

Proposed Marlborough Environment Plan

Topic 18: Nuisance Effects

Reply to Minute 57

Report prepared by Paul Whyte

Consultant Planner (Beca Ltd)

1. I refer to the Minute 57 issued by the Hearing Panel dated 9 April 2019 in respect of the submission from GBC Winston 749.1(ii) which requested the following as a permitted activity in the Port Zone:

The discharges (sic) of contaminants into air from particular industrial or trade premises used for the storage , blending and distribution of concrete processing materials.”

2. I believe this matter was covered in my Reply to Evidence. I have attached this evidence and highlighted the relevant part on page 1 in which new standards 13.3.32 and 13.32.1--5 applying to the discharge of cement products are recommended to be included in the MEP as “Standards that apply to specific permitted activities”. These are the standards suggested by Mark St Clair in Appendix C of his evidence.
 3. I do not consider there is a need to make specific reference to processing, handling etc of cement products as a permitted activity under Rule 13.1 as it appears this activity is already covered by Rules 13.1.3 and 13.1.4 i.e. cargo handling, processing and storage. I also understand that permitted activities in the Port Zone were dealt with by the Coastal Environment report.
 4. I trust this answers the matters raised in Minute 57 but I am available to respond if the matters require further clarification.
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MEP Summary of Evidence: Topic 18 – Nuisance Effects and Temporary Military Training

Submitter	Topic	Summary of evidence / change sought	Response	Recommendation
<p>Federated Farmers of New Zealand (Darryl Sycamore)</p> <p>Tabled evidence</p> <p>Paras 50, 94-100 104-106.</p>	<ul style="list-style-type: none"> Odour Reverse Sensitivity 	<ul style="list-style-type: none"> Supports the s42A wording regarding odour Supports the inclusion of a definition of reserve sensitivity as defined in the draft NPS Supports the s42A reports conclusion that a buffer as proposed by NZTA is unnecessary complex and not a significant resource management issue 		Retain original recommendations
<p>Fire and Emergency New Zealand</p> <p>Tabled letter</p> <p>Para 112</p>	<ul style="list-style-type: none"> Temporary Military Training 	<ul style="list-style-type: none"> s42A recommendation is accepted 		Retain original recommendation
<p>GBC Winstone (legal submissions, Mark St Clair and Andrew Curtis evidence)</p> <p>Paras 81, 87 and 88 and 90</p>	<ul style="list-style-type: none"> Dust 	<ul style="list-style-type: none"> Does not fully support the s42A recommendation to reject their submission and seeks further amendment to the recommended changes to Rules 13.2.9 & 13.2.10 in Appendix C of the Evidence. 	<p>Cement handling and processing is a permitted activity in MSRMP but not MEP – this matter has been dealt with in Coastal Environment Report (see para 10 of Addendum Report by Mr Jackson) so cannot comment further.</p> <p>However appropriate to put standards in for the discharge of cement processing and handling as specific conditions proposed which enables better control.</p>	<p>Retain original recommendation and insert the following in the Port Zone</p> <p>13.3.32 Discharge of Contaminants to air from cement processing and handling</p> <p>13.3.32.1 The discharge from storage</p>

			<p>In respect of changes to Rules 13.2.9 and 13.2.10 the standard for “dust from any process vent or stack” Section 42A report (see paras 82-89 and 93) is predicated on the basis that this is a catch all provision but does not apply to more specific discharge activities listed in the zone and as such the 250gm/m3 can remain subject to the “concentration” amendments suggested by Mr Curtis in respect of the standard.</p> <p>As such no need to include the suggested amended 13.2.9 1 and 13.2.9.3 although the wording of 13.2.9.1 and 13.2.9.2 is not necessarily opposed. However 13.2.9.3 relating to best practicable option is not favoured as a rule because the provision is rather vague and the RMA indicates before a BPO rule is included (section 70(2) indicates that the nature of the discharge , alternatives and efficiency and effectiveness should be addressed. Maybe more suitable as a policy</p>	<p><u>silos must be controlled using an appropriately sized filtering system maintained according to the manufacturer’s instructions.</u></p> <p><u>13.3.32.2 There should be no visible discharges of dust.</u></p> <p><u>13.3.32.3 Cement must be delivered or discharged via a fully enclosed system.</u></p> <p><u>13.3.32.4 Silos must either have an automated remote filling system or be fitted with a high level alarm that has both an audible and visual indicator and when the alarm is triggered it will stop the filling of the silo.</u></p> <p><u>13.3.32.5 The discharge must not result offensive or objectionable dust at or beyond the legal boundary of the area of land on which the activity is occurring.</u></p>
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				<p>Rule xxxx</p> <p>and</p> <p>Amend standard for “Particulate Dust from any process or stack as follows”_ :</p> <p>The <u>concentration of</u> particulate <u>discharged</u> discharge rate from any air pollution control equipment and dust collection system must not exceed 250mg/m3 at any time, corrected to 0°C, 1 atmosphere pressure, dry gas basis.</p>
<p>Horticulture New Zealand (Lynette Wharfe evidence)</p> <p>Paras 47-90 and 104-106.</p>	<ul style="list-style-type: none"> ■ Nuisance Effects ■ Odour ■ Dust ■ Reverse Sensitivity 	<ul style="list-style-type: none"> ■ Considers that ‘Nuisance effects’ is not a RMA term and all effects could be considered potential adverse effects. Change name of Topic. ■ Considers the s42a report recommendation for the PA standard for odour is an improvement but there is still uncertainty as it is not until an assessment is undertaken that it is determined whether it is offensive or objectionable. ■ Supports retention of 3.2.9 as notified 	<p>Given “Nuisance Effects” has been used over long period of time change would cause confusion.</p> <p>Given difficulties in assessing quantitative effects of odour, rule must be written in this way. “Offensive and objectionable” reasonably understood terms. Standard does refer to “adverse effects” as suggested by the submitter.</p> <p>BPO not supported for the reasons set out in GBC Winstone.</p>	<p>Retain original recommendation.</p>

		(best practical option)		
		<ul style="list-style-type: none"> Supports the s42a report recommendation for new rules relating to dust, but does not support the inclusion of the standard of offensive and objectionable for the same reasons as odour Supports the s42A report's definition of reverse sensitivity 	<p>See above comments on odour and still includes 250mg/m3 standard as well as standards for more specific discharge activities.</p> <p>Noted.</p>	
<p>Kenneth R and Sara M Roush</p> <p>(K Roush evidence)</p> <p>Paras 34-40</p>	<ul style="list-style-type: none"> Lighting above horizontal plane. 	<ul style="list-style-type: none"> Does not support the s42A recommendation to reject their submission and seeks further consideration of their submission. 	<p>Not opposed to "dark skies" but practical implementation including areas that require lighting such as airports, ports, and sports fields. It is noted that there is a restriction on horizontal spill. Accepted that lighting could be upgraded over time. This points to further discussion required and could be introduced as a variation/plan change.</p>	<p>Retain original recommendation.</p>
<p>New Zealand Defence Force (R Davies and S Bevin evidence)</p> <p>Paras 107-121</p>	<ul style="list-style-type: none"> Temporary Military Activities Noise 	<p>Accepts Section 42A report recommendations except requests the following:</p> <ul style="list-style-type: none"> An additional 14 days for "set up and pack out' beyond the 31 days (Rule 2.42.1.1) Clarify that permanent structures that are permitted elsewhere in the plan are allowed.(2.42.1.2) Considers that rather than discretionary activity status for non compliance with standards should be controlled (rule 2.43) 	<ul style="list-style-type: none"> Additional days appear excessive. Agree in respect of clarification of permanent structures as these activities are permitted. Submission 992.57 on Rule 2.43 requested restricted discretionary status so doubtful can now request controlled activity status. Discretionary still considered appropriate given format of plan and lack of permitted activity standards. 	<p>That Rule 2.42.1.2 is amended as follows:</p> <p>2.42.1.2 <u>Unless otherwise provided for elsewhere in this plan as a permitted activity</u>, no permanent structures shall be constructed.</p> <p>NB Mr Hegley</p>

				recommended deletion of Rules 2.41.1.1 and 2.42.1.2. These do not strictly relate to noise and I understand Mr Hegley will not pursue this matter.
Pernod Ricard Winemakers New Zealand Limited (Tabled Legal Submissions) Paras 104-106	<ul style="list-style-type: none"> ■ Definition of Reverse Sensitivity 	<ul style="list-style-type: none"> ■ Supports the s42a report recommendation to adopt the definition of 'reverse sensitivity' from the draft National Planning Standards 		Retain original recommendation
Port Marlborough New Zealand Limited (Legal Submissions and Louise Taylor evidence) Paras 32 and 33 and 41-42 and 46 and 81-90.	<ul style="list-style-type: none"> ■ Lighting ■ Dust 	<ul style="list-style-type: none"> ■ Lighting-Para 97 of evidence seems to indicate that the submission is misinterpreted in Section 42A report. However PMNZ 433.151 did request an increase in the lux spill in respect of the Coastal Living Zone. However appears this matter is not being pursued. ■ Lighting Paras 98 and 99 of evidence requests lighting is measured from 2m into the adjoining zone for Rules 15.2.4.2 Marina Zone and 14.2.4.2 Port landing Area. As indicated in para 42 of Section 42A report there is some inconsistency of where the measurement is taken with the majority of cases implied at the boundary. ■ Lighting (Addendum to evidence) 	<p>PMNZ 433.151 not referred to in evidence and assume is not being pursued</p> <p>Given the adjoining zones are non sensitive" i.e. not residential I agree that the amendment can be made.</p> <p>This matter is addressed in paras 32/33 of report. If Panel is of mind to include</p>	<p>Amend Rule 14.2.4.2 as follows:</p> <p>Rule 14.2.4.2 Light spill onto any adjoining zone, except the Coastal Living Zone Residential 2 Zone, must not exceed 10 Lux spill (horizontal and vertical) <u>measured from 2m into the adjoining zone.</u></p> <p>and amend Rule</p>

		<p>request that lighting for navigation be excluded from lighting and roads rule</p> <ul style="list-style-type: none"> ■ Dust-supports changes sought by GBC Winstone 	<p>provision the amendment by PMNZ appears to be appropriate.</p> <p>In respect of dust provisions refer to GBC Winstone above.</p>	<p>15.2.4.2 as follows:</p> <p>Rule 15.2.4.2 Light spill onto any adjoining zone, except Urban Residential 2 Zone, must not exceed 10 Lux spill (horizontal and vertical) <u>measured from 2m into the adjoining zone.</u></p> <p>Amend recommendation in Para 46 of Section 42A report as follows:</p> <p>Xxxx All outdoor lighting and exterior lighting, <u>excluding lighting required for safe navigation under the Maritime Transport Act</u>, must be redirected away from roads so as to avoid adverse effects on safety</p>
Ravensdown Limited (Tabled letter)	<ul style="list-style-type: none"> ■ Dust 	<ul style="list-style-type: none"> ■ Supports a Permitted activity standard for dust discharge and the proposed new discharge of dust rules 		Retain original recommendation

Paras 59-70				
NZTA-Evidence of Kate Searle Paras 94-100	<ul style="list-style-type: none"> NZTA Reverse Sensitivity/ Cumulative Effects 	<p>Include rules to control buildings within 100m of State highways</p> <p>Reverse sensitivity policies not addressed in Section 42A report (paras 34-36).</p>	<p>Still not apparent that this is a significant resource management issue in Marlborough, particularly given rural zoning. Maybe premature if adopted or not adopted as a National Planning Standard.</p> <p>Reverse sensitivity policies are addressed in paras 96-99 of my report (some amendment to Policy 17.4.1)</p>	Retain original recommendation
The Marine Farming Association Incorporated and Aquaculture New Zealand Limited (Legal Submissions) Paras 104-106	<ul style="list-style-type: none"> Definition of Reverse Sensitivity 	<ul style="list-style-type: none"> Supports Section 42A report 		Retain original recommendation
Timberlink New Zealand Limited (Combined Hearing Evidence) Paras 43 and 46 (lighting), 77 and 85-90 (dust).	<ul style="list-style-type: none"> Lighting Dust 	<ul style="list-style-type: none"> Relates to Timberlink's sawmill at Burleigh and Rules 12.2.3.2 and 12.3.3.3 relating to light spill onto adjoining industrial properties in the same zone to not exceed 2.5 Lux spill. Not entirely clear as to what rule original submission related to. Rule 12.2.8 relating to dust from vent or stack in terms of size of dust particle size and rate. 	<ul style="list-style-type: none"> 12.2.3.3 is amended so that Industrial 1 or Industrial 2 are deleted as potentially conflicts with Rule 12.2.3.2 in which the former rule refers to 10 lux and the latter rule to 2.5 lux. Retain Rule 12.2.3.2 so as to protect amenity of adjoining sites in different ownership within the Industrial Zones. Refer to GBC Winstone –dust particle reference size deleted but rate retained with amendment. 	<p>Amend Rule 12.2.3.3 as follows:</p> <p>12.2.3.3 Light spill onto an adjoining site that is zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Industrial 1 or</p>

		<ul style="list-style-type: none">■ Rule 12.2.7.1 discharge of dust amendment	<ul style="list-style-type: none">■ Amended Rule 12.2.7.1 largely in accordance with Section 42A report.	Industrial 2 must not exceed 2.5 Lux spill (horizontal and vertical)
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