
Section 32 Report for the Proposed Waitomo District Plan

Section 32 Report – Amateur Radio Chapter

SUMMARY OF ISSUES	RESOURCE MANAGEMENT ACT 1991	NATIONAL DIRECTION	REGIONAL POLICY STATEMENTS	IWI MANAGEMENT PLANS CONT...
<p>The Amateur Radio Chapter addresses the following issues:</p> <ul style="list-style-type: none"> Amateur radio activities can have social, economic and cultural well-being benefits for people and communities, particularly at the time of an emergency, which should be recognised and provided for. Amateur radio configurations can have adverse visual and amenity effects on neighbours and the wider community and expose the surrounding area to radiofrequency fields which can have adverse health and safety effects. Amateur radio configurations may have unacceptable effects on the environment or the health and safety of people and the community if not properly managed and operated. 	<p>Section 6 RMA There is the potential for amateur radio activities to adversely affect the values associated with site or areas of significance (s6 (a), (b), (c), (e) and (f)).</p> <p>Section 7 RMA Section 7(b) the efficient use and development of natural and physical resources.</p> <p>This matter includes the efficient use and development of land, including for purposes such as amateur radio activities. Because of the benefits of amateur radio such activities should not be unduly restricted where they are appropriate and consistent with the purpose and principles of the Act.</p> <p>Section 7(c) the maintenance and enhancement of amenity values.</p> <p>Amateur radio configurations can be relatively large structures and are often located within the properties of amateur radio operators, which means they are likely to be within residential, rural lifestyle, settlement and general rural zones. These structures therefore have the potential to have adverse effects on the amenity values of the areas in which they are located. This matter provides direction that the amenity values should be maintained or enhanced, and therefore not degraded by the establishment and operation of amateur radio configurations.</p> <p>Section 7 (f) maintenance and enhancement of the quality of the environment.</p> <p>Given the definition of 'environment' in section 2 of the RMA, amateur radio activities have the potential to affect the quality of the receiving environment through effects on amenity values as noted above. Additionally, there may potentially be wider effects on people and communities; other natural and physical resources; and social, economic, aesthetic, and cultural conditions which may include sites and areas of significance or values, including those relating to matters of national importance under s6 (a), (b), (c), (e) and (f).</p> <p>The above matters are relevant when considering the management of amateur radio activities and ensuring that their development and operation is provided for in a manner that avoids, remedies or mitigates the adverse effects on the receiving environment, while ensuring that the quality of the environment is maintained and enhanced.</p>	<p>There are 6 National Policy Statements (NPSs) currently in place:</p> <ul style="list-style-type: none"> New Zealand Coastal Policy Statement 2010 NPS for Electricity Transmission 2008 NPS for Renewable Electricity Generation 2011 NPS for Freshwater Management 2020 NPS on Urban Development 2020 NPS for Highly Productive Land 2022 <p>It is considered that none of the 6 NPSs listed above are relevant to this Chapter.</p> <p>There are also 8 National Environmental Standards (NESs) currently in place:</p> <ul style="list-style-type: none"> NES for Air Quality 2004 NES for Sources of Human Drinking Water 2007 NES for Telecommunication Facilities 2016 NES for Electricity Transmission Activities 2009 NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 NES for Plantation Forestry 2017 NES for Freshwater 2020 NES for Storing Tyres Outdoors 2021 	<p>There are no objectives or policies in the Waikato Regional Policy Statement or Manawatū-Whanganui One Plan directly relevant to amateur radio. The objectives and policies contained in these documents are relevant insofar as amateur radio activities may from time to time occur or be proposed within areas identified as significant or holding specific values. The regional provisions relating to the coastal environment, historic heritage, indigenous ecosystems and landscapes are implemented by other district wide chapters of the PDP and are discussed in the relevant section 32 reports.</p>	<p>The Waikato Tainui Environment Management (WTEP) Plan 2018 contains the following provisions relevant to amateur radio:</p> <p>Objective 25.3.3 - Land use and development has positive environmental and cultural effects.</p> <p>Policy 25.3.3.1 - To ensure that land use and development, particularly new land use and development, has positive environmental and cultural effects.</p> <p>It is considered that the proposed provisions take account of the above objective and policy in the WTEP, as they seek to ensure that amateur radio configurations are provided for while minimising adverse environmental effects.</p>
<p>OPERATIVE WAITOMO DISTRICT PLAN</p>			<p>IWI MANAGEMENT PLANS</p>	<p>OTHER RELEVANT PLANS OR LEGISLATION</p>
<ul style="list-style-type: none"> The ODP does not include provisions specific to amateur radio activities. This means that amateur radio activities and any associated structures are assessed against the general provisions for each zone included in the ODP. 		<p>There are no standards and associated provisions relevant to this topic.</p> <p>In relation to the NES for Telecommunication Facilities 2016, the regulated activities included in the NES relate to activities carried out by a facility operator. The definition of a facility operator is a network operator, the Crown or a Crown agent. Therefore, the standards do not apply to amateur radio operators.</p>	<p>The Maniapoto Iwi Environment Management Plan (MIEMP) 2018 contains the following provisions relevant to amateur radio:</p> <p>Objective 18.3.1 - Land management and land use enhance and protect the holistic functioning and interconnected relationships of the natural environment and are compatible with Maniapoto values and principles.</p> <p>Policy 18.3.1.3 - Urban planning and development is conducted in accordance with best practice principles, and infrastructure services provide for the environmental, social, economic, and cultural needs of Maniapoto within the financial capacity of the community.</p> <p>Actions:</p> <ol style="list-style-type: none"> Adopt best practice urban design principles during land use and transport plan development Ensure long-term environmental sustainability and land use practices are considered in planning and decision-making processes, such as annual plans, infrastructure and strategic planning, plan and policy development and consenting processes Ensure Maniapoto values, interests, and objectives regarding land and water are appropriately incorporated into key plans and policies, including but not limited to: <ul style="list-style-type: none"> (i) regional and district plans (ii) spatial plans (iii) urban development strategies (iv) urban planning guides, including landscape plans design guides or sustainable building (v)... (vi) Infrastructure and community plans (vii) Reserves and recreational plans 	<ul style="list-style-type: none"> There are no other plans or legislation relevant to this topic.
<p>SCALE & SIGNIFICANCE s32(1)(c)</p>		<p>Relevant case law considered Council has reviewed relevant Environment Court cases regarding amateur radio activities, specifically:</p> <ul style="list-style-type: none"> New Zealand Association of Radio Transmitters Inc v Wellington City Council [2012] NZEnvC 8; and New Zealand Association of Radio Transmitters Incorporated and Kapiti Amateur Radio Society Incorporated v Kapiti Coast District Council [2019] NZEnvC 39; and Tauranga Emergency Communications Group Inc et al v Tauranga City Council [2012] NZEnvC107). 		<p>STRATEGIC DIRECTION</p>
<p>The assessment is based on eight factors outlined in Ministry for the Environment's guidance on Section 32 reports. Each factor is scored in terms of its scale and significance (where 1 is low and 5 is high).</p> <p>Reason for Change: 2 Problem / Issue: 1 Degree of Shift from Status Quo: 2 - Who and How Many Affected, Geographic Scale of Effects: 1 Degree of Impact on or Interest from Maori: 1 Timing and Duration of Effects: 2 Type of Effect: 1 Degree of Risk or Uncertainty: 1</p> <p>Total (out of 40): 12</p>	<p>Section 8 RMA There are no section 8 matters relevant to this topic.</p>	<p>It is considered that this case law provides the justification for providing for amateur radio in its own specific chapter, as opposed to including it within the network utilities chapter or adding the provisions to applicable zones. It also provides the justification for providing for amateur radio as an activity in of itself.</p>	<p>It is considered that the proposed provisions take account of the above objective and policy in the MIEMP, as they seek to ensure that amateur radio configurations are provided for while minimising adverse environmental effects.</p>	<p>The following objective from the Strategic Directions chapter of the PDP are relevant to this topic:</p> <p>SD-05: Compatible activities with similar effects and functions are zoned together and new development is directed towards the appropriate zones to ensure that land use and subdivision:</p> <ol style="list-style-type: none"> Are consistent with the anticipated character and amenity values of the areas where they are located; and Efficiently use natural and physical resources in order to meet the community's and the environment's needs both now and in the future; and Recognise existing lawful activities and protect their ongoing operation from incompatible activities. <p>UNCERTAINTIES AND RISKS s32(2)(c)</p> <p>The degree of risk and uncertainty is low due to the certainty provided by well-understood potential effects and the approach taken for their management in the proposed provisions.</p>

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OBJECTIVE(S) s32(1)(a)

Relevance - The proposed objective both recognises the potential benefits of amateur radio activities while addressing the potential adverse environmental effects. The objective is consistent with section 31(1)(a), as it ensures the management of the adverse environmental effects of the use and development of amateur radio activities while providing for the protection of land and associated natural and physical resources. The potential adverse effects of the development of amateur radio configurations on the matters in s7(b), (c) and (f) are addressed by the proposed objective.

Usefulness – The objective provides clarity of what is to be achieved in relation to managing amateur radio activities when considering a resource consent application under section 104. The objective clearly articulates an outcome and is drafted in plain english and active language.

Reasonableness – The objective does not create unjustifiably high costs on the community. Amateur radio activities and associated configurations are common activities with a long history throughout New Zealand, and well understood adverse effects. The likely impact on people, communities, amenity and other physical resources is likely to be limited.

Achievability – The character and amenity of Waitomo District will not be compromised, consistent with the strategic objectives. The effects are to be managed through the District Plan in relation to amateur radio generally include those which are common to buildings and structures managed by the Council.

The proposed objective is considered to meet the tests of relevance, usefulness, reasonableness and achievability. It will give effect to the purpose and principles of the RMA and aligns with best practise drafting for objectives. The objective has been examined and evaluated, in terms of the purpose of the RMA, its provisions and the hierarchy of planning documents, and it is considered that the objective is the most appropriate way to achieve the purpose of the RMA.

PROVISIONS S32(1)(B)

EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)

ALTERNATIVES s32(1)(b)(i)

Benefits Anticipated

Environmental

The direct environmental benefits of the proposed provisions are derived from their targeted nature to address the potential adverse environment effects of amateur radio configurations. These targeted provisions include the standards and associated rules for amateur radio configurations. These benefits have been developed in consideration of the structures associated with amateur radio configurations. For example, the provisions allow for exceedance of the zone height boundary for aerials attached to buildings. The location on top of a building assists in mitigating the adverse amenity effects of the aerial. In addition, the provisions also limit the number and type of amateur radio structures and their location on a site through the standards, to address potential cumulative visual effects and streetscape effects which would not be addressed under the zone provisions. There are no identified indirect environmental benefits of the proposed provisions for amateur configurations.

Economic

The direct economic benefits of the proposed provisions include those derived from enabling amateur radio configurations as permitted activities, within certain zones and where standards are met. These provisions therefore allow amateur radio configurations to be established without a need for resource consent, avoiding potential consenting costs which could be significant compared to the costs of establishing an amateur radio configuration. Where the standards are breached, a relatively straightforward and certain resource consent process is triggered through a restricted discretionary activity status. Only within more sensitive zones do amateur radio configurations trigger full discretionary activity status.

Associated with the economic benefits of the proposed provisions are the standards for on ground-mounted supporting structure and associated aerials within urban and rural zones, and aerials mounted on buildings to exceed the underlying zone building heights. These standards enable the efficient and effective establishment of amateur radio configurations. These configurations require height and clearance from other structures to work effectively, and to avoid electrical interference. Associated with the consenting process are administrative costs for the Council in processing any consents required for proposals for amateur radio activities. These costs to the Council are also therefore potentially avoided. Indirect economic benefits of the proposed provisions are generated by the higher level of certainty provided to existing and prospective amateur radio operators. This certainty may help to promote amateur radio activities and the associated economic activity relating to the sale and service of amateur radio configuration components.

Social

The direct social benefits of the proposed provisions include those relating to the health, safety and wellbeing of people and communities generated through the inclusion of provisions for amateur radio configurations to be owned and operated by a licensed amateur radio operator and for them to be designed and operated in compliance with New Zealand Standard NZS 2772.1:1999. These standards work together to ensure that there will be no effects from the emission of radiofrequency fields on people and communities with the surrounding environment. The indirect social benefits of the proposed provisions are derived from their targeted nature and certainty provided to amateur radio operators. The greater certainty generated by the proposed provisions may assist in removing a barrier to entry for prospective amateur radio operators. This may help facilitate the growth of the amateur radio community within the District and the associated social networks, both within and outside of the District, including having an experienced pool of experienced radio operators who may be able to volunteer to assist in emergency response operations.

Cultural

There are no identified direct cultural benefits associated with the proposed provisions. Indirect benefits may be generated through enabling amateur radio activities which support cultural activities.

Costs Anticipated

Environmental

The direct environmental costs of the proposed provisions are related to the potential adverse visual and amenity effects for neighbours of amateur radio configurations. The provisions allow for exceedances of some of the underlying zone standards, including for height, and as such there may be additional effects generated by amateur radio configurations which would not otherwise be permitted by the zone provisions. By requiring compliance with the setback from road boundary, setback from internal boundaries and the height in relation to boundary standards of the relevant zone the degree of effect will be reduced from what it would otherwise be the case. These provisions have been developed by considering the type of structures associated with amateur radio configurations and their benefits. The provisions are more targeted than the relevant underlying zone provisions, which address a variety of structures and buildings. As such, the overall environmental costs of the proposed provisions are acceptable.

For the purpose of this evaluation, the Council has considered the following potential options:
 1. The proposed provisions; and
 2. The status quo.

The ODP provisions are not considered to be efficient or effective in achieving the objective. While the provisions generally protect the amenity and character of the area by applying the general bulk and location standards to amateur radio configurations, they do not recognise or provide for the potential benefits of amateur radio activities.

In order to assess whether the provisions are the most appropriate way to achieve the Objective, Council has:

- Reviewed other relevant district plan provisions for amateur radio activities; and
- Reviewed available information on relevant Environment Court cases regarding amateur radio activities, including provisions sought by amateur radio clubs.

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It is noted that the overlays in the PDP apply to amateur radio configurations, including those which address sites or areas of particular environmental significance or sensitivity. As such, any potential effects of amateur radio configurations on these sites and areas will be addressed through the associated provisions for the overlays.

There are no indirect environmental costs associated with the proposed provisions.

Economic
The direct economic costs of the proposed provisions relate mainly to the resource consent costs to the applicant associated with any amateur radio configurations not provided for as a permitted activity, and administrative costs to the Council for these processes.

These consenting costs will generally be lower overall when compared to the status quo due to the inclusion of permitted and restricted discretionary activity status for amateur radio configurations, which provides greater certainty for applicants, and in relation to restricted discretionary activity status greater direction for processing officers in assessing effects. Discretionary and non-complying activities are limited to amateur radio configurations within areas that contain overlays, precincts and zones, which would not be amenable to amateur radio configurations, or non-compliance with relevant performance standards.

Social
It is noted that the overlays in the PDP apply to amateur radio configurations, including those which address sites or areas of particular heritage significance. As such, any potential effects of amateur radio configurations on these sites and areas will be addressed through the associated provisions for the overlays. No indirect social costs have been identified.

Cultural
There are no identified direct or indirect cultural costs associated with the proposed provisions. It is noted that the overlays in the PDP apply to amateur radio configurations, including Sites and Areas of Significance to Māori. As such, any potential effects of amateur radio configurations on these sites and areas will be addressed through the associated provisions for the overlays.

QUANTIFICATION OF BENEFITS & COSTS s32(2)(b)

Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified. Given the assessment of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to this topic.

EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii)	REASONS FOR PROVISIONS s32(1)(b)(iii)
<p>Section 32(1)(b)(ii) assessing the efficiency and effectiveness of the provisions in achieving the objective:</p> <p>Efficiency</p> <ul style="list-style-type: none"> - The proposed provisions have benefits, particularly indirect social and economic benefits, while having acceptable environmental, economic, and social costs. As such, they are considered to be efficient in achieving the objective. <p>Effectiveness</p> <ul style="list-style-type: none"> - The proposed provisions are considered likely to be effective in achieving the objective as they directly address the resource management issues and the outcomes sought through the objective. The provisions are consistent with the purpose and principles of the RMA, and recognise and provide for the social, economic and cultural benefits of amateur radio activities, while ensuring their adverse effects will be acceptable. In particular the requirement to comply with road boundary, setback from internal boundaries and the height in relation to boundary standards of the relevant zone will be effective in managing the degree of effect on amenity values in accordance with section 7(c) and 7(f). 	<p>The proposed provisions are considered to be the most appropriate approach to achieve the objective of this Chapter. The provisions appropriately give effect to higher order policy documents, including being consistent with the purpose and principles of the RMA, particularly s7(c) and (f). They are considered to be efficient and effective, as the identified costs are acceptable, while providing benefits, particularly indirect social and economic benefits. They best recognise and provide for the positive effects of amateur radio activities, while managing their potential adverse environmental effects. The provisions provide certainty for applicants and the community. This is achieved through a regulatory regime with clear policy direction and appropriate activity status settings. The rules and standards implement these policies to ensure their adverse effects will be acceptable.</p>