



**Mackenzie**

**DISTRICT PLAN REVIEW**

TOMORROW'S MACKENZIE  
KA AWATEA HŌU

# **Section 42A Report: Plan Change 25 – Rural Lifestyle Zone**

**Reply Report**

**Author: Meg Justice**

**Date: 12 June 2024**

## 1. Purpose and Scope of Report

1. The purpose of this Reply Report is to outline where my recommendations on PC25 have altered, as a result of the questions arising from the Hearing Panel, submitter evidence or matters traversed at the hearing. It also addresses other matters arising in submitter evidence or during the course of the hearing where I consider further comment may be of benefit to the Hearing Panel. As such, other than where stated in this Reply Report, my opinions and recommendations remain as set out in the Section 42A Report<sup>1</sup> and in the Response to Minute 4.<sup>2</sup>
2. For the avoidance of doubt, where I do not comment further, this is not because I have not carefully considered matters raised in any evidence and in the presentations made by submitters. Rather, I am not persuaded that there is a need to alter my recommendations from that in the Section 42A report, and my reasoning has not changed from what is set out within that report.

## 2. Format of Report

3. This report is structured following the order of submitters who presented evidence or tabled statements at the hearing. For the reasons noted above, it does not however traverse all matters/topics discussed at the hearing.
4. A full set of the changes recommended to provisions are contained in **Appendix 1** to this Report, incorporating recommendations made in the Section 42A Report, the Response to Minute 10 and in this Reply Report. Changes recommended in the Section 42A Report are shown by way of ~~strikeout~~ and underlining. Changes recommended in the Response to Minute 10 and in this Reply Report are shown by way of ~~red strikeout~~ and red underlining. Changes previously recommended to be deleted but now recommended to be reinstated are shown in ~~red without underlining~~. Changes previously recommended to be added but now recommended not to be included are shown in ~~red strikethrough with black underlining~~. Footnoted references to the relevant submitter(s), and where applicable, submitter evidence, identify the scope for each recommended change.
5. Where required, an evaluation under s32AA of the RMA is undertaken of any further changes recommended.

## 3. Director-General of Conservation

### Rural Lifestyle Zone - Ōhau River Precinct

6. DOC presented evidence seeking additional provisions to protect nearby significant biodiversity values which could be adversely affected by development in the Ōhau River Precinct (Precinct). The evidence of Mr Brass suggested wording for the additional provisions, which he considered could be included in either the subdivision provisions that relate directly to subdivision within

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<sup>1</sup> Section 42A Report: Plan Change 25 – Rural Lifestyle Zone, 19 April 2024.

<sup>2</sup> PC25 Section 42A Report Author's Response to Hearings Panel Questions

the Ōhau River Precinct (in PC27) or the land use controls in PC25. Mr Nelson provided evidence that described the significant indigenous fauna that DOC is involved with protecting just outside of the boundary of the Precinct, namely the black-fronted tern and the Lakes skink. Mr Brass stated at the hearing that these are the known species, and that he considered provisions to protect nearby significant indigenous biodiversity values should not be limited to these two species in the event that other, currently unknown, species were present.

7. Based on the evidence of Mr Nelson<sup>3</sup> and Mr Brass<sup>4</sup>, I agree that additional provisions are required to protect identified nearby significant indigenous fauna (black-fronted tern and Lakes skinks) which could be adversely affected by development in the Ōhau River Precinct. I agree that the rules to manage indigenous vegetation clearance (in Chapter 19 of the District Plan which is the subject of PC18), which will apply when development occurs within the Precinct, may not allow control or discretion over the actual and potential effects of development and associated land uses on indigenous biodiversity values outside the footprint of the Precinct.
8. Therefore, I recommend an additional matter of control is included in PREC4-R1 (which provides for Residential Units within the Precinct as a controlled activity). This will enable a condition of consent to be imposed on any resource consent granted for residential units in the Precinct, to manage potential effects arising from this land use on these identified species. This recommended amendment to the PC25 provisions is set out in **Appendix 1**. I also consider that an additional matter of discretion in subdivision rule SUB-R6, that applies exclusively to the Ōhau River Precinct, is necessary to enable the management of the potential effects on significant fauna at the time of subdivision. Ms Willox provides the recommended wording for this provision in her PC27 Section 42A Reply Report, which I support. I consider it appropriate for the provision to respond directly to the evidence that describes the significant indigenous fauna that DOC are concerned with protecting, as described in the evidence of Mr Nelson. Therefore, I recommend that the provisions are specifically limited to methods to protect Black-fronted tern at Tern Island and Lakes skinks within the Ōhau River margin.
9. Ms Willox and I have provided the recommended wording of the additional matter of control for PREC-R1 and the matter of discretion for SUB-R6 to Mr Brass for comment. Mr Brass advised that he had no concerns with the recommended provisions as they align with what he was seeking.

### **Recommendation**

10. I recommend, for the reasons given above, that:
  - An additional matter of control is added to rule PREC4-R1;
11. The recommended amendments are set out in **Appendix 1**.

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<sup>3</sup> Evidence of Mr Nelson in relation to “A submission on proposed Plan Changes 23 - 27 to the Mackenzie District Plan”, dated 3 May 2024.

<sup>4</sup> Evidence of Mr Brass in relation to “A submission on proposed Plan Changes 23 - 27 to the Mackenzie District Plan”, dated 3 May 2024, paragraph 36.

12. In terms of section 32AA, the changes I have recommended to the Ōhau River PREC4 provisions better protect the significant indigenous fauna in this area as identified in the evidence of Mr Nelson. In my opinion the recommended changes are more appropriate for achieving the purpose of the RMA, and in particular the matters of national importance in section 6(c) of the RMA which requires protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
13. In my view the recommended additional matter of control in rule PREC4-R1 to require measures to protect significant indigenous fauna is the most appropriate way to achieve PREC4-O1 and NE-O1, taking into account the efficiency and effectiveness of the provisions that apply to the PREC4 and those in Section 19- Ecosystems and Biodiversity. Based on the evidence presented by Mr Nelson and Mr Brass, I consider that the risk of not acting could result in adverse effects on the identified significant indigenous fauna near the Precinct.

## 4. Tabled Statements

### FENZ

14. FENZ tabled a statement at the hearing reiterating the relief it sought via the submission process on PC25. No additional analysis was provided in the statement for the reasons why the relief was sought and no comments were made on the PC25 Section 42A report's analysis of the relief, nor the recommendations made in relation to the relief.
15. I have considered the statement tabled by FENZ at the hearing. I am not persuaded that there is a need to alter my recommendations from that in the Section 42A report, and my reasoning has not changed from what is set out within that report.<sup>5</sup>

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<sup>5</sup> Refer paragraphs 69-80 of the PC25 s42A report.