildings (subject to bulk and location controls) that are associated with a permitted activity are permitted. However, leisure activities are not permitted in the Open space and Sport and active recreation Zone, but recreation activities are.</p> <p><i>Amend to provide clarify around definitions, specifically in terms of recreation activity and leisure activity, and that Council carefully considers how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p>	<p>There are numerous submission points addressing the clarity and consistency of the defined terms used in these chapters.</p> <p>I recommend this definition be amended to be in relation to organised Sport and Recreation activities. The notified definition was essentially trying to do too many things at once. In having a definition that is more focused on organised Sport and Recreation activity and another that is informal leisure focused allows differentiation between the two activity types.</p>
	S271.027 S529.092 S524.027 S271.028 S529.093 S524.028	<p>Clarity is needed in terms of the interrelationship between definitions noting that the definition of recreation activity includes refence to use of land for the purpose of leisure.</p> <p><i>Amend to provide clarify around definitions, specifically in terms of recreation activity and leisure activity, and that Council carefully considers how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p>	<p>The inclusion of ancillary activities is also appropriate to capture the types of activities that are expected and necessary to support the primary activities.</p> <p>I recommend amendments as follows:</p> <p><i><u>Sport and Recreation activity</u></i></p>



	<p>S446.028 S446.029</p>	<p>Support the enablement of leisure activities as a permitted activity which would include tracks for cyclists and pedestrians, and as a result permit (subject to bulk and locating controls) associated buildings and structures e.g. bridges, boardwalks and gates. However, such an activity could also fit the definition of recreation activity which is not permitted in this zone. Clarity is needed in terms of the interrelationship between definitions noting that the definition of recreation activity includes reference to use of land for the purpose of leisure.</p> <p><i>Amend to provide clarify around definitions, specifically in terms of recreation activity and leisure activity, and that Council carefully considers how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p>	<p><i>"means the use of land, water bodies and/or buildings for <u>organised sport the purpose of the active or passive enjoyment of organised sports (excluding motorsport), recreation activities, tournaments and sports education e.g. parks, playgrounds, sportsgrounds, swimming pools, and multi-sport facilities. It includes ancillary activities to sport and recreation activities.</u> or leisure, whether competitive or non-competitive, and whether a charge is made for admission or not."</i></p>
<p><b>Leisure Activity</b></p>	<p>S271.029 S446.030 S529.094 S524.029 S271.030 S446.031 S529.095 S524.030 S271.031 S446.032 S529.096 S271.032 S446.033 S529.097 S524.032 S524.031</p> <p>S271.027 S529.092 S524.027 S271.028 S529.093 S524.028</p>	<p>This rule permits buildings (subject to bulk and location controls) where they are associated with a permitted activity. However, leisure activities are not permitted in this Zone, but recreation activities are.</p> <p><i>Amend to provide clarify around definitions, specifically in terms of recreation activity and leisure activity, and that Council carefully considers how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p> <p>Clarity is needed in terms of the interrelationship between definitions noting that the definition of recreation activity includes reference to use of land for the purpose of leisure.</p>	<p>This definition was drafted to separate out informal and formal activities.</p> <p>The terms leisure and recreation are often used interchangeably and it's the informal and formal component of this definition that was the consideration when assessing activities for the Natural Open space and Open Space zones. I consider that this definition is retained as notified as in combination with the amended definition of Sport and recreation activity alleviates any confusion.</p> <p>Retain the definition as notified:</p> <p><i>Means the use of land and/or buildings for informal leisure activities on an ad-hoc or irregular</i></p>





		<p><i>Amend to provide clarify around definitions, specifically in terms of recreation activity and leisure activity, and that Council carefully considers how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p>	<p><i>basis, which enhance the community's social and physical wellbeing. It includes public toilets, shelter, picnic tables, rubbish and recycling bins, and other buildings or structures ancillary to leisure activities.</i></p>
	<p>S446.028 S446.029</p>	<p>Support the enablement of leisure activities as a permitted activity which would include tracks for cyclists and pedestrians, and as a result permit (subject to bulk and locating controls) associated buildings and structures e.g. bridges, boardwalks and gates. However, such an activity could also fit the definition of recreation activity which is not permitted in this zone. Clarity is needed in terms of the interrelationship between definitions noting that the definition of recreation activity includes refence to use of land for the purpose of leisure.</p> <p><i>Amend to provide clarify around definitions, specifically in terms of recreation activity and leisure activity, and that Council carefully considers how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p>	
	<p>S425.049</p>	<p>Support the enablement of leisure activities as a permitted activity which would include tracks for cyclists and pedestrians, and as a result permit (subject to bulk and locating controls) associated buildings and structures e.g. bridges, boardwalks and gates. However, such an activity could also fit the definition of recreation activity which is not permitted in this zone. Clarity is needed in terms of the interrelationship between definitions noting that the definition of recreation activity includes refence to use of land for the purpose of leisure.</p>	



		<p><i>Amend plan to ensure consistency in terms of how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p>	
	S425.050 S425.051	<p>This rule permits buildings (subject to bulk and location controls) where they are associated with a permitted activity. However, leisure activities are not permitted in this Zone, but recreation activities are.</p> <p><i>Amend plan to ensure consistency in terms of how definitions are used within/between chapters to ensure consistencies and avoid unintended consenting requirements.</i></p>	
<b>Sport and Recreation facility</b>	S463.002	<p>Waiaua Bay Farm Limited (S463.002) oppose Sport and Recreation Facility, as the resource consenting implications of the exclusion of 'major sports facilities' from this definition are unclear as the proposed plan doesn't define 'major sports facilities.' Rule KCZ-R6 PER-3 appropriately permits recreational activities and facilities associated with golf and this would permit the development of further golf-related facilities defined as a sports and recreation facility.</p> <p><i>Amend the definition: 'means any facility and associated structures used for organised sport, recreation activities, tournaments and sports education. It includes parks, playgrounds, sportsground. It excludes major sports facilities.'</i></p>	<p>From my understanding the definition of Sport and Recreation facility was drafted to exclude major sports facilities so that the definition could have greater utility across zones.</p> <p>Upon further reflection, I consider it unnecessary to have a separate definition and subsequent rule in the PDP that provides for Sport and Recreation facility. I consider that the facility is included within the 'Sport and recreation activity' definition.</p> <p>Further, major sports facility would still need to comply with Building and Structures rule of the zone in relation to new buildings or structures and therefore, the bulk and location controls for that zone.</p>
<b>Leisure facility</b>	S511.124 S442.143	<p>Not clear what a leisure facility is and why it should be permitted. It is not defined in the Plan. If leisure facilities include the likes of shelters these can be quite large and have effects. If it does these should likely comply with the new building rule and standards.</p>	<p>All buildings and structures need to comply with the building and structure rules.</p> <p>There was no definition of Leisure facility in the Notified plan.</p>



		<p><i>Amend so make is clear that leisure facilities such as shelters come under the permitted rule for buildings and structures.</i></p>	<p>As the term is not defined there could be ambiguity in what this included in NOSZ-R6.</p> <p>I consider that the defined term Leisure activity sufficiently covers what was intended to be included as a Leisure facility. I therefore recommend the deletion of this term from NOSZ-R6.</p>
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- 53. Consequential to the recommended changes to definitions there is a need for an additional permitted activity for Leisure activities in the Open Space and Sport and Active Recreation Zone. This will be addressed in the rules section for these zones.
- 54. Consequential to the deletion of these terms, I recommend the deletion of the associated rules. This will be addressed in the rules section for the applicable zone.

**Recommendation**

- 55. Amend the definition of Recreation activity as follows:

Sport and Recreation activity

*"means the use of land, water bodies and/or buildings for organised sport the purpose of the active or passive enjoyment of organised sports (excluding motorsport); recreation activities, tournaments and sports education e.g. parks, playgrounds, sportsgrounds, swimming pools, and multi-sport facilities. It includes ancillary activities to sport and recreation activities. or leisure, whether competitive or non-competitive, and whether a charge is made for admission or not.*

- 56. To add further clarity to the definitions and rule interaction of these zones I recommend the deletion of Sport and Recreation facility definition and the introduction of the term Leisure Facility in NOSZ-R6, these amendments are addressed below.
- 57. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.



**Section 32AA evaluation**

- 58. The recommended amendments primarily clarify the intent of the provisions.
- 59. The recommended change to the definition of Sport and recreation activity to include activities ancillary to sport and recreation activities is better in line with the types of activities that we would anticipate in these zones. Activities ancillary to sport and recreation activities are of wider benefit to the community and allow better utilisation of the site.

**5.2.2 Key Issue 2: NOSZ-Rules**

**Overview**

Provision(s)	Officer Recommendation(s)
NOSZ-R6	Amend rule title

**Analysis of Submissions on Key Issue 2**

**Matters raised in submissions**

- 60. Forest & Bird (S511.124) and Kapiro Conservation Trust (S442.143) oppose NOSZ-R6 as it's not clear what a leisure facility is, why it should be permitted and isn't defined within the Plan. The submitters state that if shelters are included within leisure facilities, the large size could have effects and should comply with the new building rule and standards. Both submitters request an amendment to make it clear that leisure facilities, such as shelters, come under the permitted rule for buildings and structures.
- 61. NZ Agricultural Aviation Association (S182.036) support in part NOSZ-R4. The submitters support 'conservation activities' as a permitted activity but requests an amendment to the definition.

*"..... - planting*

*Pest and weed control including the use of agricultural aviation;*

*Plant and tree nurseries; and*

*Track construction*

*Biosecurity"*

- 62. MOE (S331.092) support NOSZ-R11 and the discretionary activity status of educational facilities to enable land use of a scale that complements and is consistent with the conservation values of the Natural Open Space Zone and requests to retain the rule as proposed.



## Analysis

63. Definitions have been addressed in Key Issue 1, it is recommended that the definition for Leisure activities is used in the Natural Open Space Zone.
64. In response to Forest & Bird and Kapiro Conservation Trust submission points, I recommend that Leisure facility is deleted from the rule title of NOSZ-R6.
65. Leisure facility is not defined in the plan, while buildings and structures in relation to Leisure activities will need to comply with NOSZ-R1 – New Buildings and structures. The use of this term in the rule heading is unnecessary.
66. The definition of conservation activities in the PDP is as follows:
- "means the use of land for activities undertaken for the purposes of maintaining, protecting and/or enhancing the natural, historic and/or ecological values of a natural or historic resource. It may include activities which assist to enhance the public's appreciation and recreational enjoyment of the resource and includes:*
- i. planting;*
- ii. pest and weed control;*
- iii. plant and tree nurseries; and*
- iv. track construction."*
67. The definition of Conservation activities is not a National Planning standards definition, it was drafted as a need to specifically provide for these activities. Other District plans, for example the New Plymouth Proposed District Plan includes a similar definition, without specifying what the definition includes.
68. Definition of Agricultural Activities proposed to be inserted into the plan in the Noise chapter is as follows:
- "means the intermittent operation of an aircraft from a rural airstrip or helicopter landing area for primary production activities, and; conservation activities for biosecurity, or biodiversity purposes; including stock management, and the application of fertiliser, agrichemicals, or vertebrate toxic agents (VTA's). For clarity, aircraft includes fixed wing aeroplanes, helicopters, and unmanned aerial vehicles (UAV's)."*
69. I consider this definition covers the use of Aircraft for pest and weed control and Biosecurity as sought by the submitter.



70. I recommend that NOSZ-R11 is retained as notified.

**Recommendation**

71. Delete Leisure facility from the rule title of NOSZ-R6

<b>NOSZ-R6</b>	<b>Leisure activity or—Leisure Facility</b>
Activity Status: Permitted	Activity status where compliance not achieved: Not applicable

72. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

**Section 32AA evaluation**

73. The recommended deletion of Leisure facility from this NOSZ-R6, provides greater clarity and consistency of the PDP. There is no change in the way the rule works but adds clarity to that any Leisure facility (building or structure) will need to comply with the new building and structures rule. The recommended amendments are therefore considered to more appropriate in achieving the purpose of the RMA than the notified version of the PDP.

**5.2.3 Key Issue 3: OSZ-Rules**

**Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
OSZ-Rxx	Insert new rule for Leisure activities
OSZ-R6	Amend rule title
OSZ-R9	Delete

**Analysis of Submissions on Key Issue 3**

**Matters raised in submissions**

74. Our Kerikeri Community Charitable Trust (S271.029,030), Carbon Neutral NZ Trust (S529.094, 095), Twin Coast Cycle Trail (S425.050, 051), VKK (S524.029, 030) Kapiro Conservation Trust (S446.030, 031) support in part OSZ-R1, and OSZ-R6 stating these rules permit buildings where they are associated with a permitted activity. However, leisure activities aren't permitted in this zone, but recreation activities are. The submitter requests to amend the rule to provide clarity around definitions relating to recreation and leisure activities and considerations on how definitions are used, within/between chapters to ensure consistencies and avoid unintended consenting requirements.



75. Aksel Danger Bech (S186.002) support in part OSZ-R11 stating residents at Opito Bay have provided evidence of non-compliance with the operators of commercial oyster barge/forklift/truck activities resource consents and expresses that this activity is inconsistent with Objective OSZ-O1 and Policies OSZ-P1, OSZ-P2 and OSZ-P3. The submitter requests amending the activity status for Rule OSZ-R11 from discretionary to non-complying and suggests FNDC submit against resource consents sought by commercial operators, as such activities are inconsistent with the zone’s objectives and purposes.
76. MOE (S331.095) support OSZ-R14 Educational Facility as a discretionary activity status of educational facilities to enable activities that are compatible with the purpose and predominant character of the open space and wish to retain the rule as proposed.

**Analysis**

77. I have addressed definitions in association with this topic in Key Issue 1 above. Consequentially, I recommend the addition of a permitted activity rule in this chapter for Leisure activities. The deletion of OSZ-R9 Sport and Recreation facility and amendments to the rule title OSZ-R6 to Sport and Recreation activity.
78. Acknowledging Mr Bech’s submission (S186.002) regarding non-compliance with resource consents is a compliance issue, in my view, the activity status of commercial activities in the Open Space Zone is appropriate. A discretionary resource consent will allow a detailed assessment of adverse effects of the activity. I consider this activity status appropriate for this zone.
79. I recommend no changes to OSZ-R14 Educational facilities.

**Recommendation**

80. I recommend a new permitted activity rule for the Open space Zone as follows:

<b><u>OSZ-RXX</u></b>	<b><u>Leisure activity</u></b>
<u>Activity Status: Permitted</u>	<u>Activity status where compliance not achieved: Not applicable</u>

81. Amend OSZ-R6 Recreation activity.

<b><u>OSZ-R6</u></b>	<b><u>Sport and Recreation activity</u></b>
<u>Activity Status: Permitted</u>	<u>Activity status where compliance not achieved: Not applicable</u>



82. Delete the OSZ-R9 Sport and Recreation facility.

<b>OSZ-R9</b>	<b>Sport and Recreation facility</b>
Activity Status: Permitted	Activity status where compliance not achieved: Not applicable

83. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

### Section 32AA evaluation

84. The recommended amendments are appropriate, efficient and effective because it clarifies the intent of the PDP (to permit Leisure activities in this zone), reduces ambiguity and provides clarity which reduces costs associated with plan interpretation and implementation.

## 5.2.4 Key Issue 4: SARZ-Rules

### Overview

Provision(s)	Officer Recommendation(s)
SARZ-RXX	Insert new rule for leisure activities
SARZ-R3	Amendment to rule title

### Analysis of Submissions on Key Issue 4

#### Matters raised in submissions

85. Our Kerikeri Community Charitable Trust (S271.031), VKK (S524.031) and Carbon Neutral NZ Trust (S529.096) support in part SARZ-R1, stating this rule permits buildings where they are associated with a permitted activity, however leisure activities aren't permitted in this zone, but recreation activities are. The submitters request to amend the rule to provide clarity around definitions relating to recreation and leisure activities and considerations on how definitions are used, within/between chapters to ensure consistencies and avoid unintended consenting requirements.

#### Analysis

86. In regard to the group of submitters who seek amendments to the rules to address those activities that are permitted in the zone. As per the amendments to definitions in Key Issue 1, I have recommended amendments to the definition of Sport and Active Recreation and that the definition of Leisure activities is retained. As a result of these changes, and to address any potential gaps in the rule framework, I recommend that an additional permitted activity is added to the Sport and Active





Recreation Zone for Leisure activity. Additionally, as a result of recommended changes to the definitions, I recommend amendments to SARZ-R3 and the deletion of SARZ-R5.

**Recommendation**

- 87. For the above reasons, I recommend the submissions are rejected, accepted or accepted in part as set out in Appendix 2, and the following rules as amended.
- 88. Insert new permitted activity rule for Leisure activity as follows:

<b><u>SARZ-RXX</u></b>	<b><u>Leisure activity</u></b>
Activity Status: Permitted	Activity status where compliance not achieved: Not applicable

- 89. Amend the rule title of SARZ-R3 to reflect the amended definition

<b>SARZ-R3</b>	<b><u>Sport and Recreation activity</u></b>
Activity Status: Permitted	Activity status where compliance not achieved: Not applicable

- 90. Delete SARZ-R5

<b><del>SARZ-R5</del></b>	<b><del>Sport and Recreation facility</del></b>
<del>Activity Status: Permitted</del>	<del>Activity status where compliance not achieved: Not applicable</del>

**Section 32AA evaluation**

- 91. This new rule does not change the intent of what was an anticipated activity in the Sport and Active Recreation Zone. The insertion of a new rule for Leisure activity improves the clarity of the rule framework.

**5.2.5 Key Issue 5: Exemptions for public facilities, playgrounds or open space areas**

**Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
NOSZ-R1	Amend to exempt park furniture
OSZ-R1	Amend to exempt park furniture
SARZ-R1	Amend to exempt park furniture



## Analysis of Submissions on Key Issue 5

92. The group of submitters (Elbury Holdings, Leah Frieling, Sean Frieling LJ King Limited, Michael Foy, Te Hiku Community Board) seek changes to the Open Space Zone and Sport and Active Recreation Zone so that the rules are only limited to activities that are not for public facilities playground or open space areas. It is sought that the parks and reserves in the district don't have rules for minimum bulk height, location and impermeable surface rules.

### Analysis

93. In response to the group of submitters seeking to delete the bulk height, location and impermeable surfaces rule or amend so that they don't apply to public facilities playgrounds, or open space areas I have the following comments.
94. The examples identified in the submissions above, include public facilities, playgrounds and open space areas. These types of activities / structures would fall under the definition of Park Management Activity in the PDP as follows:

*"means the day to day management, operations and maintenance of parks and reserves. It includes:*

*Repair, maintenance and development of facilities, structures and buildings;*

*Planting, removal, trimming and maintenance of turf, trees (except Notable Trees) and other non-indigenous vegetation and associated earthworks;*

*Animal and pest control operations; and*

*Repair, maintenance and development of walkways, cycleways, or vehicle tracks and associated earthworks."*

95. The rules as notified mean that these activities would be permitted if they complied with the performance standards under NOSZ – R1, OSZ -R1 and SARZ-R1
96. I have talked to FNDC Parks and Reserves Planner and we consider it appropriate that some park structures are exempt from the building and structure rule. It is considered that some 'park furniture' has an operational or functional need to be located potentially closer to the boundary than provided for by the setback standards and should not need to go through a restricted discretionary consent process. For example, park seats. If we are going to take the approach of an exemption, I consider it necessary to add a definition of park furniture.



97. I recommend park furniture be defined as follows:
- Park furniture including bollards, gates, stiles, seating, memorials, picnic tables, barbeques and rubbish bins.*
98. By listing structures within this definition, it eliminates any confusion.
99. I consider that not all 'public facilities, playgrounds or open space areas' as stated by the various submitters should be excluded from the building and standard rule. The bulk and location controls in the open space zones seek to manage any effects on the wider community and adjacent landowners, whilst enabling an appropriate scale of development that the community could reasonably expect to occur in this zone. It is appropriate that the some 'public facilities or playgrounds' are types of buildings or structures that might trigger a restricted discretionary resource consent and that would be appropriate.
100. Further, some of the types of activities detailed in the submissions would not meet the definition of a Building or Structure so would not need to be assessed under NOSZ-R1, OSZ-R1 or SARZ-R1.
101. Council's interpretation is that the term 'structure', does not include the following:
- a) Driveways
  - b) Footpaths
  - c) Paving areas
  - d) Carparking areas.
102. Council's interpretation is that a structure needs to be either a 'building', 'equipment', 'device' or 'facility' as stated in the definition.
103. The bulk and location standards ensure that built development within this zone will be appropriate and manages any effects on the wider community and adjacent landowners, whilst enabling an appropriate scale of development that the community could reasonably expect to occur in this zone. There are amendments proposed to the bulk and location controls in the Sport and active recreation Zone, these are addressed in Key Issue 12 below.

### **Recommendation**

104. I recommend an exemption is added to NOSZ-R1, OSZ-R1 and SARZ-R1 as follows:



<b>NOSZ-R1</b>	<b>New building or structure, and extension or alteration to an existing building or structure</b>
Activity Status: Permitted <b>..... This standard does not apply to:</b>  i. <u>Park furniture</u>	Activity status where compliance not achieved PER-2: Restricted discretionary .....
<b>OSZ-R1</b>	<b>New building or structure, and extension or alteration to an existing building or structure</b>
Activity Status: Permitted <b>..... This standard does not apply to:</b>  i. <u>Park furniture</u>	Activity status where compliance not achieved PER-2: Restricted discretionary .....
<b>SARZ-R1</b>	<b>New building or structure, and extension or alteration to an existing building or structure</b>
Activity Status: Permitted <b>..... This standard does not apply to:</b>  i. <u>Park furniture</u>	Activity status where compliance not achieved PER-2: Restricted discretionary .....

105. I recommend the insertion of a definition of Park Furniture as follows:

*Park furniture including bollards, gates, stiles, seating, memorials, picnic tables, barbeques and rubbish bins.*

106. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

### **Section 32AA evaluation**

107. The recommended changes provide a permitted pathway for park furniture. Structures that meet the definition of park furniture are expected and often required in open spaces. In some cases, they have an operational or functional need to be located closer to the boundary



than the setback standard allows. The exemption avoids any unnecessary consenting requirements.

## 5.2.6 Key Issue 6: NOSZ-Objectives and Policies

### Overview

Provision(s)	Officer Recommendation(s)
NOSZ-O1	Minor amendment
NOSZ-O2	Retain as notified
NOSZ-O3	Retain as notified
NOSZ-P1	Minor amendment
NOSZ-P2	Retain as notified
NOSZ-P3	Amendments
NOSZ-P4	Clause 16 updates

### Analysis of Submissions on Key Issue 6

#### Matters raised in submissions

#### Objectives

108. NZAAA (S182.034), VKK (S527.032), Kiwi Fresh Orange Company Limited (S554.039) and Carbon Neutral NZ Trust (S529.170) all support NOSZ-O1. Kiwi Fresh Orange Company Limited express their support with the objective providing an appropriate overall objective for the Natural Open Space zone, while Carbon Neutral NZ Trust supports the PDP replacing the Conservation zone with the term Natural Open Space Zone. All submitters request to retain the Objective.
109. Forest & Bird (S511.122) and Kapiro Conservation Trust (S442.141) support in part NOSZ-O1, stating all objectives should have consistent language and terms used through the plan. Both submitters request an amendment to the NOSZ-O1 to '*The natural environment*' and considers other objectives and policies throughout the plan may also require amendment to reflect consistent language and messages.
110. MOE (S331.090) and Kiwi Fresh Orange Company Limited (S554.040) support NOSZ-O2 and land use of a scale that complements and is consistent with the conservation values of the Natural Open Space zone. Both submitters request to retain the objective as proposed.
111. MOE (S331.091) and Kiwi Fresh Orange Company Limited (S554.041) support NOSZ-O3 to provide public access to the Natural Open Space Zone for leisure activities and wish to retain the objective as proposed.



## Policies

112. Carbon Neutral NZ Trust (S529.171), VKK (S527.033) and Kiwi Fresh Orange Company Limited (S554.042) all support NOSZ-P1. Carbon Neutral NZ Trust supports the PDP replacing the Conservation zone with the term Natural Open Space zone, while Kiwi Fresh Orange Company Limited supports the guidance in the policy on the land uses that are contemplated within the zone. All three submitters request to retain the policy as notified.
113. Kiwi Fresh Orange Company Limited (S554.043) supports NOSZ-P2 and the guidance in the policy on the land uses that are contemplated within the zone. The submitter requests to retain the policy as notified.
114. Kiwi Fresh Orange Company Limited (S554.044) oppose NOSZ-P3, stating that they generally support the intention of the Policy but seek that a pathway is provided to enable works to support a subdivision or land use that are required within the Natural Open Space Zone, subject to those works being undertaken in a way that protects the zone's values and doesn't adversely affect them. The submitter requests an amendment to add "*where the effects of the land use of subdivision cannot be adequately mitigated or remedied*" at the end of the Policy.
115. Kiwi Fresh Orange Company Limited (S554.045) supports NOSZ-P4 as it appropriately recognises the need to manage development and requests to retain the policy as notified.
116. NZ AAA (S182.035) seek recognition in the Plan that vegetation may need to be removed for weed, pest, biosecurity and biodiversity purposes. The submitter wishes to insert a new policy:

*NOSZ-PXX: provide for the clearance of weeds and pests for biosecurity and biodiversity purposes.*

## **Analysis**

117. I support the change to '*The natural environment*'. This term means all living and non-living things occurring naturally and includes ecological. The use of this term allows consistency in language throughout the Objectives and Policies.
118. I acknowledge the submitters that support NOSZ-P1 and recommend that NOSZ-P1 is retained as notified.
119. I acknowledge Kiwi Fresh Orange Company Limited (S544.043) submission and recommend that NOSZ-P2 is retained as notified.
120. I agree with Kiwi Fresh Orange Company Limited (S554.044) that Policy NOSZ-P3 could be 'softened' to include adverse effects that cannot be avoided, remedied or mitigated as there may be some land use and subdivision activities that are necessary even though they are



incompatible with the ecological, historic heritage, cultural and natural character values of the zone such as provision of infrastructure, this policy allows a pathway for these activities.

121. I recommend that NOSZ-P3 is amend as follows:

*“Avoid land use and subdivision that is incompatible with the ecological, historic heritage, cultural and natural character values of the zone: where the effects of the land use or subdivision cannot be adequately mitigated or remedied.”*

122. I acknowledge Kiwi Fresh Orange Company Limited (S544.045) and recommend that NOSZ-P4 is amended below as per Key Issue 16.

123. In regard to the NZAAA submission, weed clearance is included in the definition for conservation activities, which are provided for as a permitted activity. Pest management is one of the top three priorities areas for the Northland Regional Council. Throughout the plan policies have been specifically kept generic. I do not consider there to be a need to have a specific policy around weed management, as it is generally covered by NOSZ-P1.

*NOSZ-P1 “Enable land use that conserves, protects and enhance the natural, ecological, historic, heritage, cultural and natural character values of the zone”*

## **Recommendation**

124. I recommend amendments to NOSZ-O1 and NOSZ- P1 as follows:

*NOSZ- O1 The ~~ecological~~, natural, historic heritage, cultural and natural character values of the Natural Open Space zone are protected and enhanced for the benefit of current and future generations.*

*NOSZ -P1 Enable land use that conserves, protects and enhances the natural, ~~ecological~~, historic heritage, cultural and natural character values of the zone.*

125. I recommend Kiwi Fresh Orange Company Limited (S554.044) is accepted and NOSZ-P3 is amended as follows:

*“Avoid land use and subdivision that is incompatible with the ecological, historic heritage, cultural and natural character values of the zone: where the effects of the land use or subdivision cannot be adequately mitigated or remedied.”*



126. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

### Section 32AA evaluation

127. The recommended amendments primarily clarify the intent of the provisions and allow consistency. On this basis, no evaluation for these recommended amendments under Section 32AA is required.
128. The recommended amendments to NOSZ-P3 allow a pathway for land use and subdivision activities that are necessary even though they are incompatible with the ecological, historic heritage, cultural and natural character values of the zone. This amendment is more effective and efficient as it provides a pathway for activities that may bring economic and social well-being benefits for the district such as infrastructure.

### 5.2.7 Key Issue 7: NOSZ-R7 – Vegetation planting

#### Overview

Provision(s)	Officer Recommendation(s)
NOSZ-R7	Retain as notified

#### Analysis of Submissions on Key Issue 7

##### Matters raised in submissions

129. Carbon Neutral NZ Trust (S529.172) supports in part, while VKK (S527.034) opposes NOSZ-R7 they both state that the rule says, '*planting of indigenous species is preferred*'. The submitters express that indigenous species should be required when planting in reserves in the Natural Open Space Zone in order to conserve and enhance indigenous biodiversity and request to amend the Rule to ensure this occurs. VKK continue to state that planting exotic vegetation in this zone should be a non-complying activity and request to amend the Rule to state this.
130. Carbon Neutral NZ Trust (S529.173) state planting exotic vegetation in this zone should be a non-complying activity and conservation land and parks should be planted with suitable indigenous species. The submitter requests to insert a rule to make planting exotic vegetation noncomplying activity.

##### Analysis

131. Planting is included in the definition of conservation activity, customary activity and park management activity. I consider NOSZ-R7 appropriate as notified. The permitted activity status allows the planting of any species. As such it allows the planting of fruit trees and vegetables and would also allow the planting/replanting of grass facilities which is appropriate and could reasonably be anticipated in this zone.





132. I note that some pieces of land within the zone may be managed by either a Conservation Management Plan (CMP)/ Strategy (CMS) (on public conservation land) and/or Reserve Management Plans. These will also apply where relevant and additional matters such as, where and how certain types of planting occurs on a more granular and site specific level. The PDP need not provide all statutory direction for all areas zoned NOSZ. I also note that S4(3) of the RMA precludes activities undertaken in accordance with a CMS or CMP from complying with certain land use requirements of the RMA. In effect, this could render a constraint on planting void.

### **Recommendation**

133. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

### **Section 32AA evaluation**

134. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

## **5.2.8 Key Issue 8: OSZ-Objectives and Policies**

### **Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
OSZ-O1	Retain as notified
OSZ-P4	Amendment under clause 16 addressed in Key Issue 16

### **Analysis of Submissions on Key Issue 8**

#### **Matters raised in submissions**

#### Objectives

135. Aksel Danger Bech (OSZ-O1) supports in part OSZ-O1 and states FNDC operates many open spaces and reserves around the district. However, the recreational reserve located at 455 Opito Bay Road and the parking in Road Reserve/Coastal setback area, is important and a highly utilised community asset that gives access to a public boat ramp. The submitter supports the objective that is consistent with these purposes and suggests polices including OSZ-P1, OSZ-P2 and OSZ-P3 seek to give effect to objective OSZ-P1. The submitter requests to amend the PDP to identify the open space and recreational areas that must have an area specific Reserve Management Plan and allocate appropriate resources and funding in the next LTP to complete the plan, including this as a priority for years 1-3 of that LTP.



136. MOE (S331.093) support OSZ-O2 as it provides for land use that is consistent with the natural, ecological, historic heritage and cultural values of the zone and provides of social and cultural wellbeing and requests to retain the objective as proposed.

#### Policies

137. MOE (S331.094) supports OSZ-P3 as it provides for activities and their associated buildings/structures where they provide for social well-being and benefit of the community and request to retain the policy as proposed.

#### **Analysis**

138. Reserve management plans are developed under the Reserves Act 1977, hence not a matter for the District Plan. Opito Bay is classified as a Recreation Reserve under the Reserves Act. This Reserve will be included in the Bay of Islands - Whangaroa combined reserve management plan that will be developed in the future.
139. I acknowledge MOE support for the provisions.

#### **Recommendation**

140. I recommend MOE (S331.094) and Aksel Danger Bech (S186.001) submissions are accepted and no changes are recommended to the Open Space Zone Objectives or policies except those identified in Key Issue 2.
141. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

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

142. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

### **5.2.9 Key Issue 9: SARZ-Objectives and Policies**

#### **Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
SARZ-O1	Minor amendment
SARZ-P1	Minor amendment
SARZ-P2	Minor amendment
SARZ-P4	Clause 16 amendments in Key Issue 16 and addition of urban design considerations

#### **Analysis of Submissions on Key Issue 9**

#### **Matters raised in submissions**



### Objectives

143. MOE (S331.096) support SARZ-O2 to provide for buildings and structures in the Sport and active recreation zone and wish to retain the objective as proposed.

### Policies

144. MOE (S331.097) support SARZ-P1 to enable indoor and outdoor activities that are compatible with the purpose and predominant character of the Sport and Active Recreation Zone and request to retain the policy as proposed.
145. Bay of Islands Kerikeri Golf Club (S297.001) support SARZ-P3. The submitter wishes to retain SARZ-P3 and enforce this when considering rezoning of the adjacent land, by refusing to consider material that compromises the establishment and continuing use of the land for sport and recreation purposes.
146. Our Kerikeri Community Charitable Trust (S274.004) and VKK (S528.004) support in part SARZ-P4 protocols and request to amend the policy to include 'inclusion principles' for all members of the public and CPTED principles to encourage social protection measures and safety for all. This requires rules to bolster points c and f regarding urban design protocols. Urban Design protocols can influence factors that either motivate or provide barriers to participation and ALL members of the community accessing sports and recreational facilities.

### **Analysis**

147. I acknowledge the submissions from MOE and Bay of Island Kerikeri Golf club regarding the objectives and policies.
148. Our Kerikeri Community Charitable Trust and VKK sought to include 'inclusion principles', no wording was suggested by these submitters as to what this might include. I have assumed this would include equity, diversity and inclusion which sit outside the scope of the district plan. Additionally, there was no wording sought by these submitters regarding urban design protocols to be included within SARZ -P4, therefore in considering my response to these submission points, I reviewed the New Zealand Urban design protocol (MFE 2005). I suggest the following wording is added to clause f of SARZ-P4.

*f. effects on public access, the integration of built form including walkways, cycleways and pedestrian access points;*

### **Recommendation**

149. I recommend S274.004 and S528.004 are accepted in part and SAR-P4 is amended as follows:



*... f. effects on public access, the integration of built form including walkways, cycleways and pedestrian access points;*

- 150. Minor amendments are recommended to SAR-O1, SARZ-P1, SARZ-P2 as a result of the change in definition for title for Recreation activity to Sport and Recreation Activity.
- 151. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

**Section 32AA evaluation**

- 152. The recommended amendment is appropriate as it allows greater consideration of health and safety aspects when assessing applications for activities. The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP.

**5.2.10 Key Issue 10: SARZ-R14 Educational Facility**

**Overview**

Provision(s)	Officer Recommendation(s)
SARZ-R14	Change in activity status and add parameters

**Analysis of Submissions on Key Issue 10**

**Matters raised in submissions**

- 153. MOE (S331.098) support SARZ-R14 Education facility, as a discretionary activity status of educational facilities to enable activities that are compatible with the purpose and predominant character of the Sport and Active Recreation zone and wish to retain the rule as proposed.
- 154. Northland Planning and Development 2020 Limited (S502.080) support in part SARZ-R14, stating at times a sport and recreation facility may be hired out for an educational programme, activities such as this are temporary in nature and assist local clubs and community groups with additional funding to help with the upkeep of their facilities. These activities should be continued to be enabled rather than being a discretionary activity. The submitter seeks relief and requests to amend the rule so that temporary occupation of existing facilities for education purposes is enabled as a permitted activity.
- 155. Our Kerikeri Community Charitable Trust (S274.005) opposes SARZ-R14, stating in their reasoning that research shows that women disproportionately experience family/caring responsibilities, and this is a barrier to participation. The submitters states that future proofing sports and recreational sites to easily include the development of childcare



facilities in hub environment is important. The submitter requests to amend the rule to make educational facilities permitted.

### Analysis

156. I consider that there is merit in both Northland Planning and Development and Our Kerikeri Community Charitable Trust submission points. I consider that an education facility, if used in combination with or within the facilities on site, is appropriate. The two activities considered by the submitters include an education programme using the existing facilities and a childcare service that operates within the recreation 'hub'. The effects of these types of activities operating within the existing facilities or in combination with the Sport and Recreation activity on site would be minimal. I would consider childcare facility to be an activity ancillary to Sport and Recreation activity.

157. The definition of educational facility would include both these activities:

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

158. I consider if an educational facility was made a permitted activity, the following parameters around the activity would ensure that it restricted to the types of activity appropriate for this zone. Which is essentially reinforcing the definition of Sport and Recreation activity.

*'...The activity is ancillary to the Sport and Active Recreation Activity on site.'*

### Recommendation

159. I recommend that SARZ-R14 is amended as follows:

SARZ-R14 – Education Facility	
Discretionary <u>Permitted</u> :  <u>PER-1 activity is ancillary to the sport and active recreation activity on site</u>	Activity status where compliance is not achieved <u>with PER-1</u> : <del>Not applicable</del> -Discretionary

160. For the reasons above, I recommended submission points are rejected, accepted or accepted in part as set out in Appendix 2.

### Section 32AA evaluation

161. The recommended change in the activity status of Education Facility to permitted is more effective and efficient than the proposed approach at achieving the PDP objectives as a whole.



162. The approach aligns with the part 2 of the RMA allowing people and communities to provide for their social, wellbeing and health. The amendments provide greater clarity and direction to plan users that these types of activities are appropriate. The benefit of the recommended amendment is that opportunities for the utilisation of the facilities associated with Sport and Recreation activities.

### 5.2.11 Key Issue 11: SARZ - Discretionary Rules

#### Overview

Provision(s)	Officer Recommendation(s)
SARZ-R6	Amend to include ancillary to Activity
SARZ-R11	Amend to increase operating hours
SARZ-R12	Amend to include ancillary to Activity
SARZ-R13	Amend to include ancillary to Activity

#### Analysis of Submissions on Key Issue 11

##### Matters raised in submissions

163. Jeff and Robby Kemp (S51.003) support in part SARZ-R6 and state that the definition of community facility provides for a wide range of activities and interpretation and allows for activities which don't sit within the realm of Sport and Recreation. The submitter requests to amend the rule so it only applies to community activities that fit within the realm.
164. Our Kerikeri Community Charitable Trust (S274.003) opposes SARZ-R11, while VKK (S528.003) support in part, expressing that commercial activities will be ancillary to recreation activity that increasingly cater for people beyond daylight hours. They suggest that hours of operation could restrict access for people who are unable to attend during these hours and could limit service providers when there is demand. The submitters request to amend the rule to increase commercial activity hours to 6am-9pm Monday to Friday.
165. Jeff and Robby Kemp (S51.004) oppose Rules, stating that SARZ-R12 Visitor accommodation, SARZ-R13 Camping Ground and SARZ-R14 Education facility all fall within the same regime as that applying to Community Facility. The submitter requests to amend these three rules so they can only be assessed as a Discretionary Activity when they have a direct correlation to sport and active recreation activities.
166. Our Kerikeri Community Charitable Trust (S271.024), (S271.025) and (S271.026) and Carbon Neutral NZ Trust (S529.089), (S529.090) and (S529.091), VKK (S524.024), (S524.025) and (S524.026) seek to ensure that tracks for cyclists and pedestrians are enabled within this zone and request to amend Rules to allow this.



167. Twin Coast Cycle Trail (S425.045), (S425.046) and (S425.047), Kapiro Conservation Trust (S446.025), (S446.026) and (S446.027) state the purpose of these zones is to enable and provide for recreation, Twin Coast Cycle Trail consider that cycling and walking is an important form of recreation. All submitters request to amend Rules to enable cycling trails.
168. Jeff and Robby Kemp (S51.005) oppose SARZ-R15, stating that by allowing this to remain as a discretionary activity defeats the purpose of scheduling land use activities in this new PDP format and requests to amend the rule to make it a non-complying activity.
169. Jeff and Robby Kemp (S51.006) support SARZ-R16 and wishes to retain the rule as a Non-Complying Activity.

### **Analysis**

170. In response to Jeff and Robby Kemp's submission point regarding SARZ-R6 Community facility, I support that the Community facility should be related to the Sport and Recreation use of the zone in that additional provision is necessary in this rule otherwise the activity is discretionary.
171. The National Planning standards definition of Community facility is as follows:

*"means land and buildings used by members of the community for recreational, sporting, safety, health, welfare, or worship purposes. It includes provisions for any ancillary activity the assists with the operation of the community facility."*
172. This definition is very broad, and activities permitted under this definition could compromise the ability for activities that are consistent with the purpose of the zone.
173. I support the amendments proposed to SARZ-R11 Commercial activity. This activity has quite strict parameters in that the Ground Floor must not exceed 40m<sup>2</sup> and the Commercial activity is ancillary to the Sport and Recreation activity on site. These parameters only allow for a small commercial activity that would operate in combination with the Sport and Recreation activity. For these reasons, I consider the effects in addition to the activity already been undertaken on the site to be minimal. I recommend the hours of operation, Monday – Friday to be increased to 6am-9pm.
174. With respect to Jeff and Robby Kemp's submission point to amend the rules for Camping ground, Education facility and Community facility, I agree with the reasoning in that activities in this zone shall be for the primary purpose of the zone, being Sport and Active Recreation. For this reason, I recommend additional wording be added to the rules for Community facility, Visitor accommodation and Camping ground that the activity shall be primary or ancillary to the purpose of the zone. I do not





support the recommended changes to the rule for Educational facility. This rule has been addressed above in Key Issue 10.

175. I do not support Jeff and Robby Kemp's submission point regarding the catch all rule in the plan SAR-R15 activities not otherwise listed in this chapter defaulting to a non-complying activity. The current activity status of discretionary is considered appropriate as this approach has been used in the zone chapters plan wide and there is an extensive list of activities for this zone that are non-complying.
176. I support the retention of the notified rule SARZ-R16 Residential activity.
177. In regard to the submitters seeking rules to enable cycling and walking tracks, these are a permitted activity as they fall into the definition of Park management activity, which is a permitted activity in the Sport and Active Recreation Zone.
178. Park management activity is defined as follows:
- "means the day to day management, operations and maintenance of parks and reserves. It includes:*
- a. Repair, maintenance and development of facilities, structures and buildings;*
- b. Planting, removal, trimming and maintenance of turf, trees (except Notable Trees) and other non-indigenous vegetation and associated earthworks;*
- c. Animal and pest control operations; and*
- d. Repair, maintenance and development of walkways, cycleways, or vehicle tracks and associated earthworks."*
179. As stated previously, there was some discussion about the definition of structure and what that includes in SARZ -R1 – New Buildings and structures. A carpark, driveway or other paved area while man-made and fixed to the land, does not fall into either of the four listed types of structures and are therefore not captured by the definition.

### **Recommendation**

180. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2, and the following provisions are amended.
181. I recommend that following rules are redrafted as follows:

<b>SARZ-R6 – Community Facility</b>
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<p>Activity status: Permitted</p> <p><b><u>PER-1</u></b></p> <p><u>The facility is primary or ancillary to the purpose of the zone</u></p>	<p>Activity status where compliance is not achieved <u>with PER-1</u>: <del>Not applicable</del>-<u>Discretionary</u></p>
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<p><b>SARZ-R12 – Visitor Accommodation</b></p>	
<p>Activity status: Discretionary</p> <p><b><u>PER-1</u></b></p> <p><u>The facility is primary or ancillary to the purpose of the zone</u></p>	<p>Activity status where compliance is not achieved <u>with PER-1</u>: <del>Not applicable</del>-<u>Non-complying</u></p>

<p><b>SARZ-R14 – Camping ground</b></p>	
<p>Activity status: Discretionary</p> <p><b><u>PER-1</u></b></p> <p><u>The facility is primary or ancillary to the purpose of the zone</u></p>	<p>Activity status where compliance is not achieved <u>with PER-1</u>: <del>Not applicable</del>-<u>Non-complying</u></p>

182. Amend SAR-R11 Commercial activity as follows:

<p><b>SARZ-R11 – Commercial activity</b></p>
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<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 The commercial activity does not exceed a GFA of 40m<sup>2</sup>.</p> <p>PER-2 Hours of operation are between:</p> <ol style="list-style-type: none"> <li>1. 8<del>6</del>am - 6<del>9</del>pm Monday to Friday.</li> <li>2. 9am - 5pm Weekends and public holidays.</li> </ol> <p>PER-3 The commercial activity is ancillary to the <u>sport and recreation</u> activity on site.</p>	<p>Activity status where compliance is not achieved with PER-1, PER-2 or PER-3: Discretionary</p>
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**Section 32AA evaluation**

- 183. The recommended changes to rules SARZ-R6, SARZ-R12, and SARZ-R13 ensure that the type of activities in this zone are in alignment with the objectives and policies and allow the utilisation of the zone for activities that benefit of the wider community.
- 184. The recommend changes to SARZ- R11 Commercial activity allow for greater utilisation of these commercial facilities while sport and recreation activities are taking place and hence providing for greater utilisation for the community. The recommended amendments are therefore considered to be more appropriate in achieving the purposed of the RMA than the notified version of the PDP.

**5.2.12 Key Issue 12: SARZ-Standards**

**Overview**

Provision(s)	Officer Recommendation(s)
SARZ-S1	Increase height add exemption for flood lights
SARZ-S3	Increase setback

**Analysis of Submissions on Key Issue 12**

**Matters raised in submissions**

- 185. Our Kerikeri Community Charitable Trust (S274.001) and VKK (S528.001) support in part SARZ-S1 and suggests considering increasing the height



to 10m as an exception for specific cases where there is a requirement that competition halls must have a minimum height of 8m for events. The submitters request to amend SARZ-S1, to include exceptions to 8m maximum height.

186. Jeff and Robby Kemp (S51.007) oppose SARZ-S3, stating the rule only relates to buildings or structures and doesn't accommodate the nature and scale of activities that are commonly located within Sport and Active Recreation areas, such as playing fields. The submitter suggests that adjoining property owners can receive the offsite effects being located in close proximity of the common boundary. Jeff and Robby Kemp request to amend SARZ-S3 to ensure all activities are located no less than 10m from a common boundary.
187. VKK (S528.002) supports in part SARZ-S5, while Our Kerikeri Community Charitable Trust (S274.002) oppose. The submitter states that building or structure coverage of the site is no more than 8%. This requirement assumes that outdoor recreational activities dominate the landscape, however, increasingly places of recreation benefit from grouping indoor activities to provide people with better access for all ages and abilities in addition to being financially sustainable hubs. The submitter requests to amend SARZ-S5 to increase in building or structure of sports and recreation hub development sites.

### **Analysis**

188. In regard to, the submitters seeking an increase in the building height-SARZ-S1, I agree that competition halls (interpreted as a sports venue) would generally breach this height limit. In consultation with FNDC Parks and Reserves Planner, we have considered that a 10m height limit in conjunction with the other bulk and location standards would be appropriate to provide for the types of activities that we anticipate in this zone.
189. The changes proposed to increase the maximum height standard could go some way to address this submission points in Key Issue 5. I also consider that it is appropriate to add an exclusion to this standard for floodlights. Floodlights are likely to be associated with public facilities and should have a permitted pathway as they are important not only for the Sport or Recreation activity but also for health and safety purposes.
190. Regarding amendments sought to SARZ-S3, I consider that the setback for buildings and structures in this zone to be relatively liberal. For the following reasons:
  - The Sport and Active Recreation zoned land located is generally located in, or in close proximity to urban areas.



- There are potentially a variety of effects associated with activities on Sport and recreation zoned land that may not always be compatible with adjoining uses.
191. I recommend the setback for building and structures to be increased from 1.2m to 5m from adjoining zone boundaries. This allows for open space between the zone boundaries this can go someone in managing noise reduction, protecting privacy and the like. It is not onerous to require a slightly larger setback. While this set back only applies to SARZ-R1 New Building or structures it goes some way to achieving the relief sought by Mr and Mrs Kemp.
192. In reference to SARZ-S5 Building or structure coverage, this standard was a roll over from the Operative plan. It is reasonability consistent with other plans throughout the country and is considered appropriate. If breached, the restricted discretionary status allows the assessment of any effects.

### **Recommendation**

193. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2, and the following amendments to the standards are recommended.

194. I recommend SARZ-S1 is amended as follows:

*The maximum height of a building or structure, or extension or alteration to an existing building or structure is ~~8~~10m above ground level.*

***This standard does not apply to:***

*Solar and water heating components provided these do not exceed the height by more than 0.5m on any elevation;*

*Chimney structures not exceeding 1.2m in width and 1m in height on any elevation;*

*Satellite dishes and aerials that do not exceed 1m in height and/or diameter on any elevation; or*

*Architectural features (e.g. finials, spires) that do not exceed 1m in height on any elevation;*

*floodlights that do not exceed 18.5m.*

195. I recommend SARZ-S3 is amended as follows:

*The building or structure, or extension or alteration to an existing building or structure must be set back at least ~~1.2~~ 5 m from*



*all site boundaries, except that the setback must be at least 3m measured from a road boundary.*

**Section 32AA evaluation**

- 196. The recommend increase in building height and exemption for floodlights for this zone is more appropriate as it applies to the types of activities we anticipate in this zone.
- 197. The notified PDP 8m height limit is not flexible enough to allow taller buildings where these may have positive social and economic benefit in meeting the zone objectives. The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP.
- 198. The recommended amendment to the setback distance from boundaries adjoining a different zone allows greater consideration of effects on adjoining zones while not implementing any onerous consenting requirements. The recommended amendments are therefore considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP.

**5.2.13 Key Issue 13: Sightlines**

**Overview**

Provision(s)	Officer Recommendation(s)
Various	No changes in relation to these submission points

**Analysis of Submissions on Key Issue 13**

**Matters raised in submissions**

- 199. Russell Protection Society (Inc) support in part the objectives (S179.086) and Policies (S179.087), stating that in some instances open space also serves the important function of preserving sight line corridors that strategically links public places with views of the sea, prominent geologic features, significant trees or historic sites. The submitter requests to insert an objective, policy, rule (S179.088) and standard (S179.089) around the important function of preserving sight line corridors.

**Analysis**

- 200. Sightlines have not been identified in the PDP. The identification of sightlines throughout the district would be an extensive task. In addition, the benefit of doing so from private property is unclear.
- 201. In the Open Space Zones, the 'consideration' policy NOSZ-P4, OSZ-P4 and SARZ-P4 include the clause as follows: *Any adverse effects on areas with historic heritage and cultural values, natural feature and landscapes,*



*natural character or indigenous biodiversity values...* The matters of restricted discretion for when one of the bulk or location standards is breached, includes things such as the character and amenity of the surrounding environment, and the extent to which the siting, setback, design mitigate visual dominance on adjacent site and surrounding environment. Without the introduction of sightlines to the plan, I consider the policies and matters of restricted discretion could go somewhat to the consideration of the wider environment.

**Recommendation**

- 202. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

**Section 32AA evaluation**

- 203. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

**5.2.14 Key Issue 14: Transpower**

**Overview**

Provision(s)	Officer Recommendation(s)
Various	No changes in relation to these submission points

**Analysis of Submissions on Key Issue 14**

**Matters raised in submissions**

- 204. Transpower New Zealand Ltd (S454.123), (S454.125) and (S454.127) support the intent of policy NOSZ-P1, OSZ-P3 and policies within the Sport and active recreation Zone. However, they state that critical infrastructure, such as the National Grid, has a functional or operational need to locate in the Natural open space Zone, Open space Zone and Sport and active recreation Zone and needs to be provided for. Due to its linear nature and the requirement to connect new electricity generation to the National Grid, regardless of where the new generation facilities are located, transmissions lines may need to traverse any zone within the district. The submitter seeks a new objective and policy in each of the zones as follows:

*NOSZ-01 "The Natural Open Space zone is used by compatible activities and infrastructure, that enhance community wellbeing and have a functional or operational need to locate in the zone". (S454.122)*

*OSZ-03 "The Open Space zone is used by compatible activities and infrastructure, that enhance community wellbeing and have a functional or operational need to locate in the zone". (S454.124)*



*SARZ-Ox "The Sport and Active Recreation zone is used by compatible activities and infrastructure, that enhance community wellbeing and have a functional or operational need to locate in the zone". (S454.126)*

*NOSZ-Px "Enable compatible activities and infrastructure, that enhance community wellbeing and have a functional or operational need to locate in the Natural Open Space zone". (S454.123)*

*OSZ-Px "Enable compatible activities and infrastructure, that enhance community wellbeing and have a functional or operational need to locate in the Open Space zone". (S454.125)*

*SARZ-Px "Enable compatible activities and infrastructure, that enhance community wellbeing and have a functional or operational need to locate in the Sport and Active Recreation zone". (S454.127)*

**Analysis**

- 205. Since making their submission, Transpower has contacted Council to advise that it no longer intends to pursue its submission points requesting amendments to zone chapters to recognise critical infrastructure such as transmission lines, including submission point (S454.123), (S454.125) and (S454.127). Transpower understands that the Infrastructure chapter in the PDP provides the provisions for infrastructure on a District-Wide basis and is therefore seeking to pursue its primary relief through specific provisions for the National Grid in the Infrastructure chapter. As such, no amendments to the Open Space provisions are necessary to provide for the original relief sought by Transpower and I recommend that these submission points are rejected.

**Recommendation**

- 206. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

**Section 32AA evaluation**

- 207. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

**5.2.15 Key Issue 15: Radio New Zealand**

**Overview**

Provision(s)	Officer Recommendation(s)
SARZ- S1	Insert note



## Analysis of Submissions on Key Issue 15

### Matters raised in submissions

208. RNZ (S489.040) support in part the notes in SARZ-S1, stating part of the zone is within 1,000m of RNZ's facilities and seeks to insert a note to the Sport and Active Recreation Zone: "*There is a risk that significant tall structures (i.e. Higher than 40m) within 1,000m of RNZ's Facilities at Waipapakauri or Ōhaeawai, could present a safety risk from electromagnetic coupling. Developers of such structures should consult with RNZ at the planning stage to ensure such risks are avoided*".

### Analysis

209. I appreciate that RNZ have raised some clear safety concerns relating to high structures being erected close to their two existing radio facilities. I agree that a note similar to that used in the subdivision chapter (for SUB-R1 and others in relation to the Airport zone), could be a way to ensure landowners are alerted to the EMR risks associated with tall structures near the radio facilities.
210. However, given that RNZ know where their facilities are and have calculated the maximum safe heights for structures adjacent to the radio transmitter, I consider that the note could be more specific as to when EMR effects are likely to occur and when notification of RNZ is required so not all height infringements trigger the need to inform RNZ. I also consider that the note is best placed under SARZ-S1 given that this is the standard that manages the maximum height of buildings and structures. I have recommended amendments to SARZ-S1 to this effect as set out in the recommendations below.

### Recommendation

211. I recommend that a note is added to SARZ-S1 as follows:

**"NOTE:**

1. *If a resource consent application is made for an infringement of SARZ-S1 and the proposed building or structure is:*
  - *greater than 21 metres in height and within 1,000 metres of the Waipapakauri transmitter at Spains Road, Awanui Part Lot 4 DP 43276; or*
  - *greater than 16 metres in height within 1,000 metres of the Ōhaeawai transmitter then;*
  - *Radio New Zealand will be considered an affected person and consultation will be required to manage potential adverse electromagnetic radiation effects.*





212. For the reasons above, I recommend the submissions are accepted, accepted in part or rejected as set out in Appendix 2.

**Section 32AA evaluation**

213. The recommended amendment is appropriate, efficient and effective as it manages any safety concerns with tall buildings located near the Radio NZ facilities and is targeted to reduce necessary consenting.

**5.2.16 Key Issue 16: “Consideration” Policy amendments**

**Overview**

<b>Provision(s)</b>	<b>Officer Recommendation(s)</b>
NOSZ -P4	Minor amendments
OSZ -P4	Minor amendments
SARZ-P4	Minor amendments

**Analysis of Submissions on Key Issue 16**

**Analysis**

214. The Hearing 4 topics (The Coastal Environment, Natural Features and Landscapes, Natural Character, Ecosystems and Indigenous Biodiversity) identified drafting issues with the ‘consideration’ policy. It was considered that the issues could be easily addressed by simplifying the chapeau of these policies, to be much clearer on its intended purpose. It was recommended that these minor amendments be addressed under clause 16, Schedule 1 of the RMA as the change would be neutral. I support this approach and recommend this approach is followed through to the Open Space Zones and policies NOSZ-P4, OSZ- P4 and SARZ-P4 are amended for plan wide consistency and integration.

**Recommendation**

215. For the reasons above, I recommend that NOSZ-P4, OSZ- P4 and SARZ-P4 are amended under clause 16, Schedule 1, of the RMA.

**Section 32AA evaluation**

216. While a section 32AA evaluation is not strictly required as the effect of my recommended amendment is the same, I consider my recommendation to amend NOSZ-P4, OSZ- P4 and SARZ-P4 is a more appropriate option than retaining the policy as notified, as the same outcome is achieved in a more effective and efficient manner (i.e. less regulation and risk of interpretation issues).



## 5.2.17 Key Issue 17: New Buildings and Structures rule amendments

### Overview

Provision(s)	Officer Recommendation(s)
NOSZ -R1	Amendments to include additional activity types
OSZ -R1	Amendments to include additional activity types
SARZ-R1	Amendments to include additional activity types

### Analysis of Submissions on Key Issue 17

#### Matters raised in submissions

217. FNDC (S368.073, 074, 075) support in part NOSZ-R1, OSZ-R1 and SARZ-R1 and seeks that the 'New buildings or structures, and extensions or alterations to existing buildings or structures' rule in each zone needs to be amended to include activities that are permitted, controlled and restricted discretionary, where applicable within the zone. The submitter requests amending the rule to include: 'or controlled, or restricted discretionary'.

#### Analysis

218. I support the submission from FNDC, as without the proposed wording, every activity that does not have a permitted status would be triggered by this rule and subsequently be a Discretionary activity. This was not the intent of this rule as drafted. The proposed amendments allow assessment of all new buildings and structures against the bulk and location controls.

#### Recommendation

219. For the reasons above, I recommend the submissions are accepted as set out in Appendix 2 and the provisions are amended as follows:
220. Amend NOSZ-R1 as follows:
- ".....PER-1  
*The new building or structure, or relocated building, and extension or alteration to an existing building or structure, will accommodate a permitted, controlled or restricted discretionary activity."*
221. Amend OSZ-R1 as follows:
- ".....PER-1  
*The new building or structure, or relocated building, and extension or alteration to an existing building or structure, will accommodate a permitted, controlled or restricted discretionary activity."*
222. Amend SARZ-R1 as follows:



“.....PER-1

*The new building or structure, or relocated building, and extension or alteration to an existing building or structure, will accommodate a permitted, controlled or restricted discretionary activity.”*

### Section 32AA evaluation

223. The recommended changes clarify the intent of the rule and allows a more efficient and effective approach. These rules as currently notified, would mean that all activities that were not permitted, would be a discretionary activity. This recommended change alleviates unnecessary consenting under this rule.

### 5.2.18 Key Issue 18: Impermeable surfaces

#### Overview

Provision(s)	Officer Recommendation(s)
NOSZ-R2	Insert additional Matter of restricted discretion
OSZ-R2	Insert additional Matter of restricted discretion
SAZR-R2	Insert additional Matter of restricted discretion

#### Analysis of Submissions on Key Issue 18

##### Matters raised in submissions

224. Forest & Bird (S511.123) and Kapiro Conservation Trust (S442.142) oppose NOSZ-R2, expressing their difficulty to envision how an impermeable surface that covers 10% or 1000m<sup>2</sup> (whichever is less) of a site in a Natural open space Zone doesn't cause some sort of adverse effect. The submitter requests to amend the rule to be a controlled activity enabling Council to control where the surface is.
225. Puketotara Lodge Ltd (S481.008, 009, 010) seek additional matters of discretion to be added to the impervious surface coverage rules in all zones. The submitter considers that this is necessary to effectively control stormwater discharge effects, especially between or adjacent to sites. They note that while the ODP has stormwater management rules and discretion for impermeable surface area, the PDP lacks a specific "stormwater management" rule. To address this perceived gap, Puketotara Lodge requests the following additional matters of discretion for impermeable surface coverage rules in all zones: Avoiding nuisance or damage to adjacent or downstream properties; the extent to which diversion and discharge maintains pre-development stormwater run-off flows and volumes; the extent to which the diversion and discharge mimics natural run-off patterns.
226. Trent Simpkin opposes NOSZ-R2, OSZ-R2 and SAZR-R2 (S283.018, 019, 020) stating the impermeable surface rule is one of the most breached rules when designing homes and the low threshold means most homes still require a resource consent for impermeable surfaces. The submitter



expresses that FNDC shouldn't be required to look at a TP10/Stormwater report from an engineer to say it's acceptable and suggests amendment to increase impermeable surface coverage maximum to be realistic, based on the site of lots allowed for the zone and/or insert a PER-2 that states if a TP10 report is required by an engineer, the activity is permitted.

## Analysis

227. The notified PDP Open Space Zone Impermeable surface rules NOSZ-R2, OSZ-R2 and SAZR-R2 are permitted activities in the respective zones. Impermeable surface coverage in the NOSZ and OSZ must not exceed 10% or 1,000m<sup>2</sup>, whichever is the lesser. The SARZ standard is no more than 10%. If this is breached, the activity becomes a Restricted Discretionary activity with the following matters of discretion for all the Open Space Zones:
- a. *the extent to which landscaping or vegetation may reduce adverse effects of run off;*
  - b. *the effectiveness of the proposed method for controlling stormwater on site;*
  - c. *the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites;*
  - d. *whether low impact design methods and use of green spaces can be used;*
  - e. *any cumulative effects on total catchment impermeability;*
  - f. *natural hazard mitigation and site constraints; and*
  - g. *extent of potential adverse effects on cultural, spiritual, heritage and /or amenity values of any affected waterbodies.*
228. The maximum impermeable surfaces for the Open Spaces Zones were deemed appropriate during development of the PDP and have been 'rolled' over from the ODP. This is because development is anticipated to be of a small scale for the Natural Open Space and Open Space Zones and large scale with larger sites expected in the Sport and Active Recreation Zone.
229. While I agree that impermeable surface limits for the Natural Open Space Zone seem relatively high for the type of this type of environment, the likelihood of development up to this limit is unlikely for the types of activities provided for in this zone.
230. The request from Puketotara Lodge relates to additional matters of discretion. However, I have inferred that the submitter intended to refer



to matters of restricted discretion, given the rule's activity status. My view is that the requested matter, to avoid nuisance or damage to adjacent or downstream properties, is not effectively covered by the matters of restricted discretion as notified. To address this gap, I recommend an additional matter of control is added to NOSZ-R2, OSZ -R2 and SARZ-R2 as follows:

*The extent to which adverse effects of stormwater runoff from new impermeable surfaces on adjacent or downstream properties are avoided, remedied, or mitigated.*

231. The other two matters of control requested by Puketotara Lodge are in my view, either unnecessarily specific or potentially problematic to assess (e.g. maintaining pre-development stormwater flows, mimicking natural run-off patterns). Overall, I consider that the notified matters of restricted discretion, along with the additional recommended matter of control, provide sufficient scope to assess a range of stormwater aspects where appropriate to do so and effectively manage stormwater in the manner sought by Puketotara Lodge. In making this recommendation, I note that impervious surface rules and stormwater management is a wider issue for the PDP that will be considered by other reporting officers for the zone topics.
232. Upon review of the request by Trent Simpkin to amend the impermeable surface coverage maximum to be based on the size of the lots, I consider the current maximum impermeable surface of the Open Space Zones to be appropriate. This impermeable surface threshold was considered appropriate under the ODP. The submitter also requests that impermeable surface breaches are a permitted activity if a TP10 report is provided. While a TP10 report may address stormwater management components associated with additional impermeable surfaces, if it is a permitted activity the report cannot be adequately reviewed by a Council engineer and there is no ability to question aspects of the report. Also, additional matters associated with impermeable surfaces, such as visual and amenity effects, may not be adequately addressed by a TP10 report. Based on these considerations, I consider that restricted discretionary activity status is appropriate for any breaches of these rules.

### **Recommendation**

233. For the above reasons, I recommend that:
  - a. Submission points S283.018, 019, 020, S511.113 and S442.142 are rejected.
  - b. Submission points S481.008, 009, 010 are accepted in part and NOSZ-R2, OSZ -R2 and SARZ-R2 are retained with amendments as below:



- c. Submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

Provision(s)	Officer Recommendation(s)
NOSZ-R2	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b> The impermeable surface coverage of any site is no more than 10% or 1,000m<sup>2</sup>, whichever is the lesser.</p> <p><b>Activity status where compliance not achieved with PER-1: Restricted Discretionary</b></p> <p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the extent to which landscaping or vegetation may reduce adverse effects of run off;</li> <li>b. the effectiveness of the proposed method for controlling stormwater on site;</li> <li>c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites;</li> <li>d. whether low impact design methods and use of green spaces can be used;</li> <li>e. any cumulative effects on total catchment impermeability;</li> <li>f. natural hazard mitigation and site constraints; and</li> <li>g. extent of potential adverse effects on cultural, spiritual, heritage and/or amenity values of any affected waterbodies.</li> <li>h. <u>The extent to which adverse effects of stormwater runoff from new impermeable surfaces on adjacent or downstream properties are avoided, remedied, or mitigated.</u></li> </ul>
OSZ -R2	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b> The impermeable surface coverage of any site is no more than 10% or 1,000m<sup>2</sup>, whichever is the lesser.</p>



Provision(s)	Officer Recommendation(s)
	<p><b>Activity status where compliance not achieved with PER-1: Restricted Discretionary</b></p> <p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the extent to which landscaping or vegetation may reduce adverse effects of run off;</li> <li>b. the effectiveness of the proposed method for controlling stormwater on site;</li> <li>c. the availability of land for disposal of effluent and stormwater on the site without adverse effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites;</li> <li>d. whether low impact design methods and use of green spaces can be used;</li> <li>e. any cumulative effects on total catchment impermeability;</li> <li>f. natural hazard mitigation and site constraints; and</li> <li>g. extent of potential adverse effects on cultural, spiritual, heritage and/or amenity values of any affected waterbodies.</li> <li>h. <u>The extent to which adverse effects of stormwater runoff from new impermeable surfaces on adjacent or downstream properties are avoided, remedied, or mitigated.</u></li> </ul>
SARZ-R2	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b> The impermeable surface coverage of any site is no more than 10%</p> <p><b>Activity status where compliance not achieved with PER-1: Restricted Discretionary</b></p> <p><b>Matters of discretion are restricted to:</b></p> <ul style="list-style-type: none"> <li>a. the extent to which landscaping or vegetation may reduce adverse effects of run off;</li> <li>b. the effectiveness of the proposed method for controlling stormwater on site;</li> <li>c. the availability of land for disposal of effluent and stormwater on the site without adverse</li> </ul>



Provision(s)	Officer Recommendation(s)
	<p>effects on adjoining waterbodies (including groundwater and aquifers) or on adjoining sites;</p> <p>d. whether low impact design methods and use of green spaces can be used;</p> <p>e. any cumulative effects on total catchment impermeability;</p> <p>f. natural hazard mitigation and site constraints; and</p> <p>g. extent of potential adverse effects on cultural, spiritual, heritage and /or amenity values of any affected waterbodies.</p> <p>h. <u>The extent to which adverse effects of stormwater runoff from new impermeable surfaces on adjacent or downstream properties are avoided, remedied, or mitigated.</u></p>

### Section 32AA evaluation

234. The recommended additional matter of control provides a more appropriate method of achieving objectives for the zone. An assessment of stormwater runoff in relation to adverse effects on adjacent or downstream properties can be provided along with the notified matters of control to manage stormwater runoff in an integrated manner.
235. The recommended amendment will impose costs on those developing impervious surfaces to the extent that they are required to assess the additional matter of control and design stormwater disposal systems that can address this matter.
236. These costs are considered to be reasonable in the context of the benefits of the amendment, which include the management of stormwater runoff from impervious surfaces in a manner that manages effects on adjacent or downstream properties.
237. The risk of accepting the recommended amendments is low as there is sufficient information to act on the submission.
238. For the above reasons, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP.





## 5.2.19 Key Issue 19: Standards - General

### Overview

#### Analysis of Submissions on Key Issue 19

239. John Andrew Riddell (S431.089,090,091) requests to retain the approach in NOSZ-S2, OSZ-S2 and SARZ-S2 varying the required height to boundary depending on the orientation of the relevant boundary.
240. Trent Simpkin (S283.032,033,034) oppose NOSZ-S5 OSZ-S5 and SARZ-S5 and requests to amend the maximum building or structure coverage to be larger or offer an alternative pathway around this rule, by inserting a PER-2 which says if a building is above the maximum, it is permitted if a visual assessment and landscape plan is provided as part of the building consent and states that this should apply to all building coverage rules within all zones.

#### Analysis

241. I acknowledge and support that the approach to height in relation to boundary is retained from the ODP.
242. Regarding Mr Simpkin's submission point (S283.032,033,034) requesting to amend the maximum building or structure coverage standards to be larger, or offer an alternative pathway around this rule, I consider that the building and structure coverage standards are appropriate for the Open Space Zones, as zones anticipate minimal built form.
243. While a visual assessment and landscape report may address components associated with additional building coverage, if it is a permitted activity, the report cannot be adequately reviewed by a Council Officer and there is no ability to question aspects of the report. Based on these considerations, I consider that restricted discretionary activity status is appropriate for any breaches of these rules and that those assessments may appropriately be provided and assessed by that activity status. In addition, the relief sought by this submitter is not appropriate for the Open Space Zones due to the generally limited nature of built form. However, this may need to be explored further of the urban/rural fringe zones in subsequent hearings.

#### Recommendation

244. For the reasons above, I recommend that the submissions and further submissions are accepted, accepted in part or rejected as set out in Appendix 2.

#### Section 32AA evaluation

245. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.



## 5.2.20 Key Issue 20: Setback From MHWS

### Overview

Provision(s)	Officer Recommendation(s)
NOSZ-S4	Deleted from this chapter, addressed in Coastal environment
OSZ-S4	Deleted from this chapter, addressed in Coastal environment
SARZ-S4	Deleted from this chapter, addressed in Coastal environment

### Analysis of Submissions on Key Issue 20

#### Matters raised in submissions

246. John Andrew Riddell (S431.130), (S431.131) and (S431.132) requests to amend rule NOSZ-R1, OSZ-R1, and SARZ-R1 so that any proposal to set a building or structure less than 20m back from the coastal marine area, rivers or banks is a non-complying activity.

#### Analysis

247. John Andrew Riddell's submission, requesting that any building or structure setback less than 20 metres from the CMA is a non-complying activity, was addressed in the S42A report for the Coastal environment.
248. Firstly, it was recommended in the S42A report for Coastal environment that all MHWS setback standards are moved from the zone chapters to the Coastal Environment chapter. This was in order to provide a consolidated constant setback standard. Secondly, in regards to the activity status, it was recommended that there is no change to the activity status.

#### Recommendation

249. I consider that the recommendation to move the MHWS setback standard is appropriate, and the Open Space Chapters are amended to reflect this.
250. Accordingly, I also consider the activity status appropriate and Mr Riddell's submission points are rejected and further submissions are accepted or rejected as set out in Appendix 2.

#### Section 32AA evaluation

251. No section 32AA necessary as these changes are consequential amendments.



### 5.2.21 Key Issue 21: Air Bnb

#### Overview

Provision(s)	Officer Recommendation(s)
NOSZ-R10, OSZ-R12, SARZ-R12	Retain as notified

#### Analysis of Submissions on Key Issue 21

##### Matters raised in submissions

252. Airbnb (S214.009,010,011) support in part NOSZ-R10, OSZ-R12, SARZ-R12, stating the PDP allows for visitor accommodation as a permitted activity for less than or equal to 6-10 guests and if these conditions aren't met, the activity is discretionary except in the settlement zone where it is restricted discretionary. Airbnb support the overall approach to allow visitor accommodation to occur in all zones, however requests to amend rules to standardise the guest limit cap for permitted visitor accommodation to 10 across all zones and make the default non-permitted status restricted discretionary (as opposed to Discretionary) across all zones.

##### Analysis

253. Visitor accommodation in the Open Space Zones (NOSZ-R10, OSZ-R12 and SARZ-R12) is a discretionary activity. As the purpose of these zones is to provide for conservation leisure and recreation customary activities, hence the discretionary activity status. Further analysis of visitor accommodation shall be addressed in the zones where visitor accommodation is a permitted activity, for example the General Residential zone.

##### Recommendation

254. I recommend that the submission points from Airbnb (S214.009,010,011) are rejected for the Open Space Zones and further submissions accepted or rejected as set out in Appendix 2.

##### Section 32AA evaluation

255. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

### 5.2.21 Key Issue 21: Camping grounds

#### Overview

Provision(s)	Officer Recommendation(s)
Various	No change as a result of these submission points



## Analysis of Submissions on Key Issue 21

### Matters raised in submissions

256. New Zealand Motor Caravan Association (S438.020, 021,022,023,024,025) seek more permissive rules for camping grounds, stating that it will make it easier to establish sites for self-contained vehicle- based camping in the Far North District. For the Open Spaces Zones NZMCA seeks a permitted with conditions or Restricted discretionary status for camping grounds. For camping sites, a restricted discretionary status in the Sport and Active Recreation and Open Space Zones and Discretionary status for the Natural Open Space Zone.

### Analysis

257. Camping grounds are a Discretionary activity in all the Open Space Zones.
258. In most cases establishment of a camping ground in the Open Space Zones would be on a reserve. Under the Reserves Act, if a lease activity is not identified in an existing Reserve management plan (RMP) it must be publicly notified. This would apply to campgrounds in reserves that are not already identified through an RMP. There is a range of effects associated with camping grounds that could compromise the purpose of these zones.
259. The Far North District has a large number of camping grounds both private and on Department of Conservation land. These camping facilities are on a located in a range of zones. Additionally, the Council has identified 7 approved sites where campers can stay without charge and rubbish disposal and public self-contained effluent dump stations. Camping or parking overnight at Council controlled parks reserves and beaches is not permitted. The Parks and reserves bylaw (2023) and Camping in public Places Policy (2016) control this activity.

### Recommendation

260. I recommend the submission points (S438.020, 021,022,023,024,025) are rejected and there is no change to the notified provisions as set out in Appendix 2.

### Section 32AA evaluation

261. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

## 5.2.22 Key Issue 22: FENZ response

### Overview

Provision(s)	Officer Recommendation(s)
Various	No changes as a result of these submission points



## Analysis of Submissions on Key Issue 22

### Matters raised in submissions

262. FENZ (S512.057,058,059) requests a new permitted activity rule for emergency service facilities and for these activities to be exempt from standards relating to setback distances and vehicle crossings. FENZ note that fire 12 stations are currently located in a range of zones in the Far North District and that the PDP currently only includes rules for emergency service facilities in some zones with different activity status. FENZ considers that emergency service facilities should be provided for as permitted activities across all zones in the PDP to ensure new fire stations can be efficiently developed as appropriate. This is a plan-wide request from FENZ with multiple submission points on the PDP seeking the same relief.
263. FENZ (S512.104,105,106) support in part NOSZ-R1, OSZ-R1, SARZ- R1 stating many zones hold objectives and policies related to servicing developments with appropriate infrastructure. The submitter considers that the inclusion of an additional standard and/or matter of discretion across zones on infrastructure servicing (including emergency response transport/access and adequate water supply for firefighting) would be beneficial.
264. FENZ (S512.080,081,082) has sought the insertion of an advice note within the Setback Standard SARZ-S3, NOSZ-S3, and OSZ -S3 to explain that building setback requirements are further controlled by the Building Code, including the provision for firefighter access to buildings and egress from buildings. *“Building setback requirements are further controlled by the Building Code. This includes the provisions for firefighter access to buildings and egress from buildings. Plan users should refer to the applicable controls within the Building Code to ensure compliance can be achieved at the building consent stage. Issuance of a resource consent doesn’t apply that waivers of Building Code requirements will be considered/granted”.*

### Analysis

265. In terms of the submission from FENZ seeking a permitted activity rule for emergency service facilities in the Open Space Zones, I note that the PDP:
- a) Defines an Emergency Service facility as “means fire stations, ambulance stations, police stations and associated ancillary facilities”. The relief sought from FENZ is therefore broader than the development of fire stations which is the key focus of their submission point.
  - b) Enables Emergency Service facilities to be established as a permitted activity in certain zones (including the Light Industrial



and Mixed-Use Zones with no conditions and the Rural Production Zone where the GFA does not exceed 150m<sup>2</sup>) while requiring resource consent for these facilities on other zones where there is greater potential for adverse effects on the surrounding environment.

- c) Under the notified Open Space Zone rules, an Emergency Service facility would require resource consent as a Discretionary activity under NOSZ-R14, OSZ-R16 and SARZ-R15 (activities not otherwise listed in this chapter). In my opinion, that is appropriate as the Open Space Zones are intended to provide for a range of activities and Emergency Service facilities are not anticipated in the zone or consistent with the primary purpose of the zone. Accordingly, I recommend that this submission point from FENZ is rejected.

266. In terms of the submission from FENZ requesting a new standard for infrastructure servicing for emergency response transport/access and water supply for firefighting, I consider that this relief is already adequately, and most efficiently, addressed through the following district-wide provisions in the PDP:

- a) Rule NH-R5 and NH-R6 (Wildfire) in the natural hazard chapter which includes specific requirement for new buildings and alternations to existing buildings used for a vulnerable activity to have water supply for firefighting purposes that complies with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.
- b) Rule TRAN-R2 (vehicle crossing and access, including private accessways) in the Transport chapter which includes a permitted activity standard for vehicle crossing and access for fire appliances to comply with SNZ PAS 4509:2008 New Zealand Fire Fighting Water Supplies Code of Practice.

267. While I acknowledge the submission point from FENZ that there may be further setbacks required through the Building Code and other legislation, I do not consider that it is necessary or appropriate to add the requested advice note to the setback standard in the Open Space Zones. This is because there is a range of other legislation and controls that sit outside the District Plan and referring to all these additional requirements through advice notes in the District Plan would be inefficient, confusing and cumbersome.

### **Recommendation**

268. For the reasons set out above, I recommend the submissions are rejected as set out in Appendix 2. Accordingly, I do not recommend any amendments to the Open Space chapters in response to this submission point from FENZ.



**Section 32AA evaluation**

- 269. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

**5.2.23 Key Issue 23: KiwiRail**

**Overview**

Provision(s)	Officer Recommendation(s)
NOSZ-S3	Insert additional matters of restricted discretion
OSZ-S3	Insert additional matters of restricted discretion
SARZ-S3	Insert additional matters of restricted discretion

**Analysis of Submissions on Key Issue 23**

**Matters raised in submissions**

- 270. KiwiRail Holdings Limited (S416.053,054,055) support in part NOSZ-P4, OSZ-P4 and SARZ-P4 expressing that policies in each zone provide for managing land use and subdivision to address the effects of the activity at zone interfaces by requiring provisions of setbacks, fencing and screening to address potential conflicts. The submitter seeks an amendment to provide for the consideration of setbacks to the railway corridor or transport network by inserting an additional matter: *“The location and design of buildings adjacent to the railway corridor”*.
- 271. KiwiRail Holdings Limited (S416.065,066,067) support in part NOSZ-S3, OSZ-S3 and SARZ-S3 but seek a setback for structures from the rail corridor boundary. KiwiRail state they don’t oppose development on adjacent sites, but ensuring the ability to access and maintain structures without requiring access to rail land is important and state the zone chapters don’t include provision for boundary setbacks for buildings and structures. The submitters request inserting a 5m rail setback and the following matters of discretion into the standard:

*“the location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor, and the safe and efficient operation of the rail network”*.

**Analysis**

- 272. In my analysis of these submission points, I undertook a quick assessment of the zoning adjacent to the Railway corridor and found that there are approx. 4 parcels that are zoned Natural Open Space. These parcels already have the standard NOSZ- S3 setback from boundaries standard, buildings and structures must be setback at least 10m from all site boundaries.





273. A further two parcels, one located in Maramako and one located in Kawakawa are located adjacent to the rail corridor. There is a 1.2m set back from the all boundaries in this zone under SARZ-S3, through this report I have recommend a 10m setback.
274. I consider adding a specific reference to the railway corridor unnecessarily and disproportionate to the zone wide list of things to consider in policies NOSZ-P4, OSZ-P4 and SARZ-P4. I consider the more generic reference to the consideration of the location scale and design of building and structures in these policies is sufficient.
275. I consider the scale of the issue does not necessitate a setback standard within the rule. Especially as the Natural Open Space Zone setback is 10m and I have earlier recommended a 5m setback for the Sport and Active Recreation Zone.
276. I consider it appropriate to insert matters of restricted discretion to the setback standards as follows:

*"the location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor; and the safe and efficient operation of the rail network."*

### **Recommendation**

277. I recommend S416.053, 054,055 are accepted in part with no changes recommended to the policies as a result of these submission points.
278. I recommend S416.065,066,067 are accepted in part and new matters of discretion are added to NOSZ-S3, OSZ-S3 and SARZ-S3 as follows:

*"the location and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor; and the safe and efficient operation of the rail network."*

### **Section 32AA evaluation**

279. The recommended amendment is appropriate, efficient and effective as it allows consideration of the location and design of the buildings as it relates to health and safety within rail corridor when these standards are breached. Therefore, the recommended amendments are considered to be more appropriate in achieving the purpose of the RMA than the notified version of the PDP.





## 5.2.24 Key Issue 24: Heavy Haulage

### Overview

Provision(s)	Officer Recommendation(s)
NOSZ-R1	Amend title and PER –2 to include relocated buildings
OSZ-R1	Amend title and PER –2 to include relocated buildings
SARZ-R1	Amend title and PER –2 to include relocated buildings

### Analysis of Submissions on Key Issue 24

#### Matters raised in submissions

280. Heavy Haulage Assoc Inc (S482.009, 010,11) support in part NOSZ-R1, OSZ-R1 and SARZ-R1 seeking to amend the rules requesting relocatable buildings are a permitted activity subject to performance standards. The standards for the permitted activity rule requested by the submitter includes providing a pre-inspection report. Where the permitted activity standard is not met, relocated buildings would become a restricted discretionary activity. The submitter's reasons for this request are that they consider that the definition of "building" does not clearly include relocated buildings and the existence of a separate definition of relocated buildings in the PDP appears to create a distinction between "buildings" and "relocated buildings". The submitter considers that it is not clear that the permitted activity status applied in most zones to "new buildings and structures" also applies to the relocation of buildings. The submitter considers that the controls on constructed buildings and relocated buildings should be identical, as the effects are essentially the same.

#### Analysis

281. In response to the submission from Heavy Haulage Assoc Inc requesting a new permitted activity rule for relocatable buildings, I disagree that such a rule is necessary for the Open Space Zones. Rule NOSZ-R1, OSZ-R1 and SARZ-R1 as notified in the PDP is a permitted activity rule which refers to "New buildings or structures, and extensions or alterations to existing buildings or structures".
282. It is my view that "new buildings or structures" includes relocatable buildings even if they are not new in terms of the date they were built. The key point is that the building is "new" to the site it is relocated to or constructed on. An older relocated dwelling can be new in the context of its location on a site in the Open Space Zones, when it is relocated to a new site, or moved from one part of the site to another. This is supported by the definition of the word "new" from Oxford Languages which is as follows:

1. *Produced, introduced, or discovered recently or now for the first time; not existing before.*



2. *already existing but seen, experienced, or acquired recently or now for the first time.*
283. The definition of “building” within the notified PDP, which is a National Planning Standards definition, also supports this interpretation as the definition refers to a moveable physical construction. The full definition of “building in the PDP” is as follows:
- "means a temporary or permanent movable or immovable physical construction that is:*
- a. partially or fully roofed; and*
  - b. fixed or located on or in land;*
- but excludes any motorised vehicle or other mode of transport that could be moved under its own power."*
284. On this basis, I do not consider that a specific rule for relocated buildings is required in the Open Space Zones as these are already provided for under Rule NOSZ-R1, OSZ-R1 and SARZ-R1 which treats new and relocated buildings the same. This is appropriate in my view, as I agree with Heavy Haulage Assoc Inc that there is no real difference in effects of a construction of a new building and relocation of a second-hand building. Despite my assessment above, I believe the existing rules NOSZ-R1, OSZ-R1 and SARZ-R1 can provide additional clarity by amending the description to include specific reference to relocated buildings.

### **Recommendation**

285. For the above reasons, I recommend submission 482.009, 010, 011 from Heavy Haulage Assoc Inc is accepted in part, and the rule description in rules NOSZ-R1, OSZ-R1 and SARZ-R1 are amended to include the words ' , relocated buildings' as follows:

*New buildings or structures, relocated buildings, and extensions or alterations to existing buildings or structures.*

286. As a consequential amendment I also recommend the precursor wording for PER-1 and PER- 2 is amended to read:

*....The new building or structure, relocated building or extensions to an existing building or structure.....*

### **Section 32AA evaluation**

287. The recommended amendment is appropriate, efficient and effective because it clarifies the intent of the PDP (to permit relocated buildings and new buildings, subject to standards to manage potential environmental effects), reduces ambiguity and provides clarity which reduces costs associated with plan interpretation and implementation.



## 6 Conclusion

288. This report has provided an assessment of submissions received in relation to the Open Space Zone chapter. The primary amendments that I have recommended relate to:
- a) Amendments to definitions and consequential changes to rules as a result
  - b) Minor amendments to objectives and policies
  - c) Exemption pathway for 'Park Furniture'
  - d) Changes to the rules in the Sport and Active Recreation zone to be clear on what we enable in this zone.
  - e) Minor amendments to the height and setback standards for the Sport and Active Recreation zone
289. Section 5.2 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Open Space Zone 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.
290. I recommend that provisions for the Open Space Zone matters be amended as set out in the Open Space Zone in Appendix 1 below for the reasons set out in this report.

**Recommended by:** Sarah Trinder, Senior Policy Planner, Far North District Council.

**Approved by:** James R Witham – Team Leader District Plan, Far North District Council.

**Date:** 22/10/2024