

Section 42A Report

Open Space and Recreation Zones

Prepared for the

Proposed Kaipara District Plan

Report prepared by: [Anna Turner](#)

13 April 2026

List of submitters and further submitters addressed in this report:

Submission Number	Submitter
26	Chorus New Zealand Ltd, Connexa Ltd, Spark NZ Trading Ltd, Fortysouth Group LP and One NZ
49	Dargaville Bridge Club Incorporated (Dargaville Bridge Club)
99	Venessa Anich
146	New Zealand Agricultural Aviation Association
147	New Zealand Helicopter Association
149	Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird)
216	Cabra Mangawhai Ltd & Pro Land Matters Ltd
222	Kaipara District Council (KDC)
267	Northland Fish and Game Council - (Fish and Game)
304	Director General of Conservation (DoC)
FS34	Black Swamp Limited
FS54	Heritage New Zealand Pouhere Taonga
FS83	NZ Agricultural Aviation Association
FS85	NZ Helicopter Association
FS93	Royal Forest and Bird Protection Society of NZ (Forest & Bird)
FS100	Transpower New Zealand Ltd

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APPENDIX A: RECOMMENDATIONS FOR EACH SUBMISSION POINT

APPENDIX B: RECOMMENDED AMENDMENTS

APPENDIX C: SECTION 32AA EVALUATION

List of abbreviations used in this report

Abbreviation	Term
KDC	Kaipara District Council
PDP	Proposed District Plan
RMA	Resource Management Act 1991
NPS-IB	National Policy Statement for Indigenous Biodiversity
NPS-NH	National Policy Statement for Natural Hazards
OSZ	Open Space Zone
SARZ	Sports and Active Recreation Zone
NOSZ	Natural Open Space Zone
EPA	Esplanade Priority Areas
CMP	Conservation Management Plan
CMS	Conservation Management Strategy
CMP	Reserve Management Plan
COC	Certificate of Compliance
ONL	Outstanding Natural Landscapes
HNC	High Natural Character Areas
ONC	Outstanding Natural Character Areas
SASM	Sites and Areas of Significance to Māori
CPTED	Crime Prevention Through Environmental Design

Executive Summary

- i. The Proposed Kaipara District Plan (**PDP**) was publicly notified in April 2025. This report addresses submissions on the Natural Open Space Zone (**NOSZ**), Open Space Zone (**OSZ**), and Sports and Active Recreation Zone (**SARZ**) chapters, which are located in Part 3 – Area Specific Matters of the PDP. These zones provide for a range of open space, conservation, recreation, and sport activities, while seeking to protect natural, ecological, cultural, heritage, and amenity values, and maintain public access and enjoyment of open space areas.
- ii. 45 primary submissions and 10 further submissions were received on these chapters. A total of 23 primary submissions and 2 further submissions were made on the NOSZ chapter, 14 primary submissions and 5 further submissions were made on the OSZ chapter, and 8 primary submissions and 3 further submissions were made on the NOSZ chapter.
- iii. Submitters are generally supportive of the intent of the zones and their role in providing for recreation, conservation, and public access. However, a range of amendments are sought to improve clarity, ensure consistency across the PDP, better manage adverse effects on environmental values, and improve the usability and implementation of provisions.
- iv. Submitters requesting amendments to the NOSZ, OSZ and SARZ broadly fall into the following categories:
 - a. Submitters seeking stronger direction to protect natural, ecological, cultural, and heritage values, including requests to better manage the effects of recreation and development activities and ensure these values are explicitly recognised in policies.
 - b. Submitters seeking clarity on the terms and definitions used in chapters and their alignment with the National Planning Standards.
 - c. Submitters seeking amendments to specific rules and standards, including building coverage thresholds, vegetation clearance provisions, setbacks from the coastal marine area, and the inclusion of additional permitted activities for conservation activities and the demolition of buildings and structures.
 - d. Submitters seeking alignment with higher order planning documents and other parts of the PDP, including consistency with district-wide provisions.
- v. I recommend the following amendments to the NOSZ:

- a. New Rule NOSZ-R5 to enable the demolition of a building or structure as a permitted activity
 - b. Amendments to NOSZ-S3 Setbacks from the coastal marine area (**CMA**) to delete Clause 2d to remove to remove the exemption for infrastructure from the 25m setback from the edge of the CMA.
- vi. I recommend the following amendments to the OSZ:
- a. Amendments to Policy OSZ-P1 Range of recreation activities to ensure that recreation activities in the OSZ manage effects on the natural, ecological, cultural and heritage values in the zone.
 - b. Amendments to Policy OSZ-P5 Incompatible activities to minimise land uses and activities that would compromise the natural, ecological, cultural and heritage values of the zone.
 - c. New Rule OSZ-R8 to enable conservation activities as a permitted activity.
 - d. New Rule OSZ-R9 to enable the demolition of a building or structure as a permitted activity.
 - e. Amendments to OSZ-S4 Setbacks from the CMA to delete Clause 2d to remove to remove the exemption for infrastructure from the 25m setback from the edge of the CMA.
- vii. I recommend the following amendments to the SARZ:
- a. New Rule SARZ-R7 to enable conservation activities as a permitted activity.
 - b. New Rule SARZ-R8 to enable the demolition of a building or structure as a permitted activity.
 - c. Amendments to SARZ-S4 Setbacks from the CMA to delete Clause 2d to remove to remove the exemption for infrastructure from the 25m setback from the edge of the CMA.

1 Introduction

1.1 Qualifications and Experience

1. My name is Anna Marée Turner. I am a Senior Associate at Barkers and Associates (**B&A**). I am contracted by Kaipara District Council (**KDC**) to assist with the Proposed Kaipara District Plan (**PDP**). My previous involvement with the PDP has been supporting peer reviews of Section 32 reports for various plan topics, including the Open space and Sport and active recreation zones whilst I was employed at my previous role with SLR Consulting as a Principal Planning Consultant. I was not directly involved in the preparation of the Natural Open Space Zone, Open Space zone and Sport and Active Recreation chapters prior to notification. I was engaged by KDC to be the reporting officer for this topic in March 2026.
2. I hold a Bachelor of Planning (Hons) from the University of Auckland, and I am an intermediate member of the New Zealand Planning Institute.
3. I have 17 years' experience working as a planner, gained both in New Zealand and the United Kingdom. I have held roles working for the private sector and for local and central government on a range of resource consent and policy roles. My private sector experience includes obtaining resource consent for a range of developments including for telecommunications, kindergartens, parks infrastructure and works, commercial and residential developments and solar farms.
4. My public sector policy experience includes processing private plan change requests, notice of requirements and representing Council at hearings and Environment Court mediation. I supported the drafting of district and regional plan provisions for the Auckland Unitary Plan.
5. I have held roles at the Ministry for the Environment, contributing to the development of plan-making reforms associated with the Resource Legislation Amendment Bill 2015 and the development of the Natural and Built Environment Act 2023.
6. I have been closely involved in the development and implementation of national direction instruments under the Resource Management Act 1991 (RMA) (national policy statements and national environmental standards), from the policy scoping stage through to policy decisions and drafting, the preparation of section 32 evaluation reports and implementation guidance. This includes the National Policy Statement and National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat and the National Policy Statement for Indigenous Biodiversity.

1.2 Preparation of the report

7. I am authorised by KDC to prepare this report under section 42A of the Resource Management Act (RMA) to assist the PDP Hearings Panel. The purpose of this report is to both assist the Hearings Panel in hearing and deciding on submissions made on to the PDP, and to assist submitters in understanding how their submission is being considered as part of the PDP process. This report includes my recommendations on matters raised in submissions, and any changes to the PDP that I consider to be appropriate having considered the statutory requirements.
8. I am the author of this report. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
9. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations that I have made in this report are not binding on the Hearings Panel. It should not therefore be assumed that the Hearings Panel will reach the same conclusions or decisions having considered all the submissions and evidence from submitters. The decision ultimately lies with the Hearings Panel.

1.3 Code of Conduct

10. While this is not a hearing held by the Environment Court, I confirm that I have read the Code of Conduct for Expert Witness 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.

1.4 Conflict of Interest

11. I confirm that I have no real or perceived conflict of interest. Whilst B&A represent several clients who are submitters on the PDP, I was not involved in preparing any submissions on the PDP on behalf of any submitter. I did not work for B&A during the original submission process and was not involved with any work for the Proposed Kaipara District Plan for any of their clients. B&A have not submitted on this chapter.
12. B&A staff have assisted KDC with the formulation of section 32 evaluations for several PDP topics prior to the notification of the PDP. Regarding this matter, I confirm the following:
 - a. B&A is an independent planning consultancy providing planning and resource management advice and services. B&A act on behalf of several private and public clients throughout the country.

- b. I was not involved in the preparation of the public access provisions or further work following notification of the PDP.
13. Noting the above, I have no conflict of interest to declare in regard to the preparation of this evidence, the hearing of this topic, or my future engagement in relation to this topic as part of the PDP review.

2 Scope of Report

2.1 Matters addressed by this report

14. The scope of this report is to consider the submissions and further submissions made in respect of the provisions in the open space and recreation zones for the PDP. This includes the Natural Open Space Zone (**NOSZ**), Open Space Zone (**OSZ**) and Sports and Recreation Zone (**SARZ**) chapters of the PDP and make recommendations.
15. Where submitters request the same relief across zones, those submissions have been grouped in this report.
16. This section 42A report also addresses submissions on definitions which are specific to the NOSZ, OSZ and SARZ.

2.2 Overview of the Natural Open Space Zone

17. As notified, the NOSZ chapter of the PDP is designed to be consistent with the National Planning Standards by according with the standardised zoning that must be used in District Plans. The National Planning Standards describes the zone as areas where the natural environment is retained and activities, buildings and other structures are compatible with the characteristics of the NOSZ.
18. Land zoned as NOSZ generally applies to public land that is administered by government agencies, including the Department of Conservation (**DoC**). Most of the land in this zone is subject to reserve or conservation management plans or strategies prepared under the Reserves Act 1977 or the Conservation Act 1987. These are managed by either Council or DoC.
19. The NOSZ anticipates a low level of development to retain the natural values within these areas. Development enabled in the zone is generally limited to open space facilities such as shelter, public toilets, kauri dieback cleaning stations and walking tracks.
20. The two objectives of the NOSZ seek to:

- a. Manage and protect the long-term sustainability of the natural, ecological, historical heritage and cultural values of the Natural open space zone for future generations (NOSZ-O1).
 - b. Ensure natural open spaces are accessible and safe for the public to use and enjoy for leisure, recreation and cultural activities (NOSZ-O2).
21. Policies support activities that are consistent with conservation management strategies, plans or reserve management plans and do not generate significant adverse effects, support connections between ecological corridors, enable small scale buildings or structures that do not adversely affect the natural, ecological, historical or cultural values of a site. Policies also seek to minimise activities that are incompatible with the values of the zone.
22. The NOSZ rule framework enables buildings and structures, activities authorised by conservation management strategies, management plans or reserve management plans, conservation and recreation activities, and those undertaken in accordance with approved management plans as permitted activities where the zone standards are met.
23. Specific standards for matters such as height, setbacks, building coverage, and fencing apply, with non-compliance triggering a restricted discretionary consent. Discretion is limited to matters including character and amenity, design and siting, impacts on esplanade reserves and public walkways and cycleways and consistency with Crime Prevention through Environmental Design (CPTED). Activities not listed as permitted or non-complying require a discretionary resource consent.
24. Activities incompatible with the NOSZ, such as industrial uses, quarrying, mining, or motorsport, are non-complying activities.

2.3 Overview of the Open Space Zone

25. As notified, the OSZ chapter of the PDP is designed to be consistent with National Planning Standards by according with the standardised zoning that must be used in District Plans. The National Planning Standards are described as areas used predominantly for a range of passive and active recreational activities, along with limited associated facilities and structures.
26. The OSZ applies to areas used predominantly for a range of passive and active recreational activities including a range of neighbourhood parks and esplanade areas, as well as cemeteries and elements of the districts walking and cycling network. Buildings and structures enabled in the OSZ are generally limited to those that support the enjoyment of the open space for informal recreation and community activities.
27. The two objectives of the OSZ focus on:

- a. Maintaining the open and spacious character, amenity values and any natural, ecological, heritage and cultural values (OSZ-O1).
 - b. Ensuring the open space zone supports public access and enjoyment of a range of appropriate recreation activities and facilities (OSZ-O2).
28. The policies guide a range of recreation and ancillary activities, as well as their associated buildings, that complement the purpose of the zone and provide for the social and cultural wellbeing of the community. The use and development in the zone are guided to enhance accessibility and connectivity while still supporting the safety of the users.
 29. The OSZ rule framework enables a range of activities as permitted activities where relevant standards are met, including buildings and structures, open space management activities undertaken in accordance with management plans, and walking and cycling paths and connections subject to setback standards.
 30. The framework also enables recreation activities, commercial activities for limited sport and recreational activities, burial and ancillary activities in cemeteries, and community facilities as permitted activities, with some activities subject to standards such as hours of operation, activity type, and gross floor area. Where these standards are not met, resource consent is required under the relevant rule or standard.
 31. Activities considered incompatible with the zone, including industrial activities, quarrying or mining, and motorsport activities, are classified as non-complying. Activities not otherwise provided for are captured by a discretionary catch-all rule.

2.4 Overview of the Sports and Recreation Zone

32. As notified, the SARZ chapter of the PDP is designed to be consistent with the National Planning Standards by according with the standardised zoning that must be used in District Plans. The National Planning Standards describe the zone as areas used predominantly for a range of indoor and outdoor sport and active recreational activities and associated facilities and structures.
33. The SARZ applies to areas used predominantly for a range of indoor and outdoor sport, active recreational activities and includes the major sports facilities in the Kaipara District. The SARZ enables larger scale buildings and structures for sports activities that can create larger volumes of traffic and noise, and some facilities also serve as venues for other public events.
34. The two objectives focus on:
 - a. Supporting active recreation opportunities and ancillary informal leisure activities (SARZ-O1)

- b. Ensuring that buildings and structures complement sport and active recreation activities and provide for social and cultural wellbeing. (SARZ-O2).
- 35. The policies support a range of recreational activities and ancillary activities that are compatible with the zone and manage adverse effects on adjoining sites where sensitive activities are located. The policy framework supports building and structures that enable a variety of indoor and outdoor sports and recreational activities and are designed to be consistent with CPTED. Incompatible activities that would compromise public use, enjoyment and access to the zone are avoided.
- 36. The SARZ rule framework enables a range of activities as permitted activities where relevant standards are met, including buildings and structures, community facilities, walking and cycling paths and connections, activities authorised by conservation management strategies or plans, recreation activities, and limited commercial activities linked to sports or recreation activities. These activities must comply with standards relating to height, setbacks, building coverage, impermeable surfaces, activity type, and hours of operation.
- 37. Industrial activities, mining, and motorsport activities are non-complying activities. Activities not otherwise provided for are classified as discretionary under a catch-all rule.

2.5 Statutory Context

- 38. On the 9 December 2025, the Government introduced two new pieces of legislation to Parliament to replace the RMA as follows:
 - a. The Planning Bill – focused on planning to enable development and infrastructure.
 - b. The Natural Environment Bill – focused on managing the natural environment.
- 39. The Government has announced its intention to proceed with the Select Committee process at pace through the first half of 2026, with both bills intended to be passed into law before the 2026 general election. Although the signalled intent is for a quick transition to the new resource management system by the end of 2029, the RMA continues to be in effect until this new replacement legislation is passed, with planning documents prepared under the RMA remaining in effect until new national direction instruments are prepared, standardised plan content developed and new plans prepared (including Regional Spatial Plans, Natural Environment Plans and Land Use Plans).
- 40. The Operative Kaipara District Plan is thirteen years old and drafted in a matter that is misaligned with both the National Planning Standards and other district plans in the Northland region (being Whangarei and Far North district plans). Substantive work is required to better align it with other planning provisions in the region, as well as with the style, content and format of plans that are

likely to be required under the new planning system. The Schedule 1 hearing process for the PDP is an important part of modernising the district plan and achieving clear and consistent provisions that will better integrate into the new planning system.

41. Once the new legislation is passed, the direction of the new legislation will be considered when making recommendations and alignment will be sought with this direction but only where it is within the scope of submissions to do so. As the new legislation is not yet in force and the content is not finalised, this section 42A report does not consider the direction contained in the new bills. This approach is consistent with a recent decision from the *High Court in Box Property Investments Limited v The Expert Consenting Panel [2025] NZH 1773* which held that decisions must be made based on the law as it currently stands, not on future legislative changes [at 35].
42. On 18 December 2025, the Government announced that 10 new or amended national direction instruments under the RMA came into effect on 15 January 2026. This new and amended national direction does not include any direction on the way activities in the NOSZ, OSZ or SARZ should be managed under district plans.
43. The section 32 evaluation reports for the NOSZ, OSZ, SARZ provide detail of the relevant statutory considerations with respect to Part 2 of the RMA and the parts of the National Planning Standards relevant to these chapters. As such, I do not repeat that detail here. However, I do consider it useful to provide an overview of additional legislation relevant to this topic and relevant Iwi management plans.

2.6 Relevant additional legislation and plans

44. The Reserves Act 1997 and the Conservation Act 1987 are relevant to this topic. Under Section 4 of the RMA, land subject to the Reserves Act 1997 and Conservation Act 1987 is not subject to the provisions of the PDP where an activity on this land is undertaken by DoC and is consistent with an approved Conservation Management Plan (**CMP**), Conservation Management Strategy (**CMS**) or management plan established under these acts.

Reserves Act 1977

45. Reserve land throughout Kaipara is zoned NOSZ and is administered by DoC. Most of the land in this zone is subject to reserve or conservation management plans or strategies prepared under the Reserves Act 1977 or the Conservation Act 1987. These can be managed either by council or DoC.
46. The Reserves Act 1977 provides for the acquisition of land for reserves, and the classification and management of reserves. The functions set out in section 3(1)(c) include the following:

- a. To provide for the preservation and management, for the benefit and enjoyment of the public, areas possessing some special feature or values such as recreational use, wildlife, landscape amenity or scenic value. For example, the reserve may have value for recreation, education, as wildlife habitat or as an interesting landscape.
 - b. To ensure, as far as practicable, the preservation of representative natural ecosystems or landscapes and the survival of indigenous species of flora and fauna, both rare and commonplace.
 - c. To ensure, as far as practicable, the preservation of access for the public to the coastline, islands, lakeshore and riverbanks and to encourage the protection and preservation of the natural character of these areas.
47. Esplanade reserves and strips play an important role in contributing to meeting public open space needs adjacent to the CMA and are created through subdivision under the RMA. The land may be vested in a council as all or part of a reserve contribution at the time of subdivision or created by the council or the Crown from land purchased from private landowners. In such cases the land becomes a reserve upon resolution of council to that effect or by gazette notice. A reserve can include water bodies and/or land adjoining the margins of water bodies. Reserves can be used for conservation purposes as well as a wide range of other values.
48. The Reserves Act requires administering bodies to prepare Reserve Management Plans (**RMP**). These plans set out in detail what activities can and cannot occur in the district's reserves. The Reserves Act determines the types of uses that are appropriate for reserve areas classified under the Act.
49. Section 74(2)(b)(i) of the RMA requires council to have regard to management plans and strategies prepared under other acts including the Reserves Act to the extent that their content has a bearing on resource management issues of the district when preparing a district plan. As I understand it, the operative reserve management plans in Kaipara are:
- a. Kai Iwi Lakes (Taharoa Domain) RMP;
 - b. Mangawhai Coastal and Harbour RMP;
 - c. Northern Wairoa Memorial Park RMP; and
 - d. Pou Tu o Te Rangi and Harding Park RMP

Conservation Act 1987

50. Public conservation land is primarily located in the NOSZ and is largely administered by DoC under the Conservation Act. This Act sets out the roles and responsibilities of DoC and how

public conservation land for conservation purposes should be managed. Conservation is defined under this act as follows:

“means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations”

51. Public conservation land across Kaipara is usually subject to either a CMS or CMP enabled under the Conservation Act.

Northland Regional Policy Statement

52. The Regional Policy Statement for Northland 2016 (**RPS**) includes objectives, policies and methods that are directly relevant to the NOSZ, OSZ and SARZ. The relevant provisions of the RPS are as follows:

- a. Objective 3.5 Enabling economic wellbeing. This objective supports the sustainable management of Northland’s natural and physical resources in a way that will improve the economic wellbeing of Northland and its communities.
- b. Objective 3.11: Regional Form which seeks to ensure northland has sustainable built environments that effectively integrate infrastructure with subdivision, use and development, and have a sense of place, identity and a range of lifestyle, employment and transport choices.
- c. Policy 5.1.1 Policy – Planned and coordinated development directs that new subdivision, use and development should be located, designed and built in a planned and co-ordinated manner guided by the Regional development and design guidelines in Appendix 2 of the RPS. These guidelines recognise the importance of parks, in regards to large scale residential and mixed use development.
- d. Policy 5.1.2 Development in the Coastal Environment seeks to enable people and communities to provide for their wellbeing through appropriate subdivision, use, and development that ensures sufficient setbacks from the CMA to maintain and enhance public access, open space and amenity values. Method 5.1.5 directs KDC to develop plan provisions that give effect to Policy 5.1.2.

Proposed Regional Plan for Northland

53. On 18 March 2026 Northland Regional Council adopted the Proposed Regional Plan for Northland. The Proposed Regional Plan for Northland will become operative on 27 March 2026. There is nothing in the Regional Plan that I consider is directly relevant to this topic.

Relevant Iwi management plans

54. Four iwi management plans were considered when developing the PDP, as set out in Section 2.5 of the Section 32 Overview Report¹. The iwi management plans with particular direction on matters in the NOSZ, OSZ and SARZ zone are outlined below.

Te Uri o Hau Kaitiakitanga o te Taiao 2011

55. The Te Uri o Hau plan contains relevant direction on conservation land through its discussion of kirihipi overlay areas, being land administered under the Conservation Act 1987, Reserves Act 1977, or National Parks Act 1980 to which Te Uri o Hau values attach. It also records Crown acknowledgement of values relating to “Mānukapua Government Purposes (Wildlife Management) Reserve” and the “Pouto Stewardship Area.”
56. Policies on parks and recreation appear in the Mangawhai Development section. That section states that the key considerations for the site were conservation and recreational use, balanced with long term economic use and includes policies to collaborate with the Department of Conservation and Council to establish a coastal park and larger conservation area, and to provide for “the recreational benefit of Te Uri o Hau and the wider community through urban planning.”
57. Te Uri o Hau also recognises that recreational use may be appropriate on culturally significant land where values are protected, stating that it will “*support and promote recreational uses on sites where this does not adversely affect cultural values associated with the site.*”

Nga Ture mo Te Taiao o Te Roroa 2019

58. Te Roroa’s plan treats reserve and conservation land as ancestral land rather than ordinary public land. It states that “*All Crown and council held land within our rohe is ancestral land, particularly the Crown conservation estate and council reserves*”. The plan provides that local authorities should identify and incrementally implement joint management opportunities, with reserves covered by statutory acknowledgements identified as priorities.
59. Te Roroa identifies growing demand for reserves and parks and notes that councils and agencies such as DoC have acquired large areas of land for public reserves. The relevant policies state that public reserves management should be adequately resourced and that agencies should negotiate a schedule of reserves for transfer to joint or sole management regimes with full participation of ahi kaa and kaitiaki, citing the Taharoa Domain equal partnership governance approach as a working precedent.

¹ [Public Access S32 Report](#)

60. While Te Roroa's plan is not strongly framed around formal sport facilities, it does contain a broader recreation-related aspiration through its treatment of reserve land and partnership-based management of public reserves, rather than ordinary council administration alone.

Te Kawerau ā Maki Iwi Management Plan

61. Te Kawerau ā Maki seek involvement in reserve and conservation land management. The plan states that the Trust wants submissions on applications affecting the management of parks, reserves, marine reserves, and DoC land.

Patuharakeke Hapū Environmental Management Plan 2014

62. Patuharakeke's plan contains direct policy guidance on reserves, parks and conservation land. In the utilities, amenities and infrastructure section it identifies demand for reserves and parks and highlights that DoC have acquired large areas of land for public reserves and other infrastructure. The Plan sets an objective that Patuharakeke participate fully in decision-making over planning, development and management of these assets.
63. The associated policies state that public reserves management should be adequately resourced and that agencies should negotiate a schedule of reserves with PTB for transfer to joint or sole management regimes that include full participation of ahi kaa and kaitiaki. The methods seek investigation of joint management arrangements over public reserve lands through an MOU, memorandum of agreement and/or co-management agreements.
64. Patuharakeke also addresses conservation land more directly in its joint management provisions, stating that this is particularly relevant to reserves and the conservation estate or 'public conservation lands. It calls for binding memoranda with DoC, collaborative or co-management agreements for specific localities within the conservation estate, and identification of opportunities for joint management of council-owned reserves and similar areas where these contain waahi tapu or have high cultural value.

2.7 Summary of advice from iwi authorities

65. Section 3 of the Section 32 evaluation report for the open space and recreation zones² confirms no specific advice was received from iwi authorities on these zone chapters.

2.8 Procedural matters

² [Open Space and Recreation Section 32 evaluation report](#)

66. No submitter, prehearing or Clause 8AA meetings have been undertaken on the NOSZ, OSZ or SARZ chapters. No further consultation has been undertaken on these chapters since the notification of the PDP. As such, there are no procedural issues to raise as it relates to these topics and this report.

2.9 Organisation of the report

67. The key issues identified in this report are set out below. Some submitters have lodged multiple submissions across all three zones requesting the same or similar amendments. These submissions are grouped and set out in topics 1-4 as follows:

1. Conservation activities.
2. Demolition of structures and buildings.
3. Setbacks from the CMA for infrastructure.
4. Vegetation clearance and reducing building size.

68. The remaining submissions are addressed primarily by zone as set out in topics 5-11 as follows:

5. NOSZ Objectives, Policies, Rules and Standards.
6. OSZ and SARZ General Submissions.
7. OSZ and SARZ Definitions.
8. OSZ Objectives and Policies.
9. SARZ Standards.

2.10 Submissions and further submissions

69. 45 original submissions and 12 further submissions were made on these chapters. A total of 23 original submissions and 3 further submissions were made on the NOSZ chapter, 14 original submissions and 6 further submissions were made on the OSZ chapter, and 8 original submissions and 3 further submissions were made on the SARZ chapter.

70. The summary of submissions and further submissions pertaining to this section 42A report, and my recommendation for each are attach as Appendix A. The original submission and further submission documents can be found on KDC's website.

71. While all submitters have been read and considered in the summary of submissions (Appendix A), responses have not necessarily been written for each individual submission point. To assist the Hearings Panel in achieving clause 10(2) of the First Schedule of the RMA, I have provided

reasons for my recommendations to accept or reject submissions and further submissions generally by themes. Responses have been written for individual submissions that raise matters that differ from other submissions within the same thematic group or that request specific amendments to the provisions.

2.11 Recommended changes

72. Where I have recommended amending provisions as a result of considering the submissions and further submissions, these are contained as tracked changes in Appendix B. Text that is recommended to be amended is shown as **red text**, with deletions being ~~struck through~~, and additional text underlined. Any recommended changes are coloured red for ease of locating.

2.12 Section 32AA evaluation report

73. A section 32AA evaluation is only required for changes recommended since notification; if there is no change to the notified version, a section 32AA evaluation is not required. The level of detail in the section 32AA evaluation reports needs to be at a level of detail that corresponds to the scale and significance of the changes recommended. To streamline this report, where a change has been recommended, the corresponding section 32AA evaluation is attached in Appendix C.

3 Topic 1: Conservation Activities

3.1 Introduction

74. This topic addresses submissions from KDC which seeks to enable a permitted activity rule for conservation activities across all three zones

3.2 Analysis

75. KDC [S222.9] and [222.8] request a new permitted activity rule for conservation activities in the OSZ and SARZ to ensure consistency with NOSZ-R3, as follows:

OSZ-RX Conservation activity

1. Activity status: Permitted
2. Activity Status when compliance not achieved: Not Applicable

76. NZ Agricultural Aviation Association [FS83.6] and [FS83.5] and NZ Helicopter Association [FS85.1] and [FS85.2] further submitted, supporting KDC on the basis that conservation activities should be permitted within all zones.

77. Conservation activities are defined in the PDP as:

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 area. It may include activities which assist to enhance the public's appreciation and recreational enjoyment of the resource and includes:

- a. *planting;*
- b. *pest and weed control;*
- c. *plant and tree nurseries; and*
- d. *track construction.*

78. Several chapters of the PDP have a permitted activity rule for the conservation activities. These chapters include the General rural zone, Rural lifestyle zone, NOSZ and Māori Purpose Zone. In my view, enabling conservation activities as a permitted activity in the zone would promote consistency across the PDP.

79. In comparison, both the Far North District Plan and Operative Whangarei District Plan enable conservation activities in the OSZ as a permitted activity. The Far North District Plan enables conservation activities in the SARZ as a permitted activity.

80. Objective OSZ-O1 seeks to maintain the natural, ecological, historical and cultural values of the OSZ. In my view OSZ-O1 supports the maintenance of these values and I consider that conservation activities should be permitted in the zone to ensure these values can be maintained.

81. To promote consistency across the PDP and to ensure the plan can effectively implement the objectives of the zones, specifically OSZ-O1 to support the maintenance of natural and ecological values in the OSZ, I agree with KDC and further submitters NZ Agricultural Aviation Association and NZ Helicopter Association. For these reasons, I recommend conservation activities are a permitted activity in the OSZ and SARZ.

3.3 Recommendations

82. I recommended new Permitted Activities Rule OSZ-R8 in response to submissions:

<u>OSZ-R8</u>	<u>Conservation activity</u>
1. <u>Activity status: Permitted</u>	2. <u>Activity status when compliance not achieved: Not Applicable</u>

83. I recommend new Standard SARZ-S9 Conservation in response to submissions:

<u>SARZ-R7</u>	<u>Conservation activity</u>
1. <u>Activity status: Permitted</u>	2. <u>Activity status when compliance not achieved: Not Applicable</u>

4 Topic 2: Demolition of buildings and structures

4.1 Introduction

84. The NOSZ, OSZ and SARZ do not contain rules for the demolition of buildings and structures, whereas other chapters across the PDP enable the demolition of buildings and structures as a permitted activity.

85. This topic addresses submissions from KDC that seek to include a permitted activity rule for the demolition of buildings and structures across all three zones.

4.2 Analysis

86. KDC [S222.10], [222.11] and [222.12] request a new permitted activity rule in the NOSZ, OSZ and SARZ chapters for the demolition of buildings or structures. KDC seek this amendment to ensure these chapters are consistent with other zones across the PDP and enable this activity without the need for a resource consent. KDC request the following rule in all zone chapters:

NOSZ-RX Demolition of a building or structure

1. Activity status: Permitted

2. Activity Status when compliance not achieved: Not Applicable

87. Rules NOSZ-R5, OSZ-R8 and SARZ-R7 require a discretionary activity resource consent for any activities not listed as permitted, discretionary or non-complying. As the demolition of a building or structure is not listed in these zone rules, this activity would require resource consent as a discretionary activity.

88. Several chapters in the PDP have a permitted activity rule for the demolition of buildings. These chapters include, for example, the General Residential Zone, Commercial Zone, Heavy Industrial Zone, Light Industrial Zone and the Hospital Zone.
89. The National Planning Standards defines a building as:
- 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.*
90. While the National Planning Standards defines ‘structure’ as having the same meaning as Section 2 of the RMA being:
- any building, equipment, device, or other facility, made by people and which is fixed to land; and includes any raft.*
91. In this sense, the definition of ‘structure’ is broad applying to equipment, a device or another facility. As such I consider that applying a permitted demolition activity rule in the NOSZ, OSZ and SARZ would enable the demolition of a wider range of activities than is permitted in other chapters across the PDP which restrict demolition to buildings.
92. I agree with KDC that a permitted activity rule for demolition should also capture structures in these zones as structures are anticipated within these zones, for example viewing platforms and lookouts and minor structures for access such as stairs or ramps in the NOSZ or goal posts in the SARZ zone.
93. Where the demolition of a building or structure may affect a heritage item in these zones, the Heritage Chapter requires either a restricted discretionary or discretionary resource consent for the partial or full definition of Heritage B and Heritage A items. The full demolition of a Heritage A item is a non-complying activity. These additional restrictions would apply where any building in the NOSZ would fall into a Heritage A or B category to ensure demolition would trigger the resource consent process.
94. In my view the demolition of buildings and structures is an activity that is anticipated in these zones. I consider it unreasonable, and neither efficient nor effective to require a discretionary activity resource consent for the demolition of buildings and structures in these zones. For these reasons and to support a consistent approach to the management of demolition activities across the PDP, I agree with KDC and recommend a new permitted activity rule for the demolition of buildings and structures in the NOSZ, OSZ and SARZ.

4.3 Recommendations

95. I recommend new Permitted Activity Rule NOSZ-R5 in response to submissions:

<u>NOSZ-R5</u>	<u>Demolition of a building or structure</u>
1. <u>Activity status: Permitted</u>	2. <u>Activity status when compliance not achieved: Not Applicable</u>

96. I recommended new Permitted Activities Rule OSZ-R9 in response to submissions

<u>OSZ-R9</u>	<u>Demolition of a building or structure</u>
1. <u>Activity status: Permitted</u>	2. <u>Activity status when compliance not achieved: Not Applicable</u>

97. I recommend new Rule SARZ-R8 in response to submissions:

<u>SARZ-R8</u>	<u>Demolition of a building or structure</u>
1. <u>Activity status: Permitted</u>	2. <u>Activity status when compliance not achieved: Not Applicable</u>

5 Topic 3: Setbacks from the CMA for infrastructure

5.1 Introduction

98. Standards NOSZ-S3, OSZ-S4 and NOSZ-S4 require buildings and structures to be setback 25m from the edge of the CMA. These standards do not apply to infrastructure provided by a network utility operator.
99. This topic addresses submissions requesting amendments to these standards to ensure they align with the Infrastructure Chapter located in Part 2 – District-Wide Matters of the Plan to remove any potential confusion for plan users.

5.2 Analysis

100. Chorus New Zealand Ltd, Connexa Ltd, Spark NZ Trading Ltd, Fortysouth Group LP and One NZ [S26.85], [S26.86] and [S26.87] oppose zone standards NOSZ-S3, OSZ-S4 and NOSZ-S4 which require setbacks from a CMA. These submitters request the deletion of clause 2.d across all three rules to remove the exemption for infrastructure from the 25m setback from the edge of the CMA.

101. These submitters request this amendment as the infrastructure chapter of the PDP states that no zone rules in Part 3 apply to infrastructure. These submitters consider this clause may cause confusion and is inconsistent with the plan structure.
102. The Infrastructure Chapter located in Part 2 – District-Wide Matters of the Plan notes the underlying zone rules in Part 3 of the District Plan – Area Specific Matters do not apply to infrastructure activities³.
103. I agree with the submitters that the exemption clause in Clause 2.d should be deleted across these standards to remove any potential confusion for plan users and to ensure the NOSZ, OSZ and SARZ standards are consistent with the Infrastructure Chapter of the PDP.
104. I note discussion has been undertaken with the reporting officers for the other zone chapters this submission relates to, and a consistent approach has been agreed upon to recommend the deletion of this exemption from the CMA setback standard for infrastructure across all zones.

5.3 Recommendations

105. I recommend the following amendments to NOSZ-S3 in response to submissions:

NOSZ-S3	Setbacks from a coastal marine area NOTE: This standard has immediate legal effect	
<ol style="list-style-type: none"> 1. Buildings, accessory buildings and structures must be setback 25m from the edge of a coastal marine area. 2. The setbacks in NOSZ-S3.1 do not apply to: <ol style="list-style-type: none"> a. Buildings and structures that are permitted under the Natural Character chapter; b. Where there is a legally formed and maintained road; c. Fences; d. Infrastructure provided by a network utility operator; and e. Structures associated with vehicle or pedestrian access. 	<ol style="list-style-type: none"> 3. Activity status when compliance not achieved: Restricted Discretionary 4. Matters over which discretion is restricted: <ol style="list-style-type: none"> a. The design and siting of the building or structure with respect to effects on the natural character, landscape, ecological, public access and cultural values of the waterbody; b. The impacts on existing and future esplanade reserves, esplanade strips, and public access to the coastal margins; c. screening, planting and landscaping on the site; and d. Natural hazard risks. 	

106. I recommend the following amendments to OSZ-S4 in response to submissions:

OSZ-S4	Setbacks from a coastal marine area NOTE: This standard has immediate legal effect	
	<ol style="list-style-type: none"> 1. Buildings, accessory buildings and structures must be setback 25m from the edge of a coastal marine area. 2. The setbacks in OSZ-S4.1 do not apply to: <ol style="list-style-type: none"> a. Buildings and structures that are permitted under the Natural Character chapter; b. Where there is a legally formed and maintained road; c. Fences; <u>and</u> d. Infrastructure provided by a network utility operator; and e. Structures associated with vehicle or pedestrian access. 	<ol style="list-style-type: none"> 3. Activity status when compliance not achieved: Restricted Discretionary 4. Matters over which discretion is restricted: <ol style="list-style-type: none"> a. The design and siting of the building or structure with respect to effects on the natural character, landscape, ecological, public access and cultural values of the waterbody; b. The impacts on existing and future esplanade reserves, esplanade strips, and public access to the coastal margins; c. screening, planting and landscaping on the site; and d. Natural hazard risks.

107. I recommend the following amendments to SARZ-S4 in response to submissions:

SARZ-S4	Setbacks from a coastal marine area NOTE: This standard has immediate legal effect	
	<ol style="list-style-type: none"> 3. Buildings, accessory buildings and structures must be setback 25m from the edge of a coastal marine area. 4. The setbacks in SARZ-S4.1 do not apply to: <ol style="list-style-type: none"> a. Buildings and structures that are permitted under the Natural Character chapter; b. Where there is a legally formed and maintained road; c. Fences; <u>and</u> d. Infrastructure provided by a network utility operator; and e. Structures associated with vehicle or pedestrian access. 	<ol style="list-style-type: none"> 5. Activity status when compliance not achieved: Restricted Discretionary 6. Matters over which discretion is restricted: <ol style="list-style-type: none"> a. The design and siting of the building or structure with respect to effects on the natural character, landscape, ecological, public access and cultural values of the waterbody; b. The impacts on existing and future esplanade reserves, esplanade strips, and public access to the coastal margins; c. screening, planting and landscaping on the site; and d. Natural hazard risks.

6 Topic 4: Vegetation Clearance and Reducing Building Size

6.1 Introduction

108. This topic addresses submissions from The Royal Forest and Bird Protection Society of New Zealand (**Forest & Bird**) which seek a permitted activity rule for indigenous vegetation clearance and associated land disturbance in the NOSZ and OSZ. Forest & Bird also request amendments to rules in the NOSZ to limit the size of buildings and structures and require compliance with vegetation clearance limits.

6.2 Analysis

109. Forest & Bird [S149.118] and [S149.125] request a new permitted activity rule for indigenous vegetation clearance and associated land disturbance allowing up to 50m² of disturbance in the NOSZ and OSZ.
110. Forest & Bird [S149.119] and [S149.126] also seek to add a new restricted discretionary activity rule for indigenous vegetation clearance and associated land disturbance in the NOSZ and OSZ where activities do not comply with the requested permitted activity rules. Forest & Bird request these rules require the following matters of discretion:
- a. Effects of vegetation clearance and associated land disturbance on indigenous biodiversity;
 - b. Extent of clearance proposed and any practicable alternative locations or methods to avoid or reduce the extent of indigenous vegetation clearance and associated land disturbance;
 - c. Proposed measures to avoid, remedy, mitigate, offset or compensate adverse effects on indigenous biodiversity values;
 - d. Reasons for the indigenous vegetation clearance and associated land disturbance; and
 - e. Positive effects associated with the indigenous vegetation clearance and associated land disturbance.
111. Forest & Bird [S149.121 and S149.122] seeks to amend NOSZ-R3 and NOSZ-R4 by adding additional standards for conservation and recreational activities that protect indigenous biodiversity, which include:
- a. limiting any buildings and structures to 10m², and
 - b. requiring compliance with earthworks and vegetation clearance limits.
112. Forest & Bird consider the presence of indigenous vegetation and natural features within these zones are a likely habitat for indigenous fauna. Forest & Bird submit that earthworks and vegetation clearance rules and standards must be included in the NOSZ and OSZ rules because

any earthworks and vegetation clearance are likely to have adverse effects on indigenous biodiversity, natural features and natural character values. Forest & Bird have not provided evidence to support these submissions.

113. In regards to Forest & Bird's submission for a permitted activity rule in the NOSZ and OSZ, I agree with Forest & Bird that indigenous vegetation and natural features will be present in the zones, and consequently it is appropriate for the Plan to contain provisions to ensure the values of the zones are preserved and that permitted vegetation clearance thresholds are set.
114. The Ecosystems and Indigenous Biodiversity chapter in Part 2 – District-Wide Matters, Natural Environment Values section of the PDP sets out the objectives, policies, rules and standards for the protection of indigenous vegetation and indigenous biodiversity.
115. As notified, Rule ECO-R1 permits a range of indigenous vegetation clearance activities that I consider would apply to activities in the NOSZ and OSZ where they are limited in scale and for specific functional, safety, or management purposes, these include, for example:
 - a. Clearance provided for in a covenant or order under the Queen Elizabeth II National Trust Act 1977, a Ngā Whenua Rahui Kawenata, or the Reserves Act 1977.
 - b. Clearance on land held and managed under the Conservation Act 1987 and in accordance with any CMS, CMP or management plan established under this Act.
 - c. The removal or clearance of indigenous vegetation from land that was previously cleared and where the indigenous vegetation to be cleared is less than 10 years old.
 - d. To establish minor access such as narrow walking tracks and enable fencing to exclude stock or pests.
 - e. Clearance for the operation, maintenance, repair of lawfully established fencing, infrastructure, buildings, walking tracks, cycling tracks, farm tracks and drains.
 - f. Clearance to address immediate risks to people or property.
116. For activities not listed under Rule ECO-R1, Rule ECO-R2 permits indigenous vegetation clearance and any associated land disturbance of no more than 500m² per site in any calendar year in these zones.
117. More stringent indigenous vegetation clearance rules for indigenous vegetation clearance in the Coastal Environment, Natural Character, and Natural Features and Landscapes chapters are set out in the respective chapters for those matters in Part 2 – District Wide Matters of the PDP.
118. As the rules for vegetation clearance for activities that would apply in the NOSZ and OSZ are set out in the Ecosystems and Indigenous Biodiversity Chapter, I suggest that the matter of amending

the indigenous vegetation clearance thresholds is deferred to this topic in Hearing Stream 17 to ensure a consistent and comprehensive approach is established across zones and activities that takes into consideration s6 of the RMA and the NPS-IB.

119. Regarding Forest & Birds submissions [S149.121 and S149.122] to amend NOSZ-R3 and NOSZ-R4, I disagree that permitted recreation and conservation activities should be limited to 10m². This would effectively limit buildings for these activities to approximately the size of a garden shed (approximately 2m x 5m or 3 x 3.3m). In my view, this would significantly limit the ability to establish buildings and structures that are anticipated in the zone and will increase the number of resource consents required for these activities.
120. The policy framework of the NOSZ seeks to conserve, protect and enhance the natural, ecological, historical heritage and cultural values of the zone whilst enabling activities that are compatible with these values and the associated amenity values of the zone.
121. In my view, the policy framework supports recreation and conservation activities that would result in a low level of development and are compatible with the established amenity values of the NOSZ. Standard NOSZ-S4 enables a maximum combined building and impervious surface coverage of 250m² for all permitted activities in the zone including recreation and conservation activities. I consider, NOSZ-S4 appropriately limits the maximum building coverage in the zone.
122. Any proposed buildings or structures on land zoned NOSZ in an Outstanding Natural Feature (**ONF**) or Outstanding Natural Landscape (**ONL**) are subject to the maximum gross floor area rules for buildings and structures set out in the Natural Features and Landscapes chapter in Part 2 – District Wide Matters of the PDP.
123. Forest & Bird also requests buildings and structures comply with earthworks and vegetation clearance limits. These rules are set out in their respective chapters and would apply to buildings and structures in the NOSZ as follows:
 - a. Any vegetation clearance associated with new buildings and structures would need to comply the rules in the Ecosystems and Indigenous Biodiversity chapter in Part 2 – District Wide Matters, Natural Environment Section of the PDP.
 - b. Any earthworks associated with new buildings and structures in the zone would need to comply with the earthworks rules in Part 2- District Wide Matters, General District Wide Matters of the PDP. Standard EW-S1 of the Earthworks Chapter sets a maximum volume and area per site in the NOSZ.
124. I consider it is appropriate that the PDP sets out earthworks and vegetation clearance rules in the respective topic chapters in Part 2 – District Wide Matters of the PDP; an approach that

complies with the National Planning Standards. I therefore disagree with Forest & Bird that these rules should be set out in the NOSZ.

6.3 Recommendations

125. I do not recommend amendments to the NOSZ and OSZ rules in response to Forest & Bird's submissions.

7 Topic 5: Natural Open Space Zone – Objectives, Policies, Rules and Standards

7.1 Introduction

126. All submissions on the NOSZ objectives are fully supportive of the objectives and seek they are retained as notified.
127. Submissions on the NOSZ policies are fully supportive. Submitters support NOSZ-P3, NOSZ-P4 and NOSZ-P5 in full. No submissions were received on NOSZ-P1, NOSZ-P2 or NOSZ-P6.
128. Submitters largely support NOSZ-R1 and NOSZ-R2. Submitters seek amendments to NOSZ-R3 and NOSZ-R4 to define 'recreational activities', limit the size of permitted buildings and structures in the zone and require compliance with earthworks and vegetation clearance limits to protect indigenous biodiversity.

7.2 Analysis

Objective and policies

129. Fish and Game [267.32 and 267.33] support both objectives and seek they are retained as notified.
130. New Zealand Agricultural Aviation Association [S146.48] and New Zealand Helicopter Association [S147.17] support NOSZ-P3, specifically the enabling of activities included within conservation or reserve management plans and seek to retain the Policy as notified.
131. Fish and Game [S267.34 and 267.35] Policies NOSZ-P4 and NOSZ-P5 and seek they are retained as notified.

NOSZ-R1: Buildings and structures

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132. Fish and Game [S267.36] and DoC [S304.119] support NOSZ-R1 and seek to retain the rule as notified. DoC supports NOSZ-R1 as notified as it provides for the provision of conservation activities within the NOSZ which comprises of public conservation land.
133. Forest & Bird [FS93.227] further submitted, supporting DoC [S304.119] on the basis that the rule seeks to improve the provision and outcomes for indigenous biodiversity.

NOSZ-R2: Activities authorities by strategies and plans

134. Fish and Game [S267.37], DoC [S304.120], New Zealand Helicopter Association [S147.18] and New Zealand Agricultural Aviation Association [S146.49] support NOSZ-R2 and request it is retained as notified. All submitters support enabling activities authorised by a conservation management strategy, conservation management plan or a reserve management plan as a permitted activity.
135. Forest & Bird [FS93.228] further submitted, supporting DoC [S304.120], on the basis that the rule seeks to improve the provision and outcomes for indigenous biodiversity.
136. Forest & Bird [S149.120] opposes NOSZ-R2 in part and request amendments to the rule as follows:
- a. The Council to be notified prior to activities occurring; and
 - b. The activities to be in accordance with the zone standards.
137. Forest & Bird seeks these amendments to ensure that activities do not result in adverse effects and that any activities are monitored and effects are managed appropriately.
138. I consider it unreasonable, and neither efficient nor effective to amend NOSZ-R2 to require applicants to notify the Council prior to undertaking activities authorised by an approved CMS, CMP or RMP. In accordance with the requirements of Section 35 of the RMA, Council will monitor the efficiency and effectiveness of this rule including all policies, rules and standards in the NOSZ. Council also keep a register of complaints, and any complaints regarding potential environmental or perceived problems can be monitored by Council through this register to inform environmental reporting.
139. Section 9(3) of the RMA provides that no person may use land in a manner that contravenes a rule in a district plan unless the activity is expressly allowed or a resource consent is obtained. However, section 4(3) of the RMA creates a specific carve-out from these land use controls in relation to Crown activities on conservation land. In particular, section 4 of the RMA provides that section 9(3) does not apply to any work or activity of the Crown within land held or managed under the Conservation Act 1987 (or other Acts listed in Schedule 1 of that Act which includes

the Reserves Act 1977), provided that the activity is consistent with an operative CMS, CMP or RMP, and does not result in significant adverse effects beyond the boundary of that land.

140. Some land in the NOSZ is already managed under these strategies and plans. These documents can control activities in more detailed, granular site-specific ways. As a result, district plan rules or standards—such as setbacks or restrictions on height may not apply in these circumstances and could effectively be overridden by CMS, CMP or RMP's.
141. Because section 4(3) of the RMA precludes activities undertaken in accordance with an approved CMS, CMP or RMP from complying with certain land use requirements of the RMA, I consider applying the standards of the NOSZ would be *ultra vires*. Consequently, I do not recommend the NOSZ standards apply to activities undertaken in accordance with an approved CMS, CMP or RMP.

NOSZ-R3: Conservation activities and NOSZ-R4: Recreation Activities

142. Fish and Game [S267.38], New Zealand Helicopter Association [S147.19] and New Zealand Agricultural Aviation Association [S146.50] support NOSZ-R3 and seek to retain as notified.
143. Northland Fish and Game Council [S267] supports NOSZ-R4 and requests a definition for “recreation activity” is included in NOSZ-R4.
144. The PDP definition for “recreational activities” is consistent with the National Planning Standards. To reduce repetition, I consider that this definition does not need to be repeated in the rule.

7.3 Recommendations

145. As all submissions on the NOSZ objectives and policies are supportive, I do not recommend any amendments to the objective and policies in response to submissions.
146. I do not recommend amendments to the NOSZ rules in response to submissions.

8 Topic 6: Open Space Zone and Sports and Active Recreation Zone – General Submissions

8.1 Introduction

147. The OSZ and SARZ chapters contain the objectives, policies, rules and standards to manage activities within these zones. Both chapters include an Overview Statement that sets out the purpose of the zones and the types of activities provided for.

148. General submissions on the OSZ chapter are largely supportive. One submitter requests amendments to the Overview Statement and rules to include equestrian users as a type of public user for the purpose of the OSZ chapter.
149. One general submission was received on the SARZ chapter supporting the provisions of the zone and seeking amendments to ensure the chapter gives effect to National Policy Statements and the National Planning Standards.

General submissions

150. Cabra Mangawhai Ltd & Pro Land Matters Ltd [S216.68] support in part the provisions of the OSZ chapter to the extent that amendments will be required to ensure a clear and consistent plan direction and to ensure the chapter gives effect to the National Planning Standards. Black Swamp Limited [FS34.68] further submitted, supporting in part Cabra Mangawhai Ltd & Pro Land Matters Ltd submission generally. This further submission does not clearly identify the reasons why Black Swamp Limited support Cabra Mangawhai Ltd & Pro Land Matters Ltd [S216.68] submission.
151. Fish and Game [S267.40] supports the OSZ chapter and seeks to retain the policies and rules as notified.
152. Venessa Anich [S99.10] and [S99.13] seeks to amend the Overview Statement in the OSZ chapter to include equestrian use as a type of public access and requests equestrian paths and connections are listed as a permitted activity in rule OSZ-R3.
153. Cabra Mangawhai Ltd & Pro Land Matters Ltd [S216.69] support the provisions of the SARZ in part. This submitter requests amendments to enable a clear and consistent plan direction and to ensure the chapter gives effect to the National Policy Statements and is consistent with the National Planning Standards. Black Swamp Limited [FS34.69] further submitted, supporting in part Cabra Mangawhai Ltd & Pro Land Matters Ltd submission generally. This further submission does not clearly identify the reasons why Black Swamp Limited support Cabra Mangawhai Ltd & Pro Land Matters Ltd [S216.69] submission.
154. I agree the OSZ and SARZ must be consistent with the National Planning Standards. No clear relief is sought from Cabra Mangawhai Ltd & Pro Land Matters Ltd [S216.68] and [S216.69] to indicate what amendments to these chapters are sought. I consider the chapters are consistent with the National Planning Standards.
155. Both chapters are consistent with the standardised OSZ and SARZ zones that must be used in District Plans and both align with the description of the zones in the National Planning Standards as follows:

Open Space zone: as areas used predominantly for a range of passive and active recreational activities, along with limited associated facilities and structures.

Sport and active recreation zone: Areas used predominantly for a range of indoor and outdoor sport and active recreational activities and associated facilities and structures.

156. Regarding Venessa Anich's submissions, in my view, it is inappropriate to amend the Overview Statement to acknowledge that equestrian use is a type of public access user. A wide range of potential users utilise open space and I consider including an exhaustive list of users does not align with simple and clear Plan drafting. Additionally, much of the OSZ is subject to RMP. RMPs can control activities at a site-specific level which can control user access for horse riding and may in some cases restrict this access in certain areas of the OSZ.
157. Venessa Anich also requests that equestrian paths and connections are listed as a permitted activity in OSZ-R3. Enabling paths and connections for horse riding as a permitted activity in the zone may not be consistent with adopted RMPs that apply to reserves throughout the zone. As a result, a permitted district plan rule to enable equestrian paths may not apply in these circumstances and could effectively be overridden by an RMP.
158. For the above reasons, I consider that expressly recognising equestrian access at a Plan level may not be consistent with the management frameworks that apply to reserves in the OSZ. I do not recommend amendments to the Overview Statement to include the acknowledgement of equestrian use. I also consider that enabling equestrian paths and connections as a permitted activity in OSZ-R3 would be inconsistent with adopted RMPs that apply to land in the OSZ. In my view, RMPs and relevant Council bylaws are best placed to manage equestrian access to walking and cycling paths across the district.

8.2 Recommendations

159. I do not recommend amendments to the Overview Statement of the OSZ or SARZ in response to submissions.

9 Topic 7: Open Space Zone and Sports and Active Recreation Zone - Definitions

9.1 Introduction

160. Definitions that apply to activities in the open space zones are defined in Part 1 – Introduction and general provisions, interpretation, definitions section of the PDP. Definitions in the PDP are consistent with the applicable definitions in the National Planning Standards.

161. Key definitions that apply to the activities provided for in the OSZ include definitions for open space facilities, open space management facilities, recreation activities and commercial activities.
162. One submitter seeks amendments to the definitions that apply to activities in the OSZ.
163. In terms of the SARZ, one submitter requests a general amendment to the chapter seeking that more consistent and defined terminology for the types of activities is used throughout. Another submitter seeks specific amendments to the definition for Open Space Management Activities.

9.2 Analysis

164. DoC [304.28] request amendments to the definition of “Open Space Management Facilities” to explicitly reference daily activities associated with the management of its facilities on public conservation land as follows:

means the day to day management of parks and reserves, to maintain, protect and/or enhance the natural, historic and/or ecological values of a park or reserve. It may include activities which assist to enhance the public's appreciation and recreational enjoyment of the resource and includes:

- a. *Repair and maintenance of facilities, structures and buildings*
- b. *Planting, including plant and tree nurseries*
- c. *Removal, trimming and maintenance of turf, trees (except Protected Trees) and other non-indigenous vegetation and associated earthworks*
- d. *Animal and pest control operation*
- e. *Repair and maintenance of walkways, cycleways, vehicle tracks or carparks and associated earthworks.*

....f. Undertaking any of the activities in (a)-(e) on public conservation land in association with management of Department of Conservation facilities.

165. DoC considers that the definition does not provide for DoC facilities on public conservation land.
166. The National Planning standards do not list a definition for open space management facilities, this definition is a PDP specific definition. In my view, the definition is appropriately drafted to capture the day-to-day activities involved in the management of parks and reserves across a range of land types, including conservation land. I consider that the definition does not exclude, or fail to capture, these activities when they occur on conservation land for the management of DoC's facilities.

167. Dargaville Bridge Club [S49.1] seek to amend the SARZ chapter to have more consistent terminology, as existing terminology like ‘recreation activities’, ‘appropriate ancillary activities’, ‘active recreation’, ‘ancillary informal leisure activities’ and ‘sports and active recreation activity’ can be confusing particularly where not defined. They seek the amendment to include consistent and defined terminology to provide for clarity within the chapter as to which activities are permitted and which are not.
168. Dargaville Bridge Club Incorporated [S49.7] and [s49.3] seek to amend the definition of “Recreation Activities” to capture a broader range of activities, including ancillary activities, sport and recreation activities as well as other activities such as corporate functions, weddings, funerals, church groups, community forums, government agencies and business meetings. Alternatively, it seeks to add definitions or categories of activities to cover non-recreational activities such as corporate functions, weddings, funerals, church groups, community forums, government agencies and business meetings. This is sought on the basis that the terms used for sport and recreation activities are not consistent throughout the zone chapter and may not encompass all activities that currently occur in these areas.
169. Key definitions that apply to the activities provided for in the SARZ include definitions for open space facilities, community facilities and recreation activities.
170. Regarding Dargaville Bridge Club [S49.1] submission to amend key terminology used in the SARZ chapter, this terminology is either types of activities as defined in the National Planning Standards or common terms used to describe different types of activities such as ancillary activities.
171. The PDP has adopted the definition of “ancillary activities” as described in the National Planning Standards as follows:
- means an activity that supports and is subsidiary to a primary activity.*
172. Recreation activities are not defined in the National Planning Standards. They are defined in the PDP as follows:
- means the use of land, water bodies and/or buildings for the purpose of the active or passive enjoyment of organised sports (excluding motorsport), recreation or leisure, whether competitive or non-competitive, and whether a charge is made for admission or not.*
173. In my view, the definition of recreation activities appropriately captures activities for different types of sport, recreational or leisure activities and clarifies that activities can be for competitive or non-competitive sport uses. I consider this definition appropriately describes different types of recreational activities that are anticipated in the SARZ.

174. While the PDP does not define what an ‘informal leisure’ activity is, I consider that the drafting of the chapter makes clear that these are supported where they are ancillary to active recreation activities.
175. Dargaville Bridge Club [S49.1] further requests that either definitions or categories of activities for non-recreational activities such as corporate functions, weddings, funerals, church groups, community forums, government agencies and business meetings be identified in the SARZ chapter.
176. SARZ-R5 enables commercial activities in the zone as permitted activities with a GFA of less than 200m² that are linked to the sale of food and drink, the sale or hire of products or activities for sporting use or the sale of tickets for recreational activities that comply with the zone hours of operation standard.
177. SARZ-R6 enables community facilities as a permitted activity where these activities meet the relevant zone standards. “Community facilities” are defined in the PDP as:
- means land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility.*
178. The definition of community facilities captures most of the types of uses Dargaville Bridge Club request be included in the SARZ, for example, church groups, weddings and funerals.
179. SARZ-R5 enables commercial activities in the zone as permitted activities with a GFA of less than 200m² that are linked to the sale of food and drink, the sale or hire of products or activities for sporting use or the sale of tickets for recreational activities that comply with the zones hours of operation standard.
180. Corporate functions are permitted under SARZ-R5 where these are associated with sporting activities with a GFA of less than 200m². In my view, SARZ-R5 appropriately limits corporate functions within the zone to those linked to sporting use. I consider it would be inappropriate for the SARZ to enable general commercial activities as a permitted activity. General commercial activities are not anticipated in the zone and do not align with the zones objectives to support active recreation and sport activities.

9.3 Recommendation

181. For these reasons, I do not recommend amendments to the Open Space Management Facilities definition.
182. I also do not recommend amendments to the definitions of the SARZ in response to submissions.

10 Topic 8: Open Space Zone – Objectives and Policies

10.1 Introduction

183. The only submission received on the objectives of the OSZ requests that OSZ-O2 be retained as notified. No submissions were received on OSZ- O1.
184. Submissions on the OSZ policies are varied. One submitter requests an amendment to OSZ-P1 to include a requirement to manage effects on the values of the zone for consistency with the overview statement and objectives. The same submitter also seeks an amendment to OSZ-P5 to ensure incompatible activities are avoided rather than minimised.
185. No submissions were received in relation to OSZ-P2, OSZ-P3 or OSZ-P4.

10.2 Analysis

OSZ-P1 Range of recreation activities

186. Venessa Anich [S99.12] supports OSZ-P1 and seeks to retain as notified.
187. Forest & Bird [S149.123] opposes OSZ-P1 in part and seeks to amend clause 3 to explicitly require the management of effects on natural, ecological, cultural and heritage values in the OSZ as follows:
-
3. *Manage effects on the natural, ecological, cultural and heritage values in the zone, and effects on the character and amenity of any adjacent General residential zone and the surrounding area.*
-
188. Forest & Bird considers that the Overview Statement and Objective OSZ-O1 establish that the zone contains natural, ecological, cultural and heritage values, and that effects on these values should be managed through the policy framework.
189. Heritage New Zealand Pouhere Taonga [FS54.12] further submitted in support of this relief, noting that open space areas can contain unidentified archaeological values and supporting the explicit recognition of cultural and heritage values.
190. Objective OSZ-O1 seeks to maintain the open and spacious character and amenity values of the zone, including any natural, ecological, heritage and cultural values.

191. I agree with the submitters that the policy framework should clearly provide direction to manage the effects of activities on the full range of values within the zone. While OSZ-P1 currently refers to managing effects on character and amenity, it does not explicitly refer to natural, ecological, cultural and heritage values, despite these being identified in the objectives and overview of the chapter.
192. In my view, explicitly including these values within OSZ-P1 will improve consistency within the chapter and will ensure OSZ-P1 implements the direction in Objective OSZ-O1 to ensure any recreation activities in the zone maintain the natural, ecological, heritage and cultural values of the zone as well as character and amenity values. Amendments will also provide clearer direction for decision-makers when assessing resource consent applications.
193. Section 5(2)(c) of the RMA requires that adverse effects of activities on the environment are avoided, remedied, or mitigated and Section 6(f) of the RMA requires the protection of historic heritage from inappropriate subdivision, use, and development. Open space and recreation activities, including associated buildings and structures, can generate adverse effects on ecological, cultural and heritage values if not appropriately managed.
194. While many activities within the zone are anticipated to be compatible with its purpose, the scale, location and intensity of development can still result in adverse effects on the values of the zone. In my view, it is appropriate that OSZ-P1 explicitly directs that these effects are managed, to ensure that any adverse effects are appropriately addressed through the resource consent process where required.
195. I agree with Forest & Bird [S149.123] and Heritage New Zealand Pouhere Taonga [FS54.12] and recommend amendments to OSZ-P1 as set out in the recommendations section below.

OSZ-P5 Incompatible activities

196. Forest & Bird [S149.124] seek to amend OSZ-P5 as follows:
- Avoid ~~minimise~~ land uses and activities that would compromise public use and enjoyment, and access to and the natural, ecological, cultural and heritage values associated with the Open space zone.*
197. Forest & Bird consider that given the purpose, characteristics and values of the zone, incompatible activities should be avoided rather than minimised. Forest & Bird submit that land use and activities that compromise the values of the zone, as set out in OSZ-O1 should be avoided too. Currently, this is not covered by the policy.
198. Transpower [FS100.27] further submitted, opposing in part the amendment to OSZ-P5 sought by Forest & Bird as they disagree with the use of “avoid” and prefer to retain the term “minimise”.

199. Transpower advise that, although it aims to avoid placing new structures within the OSZ, there may be situations where this cannot be achieved due to the operational or functional requirements of the National Grid.
200. Objective OSZ-O1 of the zone seeks to maintain any amenity, natural, ecological, heritage, cultural and character values of the zone and Objective OSZ-O2 supports public access to recreation activities and facilities in the zone. Policies OSZ-P1, OSZ-P2 and OSZ-P5 support activities that are either compatible with or complement the values of the zone.
201. In my view the objective and policy framework does not direct that incompatible activities are avoided outright, rather this framework supports activities that are either compatible with or complement the values of the zone. For this reason, I disagree with Forest & Bird that OSZ-P5 should be amended to “avoid” any incompatible activities in the zone.
202. Where an incompatible activity is proposed that would compromise public use, enjoyment and access to the zone these activities would need to be minimised. The OSZ rule framework enables activities that are compatible with the OSZ as permitted activities. Incompatible activities require resource consent for a discretionary activity in accordance with OSZ-R8. Discretionary activities are not subject to any matters of discretion or assessment criteria, and council can assess any effects they consider to be relevant. Council can exercise full discretion as to whether or not to grant consent and as to what conditions to impose on the consent if granted in accordance with Section 104B of the RMA.
203. I do however agree with Forest & Bird that the objectives of the zone seek to maintain natural, ecological, heritage, cultural and character values of the zone and that Policy OSZ-P5 should align with this objective. In response, I recommend the following amendments to OSZ-P5 as set out in the recommendations section below.

Recommendations

204. Given the absence of opposing submissions, I do not recommend any amendments to the OSZ objectives.
205. I recommend the following amendments to OSZ-P1 in response to submissions:

OSZ-P1	Range of recreation activities
Enable a range of passive and active recreation activities in the Open space zone that: <ol style="list-style-type: none"> 1. Are compatible with the values of the zone; the reserve classification and purpose, and any relevant conservation strategy or reserve management plan; 2. Provide for the social and cultural well-being of the community 3. <u>Manage effects on the natural, ecological, cultural and heritage values in the zone; and</u> 4. Manage effects on the character and amenity of any adjacent General residential zone and the surrounding area. 	

206. I recommend the following amendment to OSZ-P5 in response to submissions:

OSZ-P5	Incompatible activities
Minimise land uses and activities that would compromise <u>the natural, ecological, cultural and heritage values of the zone, and</u> public use, and enjoyment and access to the Open space zone.	

11 Topic 9: Sports and Active Recreation Zone – Standards

11.1 Introduction

207. SARZ-S5, SARZ-S6 and SARZ-S8 apply to activities managed under SARZ-R1 and SARZ-R6 and address building coverage, maximum height of fencing and boundary walls, and impervious surfaces. SARZ-S7 applies to activities managed under SARZ-R3 and SARZ-R7 and sets standards relating to hours of operation.
208. Non-compliance with these standards requires resource consent as a restricted discretionary activity under the relevant rule.
209. One submitter requests amendments to SARZ-S7 to extend the hours of operation for quiet and indoor activities.

11.2 Analysis

210. Dargaville Bridge Club [S49.54] request amendments to SARZ-S7 to extend the hours of operation to 11pm for quiet, indoor activities. This submitter has not provided any evidence to support this request.
211. SARZ-P1 enables recreation and ancillary activities where adverse effects, particularly from noise and traffic movements on the character and qualities of adjoining sites where sensitive activities are located can be managed.
212. Many sports and recreation facilities are in close proximity to residential areas, where activities occurring later in the evening are more likely to result in adverse effects on amenity. In particular, noise, lighting, and general disturbance associated with late-night use can be more noticeable and intrusive during typical night-time hours when residents reasonably expect a higher level of peace and quiet. In my view enabling activities beyond 10pm would increase the potential for nuisance effects on surrounding residential uses and may not be consistent with maintaining

residential amenity values. For these reasons I do not recommend the hours of operation for the zone be extended to 10pm.

11.3 Recommendations

213. I do not recommend amendments to SARZ-S7 in response to submissions.