

Proposed Marlborough Environment Plan

**Section 42A Hearings Report for Hearing Commencing
November 12th 2018**

Report dated October 5th 2018

**Report on submissions and further submissions
Topic 18: Nuisance Effects and Temporary Military
Training**

Report prepared by

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List of Abbreviations

Submitters

| Submitter Number | Abbreviation | Full Name of Submitter |
|------------------|--------------|--|
| 91 | MDC | Marlborough District council |
| 433 | PMNZ | Port Marlborough New Zealand Limited |
| 509 | NMFG | Nelson Marlborough Fish and Game |
| 717 | FHL | Fulton Hogan Limited |
| 922 | NZDF | New Zealand Defence Force |
| 962 | MFIA | Marlborough Forestry Industry Association Incorporated |
| 990 | NFL | Nelson Forests Limited |
| 993 | NZFS | New Zealand Fire Service |
| 1002 | NZTA | New Zealand Transport Agency |

Others

| | |
|-------|---|
| MEP | Proposed Marlborough Environment Plan |
| NZCPS | New Zealand Coastal Policy Statement |
| RMA | Resource Management Act 1991 |
| WARMP | Wairau Awatere Resource Management Plan |
| MSRMP | Marlborough Sounds Resource Management Plan |

Introduction

1. My name is Paul Whyte, and I hold the qualification of a Bachelor of Town Planning from Auckland University. I am a full member of the New Zealand Planning Institute. I have practised in the field of town planning/resource management since 1985, primarily working for both local government and planning consultants in Dunedin and Christchurch. Currently, I am a Senior Planner (Senior Associate) with Beca Ltd (Beca) in Christchurch. I have prepared district and regional plans and plan changes in Southland, Otago, West Coast, Marlborough, Canterbury and the Chatham Islands and I have prepared Section 42A reports for district and regional councils on plans and plan changes.
2. In particular I have prepared Section 42A reports for Marlborough District Council on the following plan changes- Plan Changes 26/61 Minor Amendments, Plan Changes 27/62 New Dairy Farms, Plan Change 47 Tremorne Avenue Rezoning, Plan Change 59 Colonial Vineyards, Plan Change 60 Maxwell Hills, Plan Changes 64-71 Urban Growth Areas and Plan Change 72 Marlborough Ridge Rezoning.
3. I was not involved with the preparation of the MEP. I was contracted by the Marlborough District Council (Council) in July 2017 (after the MEP submission period had closed) to evaluate the relief requested in submissions and to provide recommendations in the form of a Section 42A report.
4. Beca Ltd have prepared submissions to the MEP on behalf New Zealand Fire Service (NZFS)¹ and Transpower New Zealand Limited (Transpower). I was not involved in the preparation of these submissions in any way. However to avoid any perception of conflict I have not made any recommendation on a submission or further submission made by NZFS or Transpower or where that recommendation is contrary to the relief sought by NZFS or Transpower. Where this situation has arisen in this report the recommendation is made by Liz White of Incite Ltd. This situation applies to Transpower submission 1198.77 and NZFS submission 993.23.

Code of Conduct

5. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it.
6. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.
7. I am authorised to give this evidence on the Council's behalf.

Scope of Hearings Report

8. This report is prepared in accordance with section 42A of the Resource Management Act 1991 (RMA).
9. In this report I assess and provide recommendations to the Hearing Panel on submissions under Topic 18 Nuisance Effects and Temporary Military Activities. Nuisance Effects in this report relate to lighting, odour and dust. The report also addresses NZTA submissions on reverse sensitivity/cumulative effects relating to nuisance effects, some of which are carried over from the Transport topic. There is a separate Section 42A report on noise.
10. As submitters who indicate that they wish to be heard are entitled to speak to their submissions and present evidence at the hearing, the recommendations contained within this report are preliminary, relating only to the written submissions.
11. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions or decisions having considered all the evidence to be brought before them by the submitters.

¹ Now called Fire and Emergency New Zealand (FENZ)

Overview of Provisions

12. This report assesses submissions to Nuisance Effects and Temporary Military Training provisions of the MEP including:

Nuisance Effects

Lighting:

- (i) Volume 1 Chapter 13 Use of Coastal Environment –Policies 13.10.15 and 22
- (ii) Volume 2 Chapter 2 General Rules
- (iii) Volume 2 Chapter 5 Urban Residential 1 and 2 Zones –Rule 5.2.3.
- (iv) Volume 2 Chapter 6 Urban Residential 3 Zone –Rule 6.2.3.
- (v) Volume 2 Chapter 7 Coastal Living Zone - Rule 7.2.3
- (vi) Volume 2 Chapter 8 Rural Living Zone – Rule 8.2.4
- (vii) Volume 2 Chapter 12 Industrial and 2 Zones - Rule 12.2.3
- (viii) Volume 2 Chapter 13 Port Zone - Rule 13.2.2
- (ix) Volume 2 Chapter 14 Port Landing Area Zone - Rule 14.2.4
- (x) Volume 2 Chapter 15 Marina Zone - Rule 15.2.4
- (xi) Volume 2 Chapter 17 Open Space 1 Zone - Rule 17.2.3.
- (xii) Volume 2 Chapter 18 Open Space 3 Zone -Rule 18.2.3.

Odour

- (xiii) Volume 2 Chapter 3 Rural Environment Zone -Rule 3.2.7
- (xiv) Volume 2 Chapter 4 Coastal Environment Zone - Rule 4.2.4
- (xv) Volume 2 Chapter 5 Urban Residential 1 and 2 Zones –Rule 5.2.4
- (xvi) Volume 2 Chapter 8 Rural Living Zone- Rule 8.2.5
- (xvii) Volume 2 Chapter 9 Business Zone 1 Zone –Rule 9.2.4
- (xviii) Volume 2 Chapter 9 Business Zone 2 Zone –Rule 10.2.5
- (xix) Volume 2 Chapter 9 Business Zone 2 Zone –Rule 11.2.5
- (xx) Volume 2 Chapter 12 Industrial and 2 Zones- Rule 12.2.5
- (xxi) Volume 2 Chapter 13 Port Zone -Rule 13.2.7
- (xxii) Volume 2 Chapter 14 Port Landing Area Zone -Rule 14.2.5
- (xxiii) Volume 2 Chapter 15 Marina Zone -Rule 16.2.4
- (xxiv) Volume 2 Chapter 18 Open Space 3 Zone -Rule 19.2.3.
- (xxv) Volume 2 Chapter 23 Airport Zone -Rule 23.2.7

Dust

- (xxvi) Volume 2 Chapter 2 General Rules 2.8.3
- (xxvii) Volume 2 Chapter 3 Rural Environment Zone - Rule 3.2.9
- (xxviii) Volume 2 Chapter 4 Coastal Environment Zone - Rule 4.2.6
- (xxix) Volume 2 Chapter 8 Rural Living Zone - Rule 8.2.7
- (xxx) Volume 2 Chapter 12 Industrial 1 and 2 Zones - Rules 12.2.7 and 12.2.8
- (xxxi) Volume 2 Chapter 13 Port Zone - Rules 13.2.9 and 13.2.10
- (xxxii) Volume 2 Chapter 19 Open Space 3 Zone - Rules 19.2.5 and 19.2.6
- (xxxiii) Volume 2 Chapter 23 Airport Zone - Rule s23.2.9 and 23.2.10

Temporary Military Activities

- (xxxiv) Volume 2 Chapter 2 General Rules – General
- (xxxv) Volume 2 Chapter 2 General Rules 2.41.1, 2.41 and 2.43

Definitions

13. As indicated above Nuisance Effects in this report relate to lighting, odour and dust. These matters and their effects are managed in the MEP by general performance standards attaching to permitted activities in each zone. This is discussed in more detail below.
14. Temporary military training activities are managed by General Rule - Temporary Military Training Activity in which Rule 2.41 allows the activity as a permitted activity subject to a number of standards. This is discussed in more detail below.
15. Generally if the permitted standards cannot be complied with, the activity becomes a discretionary activity.

Analysis of submissions

16. In terms of the submissions received to this topic there are:

19 submission points and 9 further submission points on the lighting provisions.

20 submission points and 22 further submission points on the odour provisions.

41 submission points and 40 further submission points on the dust provisions.

12 submission points and 6 further submission points on the temporary military training activity provisions.

Key Matters

17. The key matters identified in the report are the application of the rules in respect of lighting, odour, dust, and temporary military training activities; reverse sensitivity / reverse effects; and definitions.
18. There are also a number of submissions that are better dealt by other topics given their specificity and similarity to the submissions dealt with by those topics. The Section 42A report identifies those situations where this arises.
19. The assessment generally refers to submitters but not further submitters in all cases.

Recommendation

20. Recommended amendments to the MEP arising from submissions are shown as underlined for additional text and deleted text are shown ~~struckthrough~~ under the Recommendation heading in the report.
21. Recommendations on whether the submissions are accepted, accepted in part, rejected, or deferred (in the case of submissions dealt with in other topics) in accordance with **Appendix 1**.

Statutory Documents

22. A number of statutory documents are relevant to the provisions and/or submissions within the scope of this report, including the Resource Management Act 1991(RMA) and National Policy Statements and are referred to where appropriate in the assessment.

Pre-hearing meetings

23. There have been no pre-hearing meetings for this topic.

Nuisance Effects

Key Matter - Lighting

Submissions and Assessment

24. The effects of lighting are managed in the MEP by general performance standards attaching to permitted activities in each zone.

25. The standard for lighting in the Urban Residential Zones, Coastal Living Zone Rule and Rural Living Zone reads as follows:

Use of external lighting

xxxx Light spill onto an adjoining residential site must not exceed 2.5 Lux spill (horizontal and vertical).

26. For Industrial 1 and 2 Zones the standard reads as follows:

Use of external lighting

12.2.3.1. All exterior lighting must be directed away from adjacent properties and roads so as to avoid any adverse effects on the neighbourhood and/or traffic safety.

12.2.3.2. Light spill onto an adjoining property within the same Industrial Zone, measured 2m inside the boundary of the adjoining property, must not exceed 10 Lux spill (horizontal and vertical).

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 Industrial 2 must not exceed 2.5 Lux spill (horizontal and vertical).

27. For the Port Zone and the standard reads as follows:

Use of external lighting.

13.2.5.1. Light spill onto any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 must not exceed 2.5 Lux spill (horizontal and vertical).

13.2.5.2. Light spill onto any land zoned other than Port Zone or Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 must not exceed 10 Lux spill (horizontal and vertical).

13.2.5.3. All exterior lighting (except street lights) must be directed away from any land zoned other than Port Zone and any road.

13.2.6. Storage

28. For the Port Landing Zone the standard reads as follows:

Use of external lighting.

14.2.4.1. Light spill onto any land zoned Coastal Living must not exceed 2.5 Lux spill (horizontal and vertical).

14.2.4.2. Light spill onto any adjoining zone, except the Coastal Living Zone, must not exceed 10 Lux spill (horizontal and vertical).

14.2.4.3. All exterior lighting (except street lights) must be directed away from any land zoned other than Port Landing Area Zone and any road.

29. For the Marina Zone the standard reads as follows:

Use of external lighting.

15.2.4.1. *Light spill onto any land zoned Urban Residential 2 must not exceed 2.5 Lux spill (horizontal and vertical).*

15.2.4.2. *Light spill onto any adjoining zone, except Urban Residential 2 Zone, must not exceed 10 Lux spill (horizontal and vertical).*

15.2.4.3. *All exterior lighting (except street lights) must be directed away from any land zoned other than Marina Zone and any road.*

30. For the Open Space Zone 1 and 2 the standard reads as follows:

Outdoor lighting.

17/18.2.3.1. *The maximum height of any poles, support structures or fixtures associated with artificial lighting must not exceed of 20m.*

17/18.2.3.2. *The lighting level at any point on the ground 2m inside the boundary of the Zone must not exceed 10 lux (lumens per square metre) measured horizontally and vertically.*

17/18.2.3.3. *There must be no greater than 2.5 lux spill (horizontal and vertical) of light onto any property zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3, measured at any point more than 2m inside the boundary of the property.*

31. There is no lighting standard for the Open Space 3 or 4 Zone.

32. In terms of submissions on lighting the following have been received. NZTA (1002.192, .193, .215, .216, .218, and .219) requests that the following amendment is made in respect of “all residential and living zones”:

Light spill onto an adjoining residential site or any road must not exceed 2.5 Lux spill (horizontal and vertical)

or alternatively a new permitted activity standard applicable to all permitted activities in the Residential and Living Zones, Rural Environment Zone, Coastal Environment Zone, Coastal Living Zone, Coastal Marine Zone, Floodway Zone and the Lake Grassmere Saltworks Zone is added as follows:

All outdoor lighting and exterior lighting must be directed away from roads so as to avoid any adverse effects on traffic safety.

33. Essentially, the submission relates to potential effects of lighting from adjoining activities to the state highway network, affecting safety on adjoining roads as a result of matters such as glare. Such a standard (or similar) applies to other zones in the MEP including the Industrial zones (see above 12.2.3.1), Port Zone (see above 13.2.5.3), Port Landing Zone (see above 14.2.4.3), and Marina Zone (15.2.4.3), although the standards vary in their wording. It appears that the existing standards are focussed on zones which are likely to have significant outdoor lighting. While I do not consider it strictly necessary to add the zones identified by NZTA given the nature of the zones, the Panel could consider adding the standard to these zones as a “backstop” in terms of road safety. I prefer the more generic standard rather than the measured standard in terms of lux, given that it is consistent with the existing approach in the other zones.

34. K and S Roush (845.5 and .6) have requested in respect of *Policy 13.10.15 – Reduce the visual impact of jetties on the coastal environment by:* and *Policy 13.10.22 – The visual impact of boatsheds on the values of the coastal environment will be reduced by: ...*, the following is added to (f) of both policies :

(f) avoiding locating lights on jetties/boatsheds (other than those required to facilitate access); Those lights that are necessary shall be fully shielded to prevent any light spillage above the horizontal plane of the light source;

35. The submitter notes these policies must recognize that the New Zealand Coastal Policy Statement requires the preservation and protection of the natural darkness of the night sky and states this can be accomplished with lighting fixtures that prevent any upward light spillage. Such types of fixtures are becoming readily available at little to no extra costs.

36. In addition, K and S Roush (845.9 - .17) and the Port Underwood Association (1042.13, .14, .15) have requested the following is added to the relevant permitted activity standard for lighting in the following zones- Urban Residential 1, 2 and 3, Coastal Living, Rural Living, Port, Port Landing Area, Open Space1, 2, 3 & 4 and Coastal Marine - as follows:

xxxx Light spill onto an adjoining residential site must not exceed 2.5 Lux spill (horizontal and vertical). All external lighting shall be fully shielded to prevent any light spillage above the horizontal plane of the light source.

The Marine Farming Association, Aquaculture New Zealand and PMNZ variously oppose these submissions in further submissions as it relates to the Port, Port Landing and Coastal Marine Zones on the basis that the existing rules are adequate and the amendments are impractical for a floating ship and inconsistent with Maritime Rules.

37. As noted by K and S Roush, *Policy 13 Preservation of natural character* of the NZCPS states the following:

...

(2) Recognise that natural character is not the same as natural features and landscapes or amenity values and may include such matters as:

...

(e) the natural darkness of the night sky

38. In respect of Policies 13.10.15 and .22 I believe that the MEP does give effect to the NZCPS because the only lights permitted are those that facilitate access, which in my view is not an “inappropriate development” because it enhances safety. The submitter suggests the policies are taken a step further by restricting lighting above the horizontal plane.
39. As indicated above, it is also suggested that a similar provision be added to a number of the rules. In my view, the proposed addition to the rule, causes difficulties as other than potentially conflicting with the first part of the rule, it means any lighting could not have any upward spill of light, which would require extensive mitigation measures for each light and require rigorous enforcement. The further submissions also highlight practical difficulties with such a rule. Given this, the suggested amendment to the above policies would make it inconsistent with the rule.
40. The original submissions appear to be intended to enhance the night sky such as the initiative in the Mackenzie District for “dark skies”. I understand that in terms of Mackenzie District (which has the Mt John observatory at Tekapo) “dark skies” is a Council initiated strategy and as such, MDC may wish to approach this issue in a more holistic way in terms of a cost benefit analysis etc. For example I am not aware if the retention/enhancement “dark skies” is a significant resource management issue at present for Marlborough and in Mackenzie District restrictions on outdoor lighting do not apply to all of the district. Accordingly, I do not support the submissions in relation to rules (and also the policies given the similar wording) as in my view the existing provisions are generally sufficient and appropriate. This does not preclude further discussion by the Council on this issue.
41. PMNZ (433.151 and .161) requests amendments to Rule 14.2.4.1 of the Port Landing Area Zone and Rule 15.2.4.1 of the Marina Zone. In relation to the Port Landing Area Zone, PMNZ request that the light spill on the adjoining Coastal Living Zone should be 10 lux rather than 2.5 lux because it may result in health and safety issues particularly at Elaine Bay. I note that the Port Landing Area Zone itself is not constrained in terms of lighting and that it is appropriate adjoining sites are protected. While the Coastal Living Zone adjacent to the Port Landing Area Zone at Elaine Bay appears relatively small the MEP nevertheless determines that 2.5 lux spill is more appropriate than 10 lux spill for residential areas such as Coastal Living. Accordingly I do not support the submission.
42. In relation to the Marina Zone, PMNZ requests that some transitioning between the Marine Zone and the Urban Residential 2 Zone be enabled by allowing measurement to be within 2m of the adjoining zone. I am aware that some district plans do have a transition area of 2m although the MEP does not appear to use this measurement between sites and zones except in respect of Rule 12.2.3.2 relating to industrial sites in the same zone and Rules 17/18.2.3.3 relating to the Open Space 1 and 2 Zones in respect of adjoining urban residential zones. The measurement in the other rules infers that it is at the boundary of the site / zone. Given what appears to be limited areas of interface between the Marina Zone and the

Urban Residential Zone, and that a measurement 2m within the boundary could potentially affect residential amenities, I do not at this stage support the change.

43. Timberlink NZ Ltd (460.8) requests Rule 12.2.3.2 is removed as it relates to light spill within the same zone or property in the Industrial 2 Zone. It appears that the submitter is referring to Rule 12.2.3.3 which requires light spill on an adjoining property within the same Industrial Zone when measured 2m inside the boundary of the adjoining property to not exceed 10 lux spill. The submitter notes that there are no sensitive activities in the Industrial Zone and hence the standard is not required. While I agree there are no sensitive activities there is nevertheless the potential for bright lighting to affect the amenity of workers on sites. The 10 lux therefore exceeds the 2.5 lux for more sensitive activities but provides some upper limit which appears reasonable. Accordingly the submission is not supported.
44. Arising out of the submissions I believe it is useful to clarify that except for Rule 12.2.3.2 the measurement of the light spill is taken at the boundary.
45. The following submissions of M and K Gerard (424.177) and NZTA (1002.198) support Rules 12.2.3 relating to Industrial 1 and 2 Zones. The support is noted.

Recommendation

46. That the following standard is added to the Use of External Lighting in Urban Residential 1 - 3 Zones, the Coastal and Rural Living Zones, Rural Environment Zone, Coastal Environment Zone, Coastal Marine Zone, Floodway Zone and the Lake Grassmere Saltworks Zone:

Xxxx All outdoor lighting and exterior lighting must be directed away from roads so as to avoid any adverse effects on traffic safety.²

Key Matter – Odour

Submissions and Assessment

47. The effects are managed in the MEP by general performance standards attaching to permitted activities in each zone. The standard for all zones is as follows:

xxxx The odour must not be objectionable or offensive, as detected at or beyond the legal boundary of the area of land on which the permitted activity is occurring.

48. There are a number of submissions on the permitted activity standard for various zones, including the Rural Environment, Coastal Environment, Urban Residential 1 and 2, Rural Living, Business 1, 2 and 3, Industrial 1 and 2, Port, Port Landing Area, Coastal Marine, Open Space 3 and Airport Zone.
49. The standard is supported by Rarangi Residents Association (1089.34), Pernod Ricard Winemakers NZ Ltd (1039.116), NMFG (509.414), Accolade Wines Ltd (457.4) and Rarangi Residents Association (1089.37).
50. Federated Farmers (425.515, 638 and .721) requests that farming is excluded from the rule and Murray Chapman (348.38) requests the deletion of the standard. In my view it is not realistic to delete the standard as there would be no controls in place. Similarly I believe that farming should be subject to some control, given its potential to generate adverse effects but that some amendment is appropriate as discussed below.
51. Sanford Limited (1140.66 - .67) requests the addition of *where practicable* to the standard and M and K Gerard (424.143) seek the addition of the *most practicable option*.
52. Fonterra (1251.132 and .141) requests the standard is amended to provide more certainty in terms of "offensive and objectionable odours" and suggests the following:

² NZTA (1002.215)

~~No activity shall result in The odour must not be objectionable or offensive odours to the extent that it causes an adverse effect as detected at or beyond the legal boundary of the site area of land on which the permitted activity is occurring.~~

Note 1: For the purpose of this performance standard, an offensive or objectionable odour is that odour which can be detected and is considered to be offensive or objectionable by at least two independent observers; including at least one Council officer. In determining whether an odour is offensive or objectionable, the "FIDOL" factors may shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location of where the odour is measured (ie the sensitivity of the receiving environment). For the purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the odour.

Note 2: This performance standard shall not apply if the discharge of odour is authorised by an air discharge permit.

53. NZDF (992.74) requests Rule 23.2.7.1 in the Airport Zone is drafted so that it is consistent with Ministry for the Environment guidance on the recommended form of consent conditions.
54. I note that the proposed standard in the MEP differs from the type of recommended standard in the MFE document "Good Practice Guide for Assessing and Managing Odour" (2016), a matter which has been raised by some of the submitters. As such I agree the standard should be amended to better reflect the MFE guideline. I also believe it is useful to generally refer to "FIDOL Factors", as referred to in the Fonterra submission, as it provides some explanation in respect of "objectionable and offensive" which is not found elsewhere in the MEP and is consistent with the MFE guideline. However, I do not consider it necessary to exclude discharge permits that have been granted as this situation applies in respect of all permitted activity standards.
55. The Oil Companies (1004.68, .80, .86, and .96) note they have requested rules on specific activities generating odour as it relates to the General rules. As a consequence the submitter requests that to ensure that where rules providing for odour associated with a specific activity have been included elsewhere in the plan these activities are excluded from the Industrial zones odour rule. It is submitted this could be achieved by making a change as follows:
- The odour that is not specifically provided for by any other rule, must not be objectionable or offensive, as detected at or beyond the legal boundary of the area of land on which the permitted activity is occurring.*
56. I note that the General rules are generally prefaced by the words "Unless expressly limited by a rule elsewhere in the Marlborough Environment Plan the following activities shall be permitted without resource consent..." which would appear to indicate that the suggested words by the submitter are not required. This may change depending on the outcome of the individual submissions but at this stage it appears that a change is not required.
57. S and J Peoples (450.1) request the standard is amended to require a bond and notification to residents when spraying occurs. In my view, this request is overly restrictive and would be difficult to administer, and should be rejected.

Recommendation

58. That the standard for odour in the MEP Chapters be amended as follows:

~~There shall be no The odour must not be objectionable or offensive odours to the extent that it causes an adverse effect as detected at or beyond the legal boundary of the site. area of land on which the permitted activity is occurring.~~

Note 1: For the purpose of this performance standard, an offensive or objectionable odour is that odour which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the "FIDOL" factors shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the

purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the odour.³

Key Matter – Dust

Dust General

59. FHL (717.54), MFIA (962.142), and NFL (990.35) and a number of further submissions submit that there is no permitted activity rule for the discharge of dust to air in respect of General Rule 2.21 Discharge to Air and that a rule should be inserted with a suitable standard. FHL (717.49) also submits the MEP does not contain any objectives or policies relating to how dust from activities such as construction that may not be classified as an industrial or trade process will be managed, and what the permitted activity thresholds may be or whether there are any consenting requirements. The submitter requests that guidance is provided as to the permitted activity threshold for dust discharges from activities such as construction and bulk handling of materials.
60. I note that General Rule 2.21 specifically applies to “roads and railway corridor identified on the planning maps” and that it only applies to the application of agrichemicals. It is noted that roads and railway corridors are not zoned and hence the reason for the rule appears to be to capture discharges to air from roads and rail corridors given that the respective zones do refer to dust discharges. However I agree that dust discharges should be added to General Rule 2.21 as this type of discharge could reasonably be expected in these transport corridors, particularly during construction and maintenance. Otherwise the discharge requires resource consent as a discretionary activity under General Rule 2.23. Accordingly I suggest adding dust discharges to the rule, subject to a standard relating to no objectionable or offensive discharge of dust beyond the boundary of the site.
61. I note that there is no specific rule addressing the discharge of dust. Rather, I understand that the MEP is predicated on the basis that there are a number of permitted activities in each zone and that the discharge of dust is permitted as part of that activity provided it meets the standards specified in each zone (the standards are described in more detail below and specifically refer to dust from which it can be inferred that the discharge of dust is permitted). I also note that Policy 14.1.7 and Policy 14.4.6 imply that dust is dealt with as an effect of activity as opposed to a discharge. As such it could be argued that as a regional rule is not contravened the provisions are consistent with Section 15(2A) of the RMA.
62. On the other hand, there is some inconsistency with the provisions that specifically authorise discharges of contaminants to air, such as those for fuel burning devices referred to above, and also the Discretionary Activity rule in the respective zones which typically state:

Any discharge of contaminants ... to air not provided for as a Permitted Activity, or limited as a Prohibited Activity.

63. In respect of this Discretionary Activity rule, it could be argued that notwithstanding the presence of dust standards the absence of specific reference to the discharge of dust results in such an activity becoming a Discretionary Activity. Accordingly to remove any doubt the Panel may consider the insertion of the following as a permitted activity in each zone:

xxxx Discharge of dust

An appropriate standard for the permitted activity status discussed below.

64. In this respect, the effects of dust are managed in the MEP by general performance standards attaching to all permitted activities in each zone. There are also discharge standards for specific permitted activities. A typical standard in the MEP for all permitted activities is as follows:

Dust.

xxxx The best practicable method must be adopted to avoid dust beyond the legal boundary of the area of land on which the activity is occurring.

³ Fonterra (1251.132).

65. There are a number of submissions on the permitted activity standard for dust in various zones, including the General Rules in respect of Activities in the Bed of Rivers, Rural Environment, Coastal Environment, Rural Living, Business 1, 2 and 3, Industrial 1 and 2, Port, Open Space 3 and Airport Zones.
66. The standard is supported by Awatere Water Users Group (548.126) Rarangi Residents Association (1089.36, .39) Pernod Ricard Winemakers NZ Ltd (1039.117), Horticulture NZ (769.96), Ravensdown Ltd (1090.64) and NMFG (509.416).
67. Murray Chapman (348.36) and LK Powell (448.7) requests the deletion of the standard because of uncertainty.
68. Submitters suggest the standard is amended by various means including:
- inclusion of “mitigation” instead of and in addition to “avoid” (NFL 990.125) and NZTA (1002.136)).
 - exempting ROWs and access corridors (Reade Family Holdings (318.3)).
 - inserting examples, providing pragmatic guidelines and more certainty (WI Esson (336.2 and .10), I Esson (440.2 and.3), Killearnan Ltd (167.23 and .24) and V Harris (130.2)).
 - Insert “good management practice” or “best practical method” rather than “best practicable option” (Federated Farmers (425.454, .516, .639, .722 and .727), MFIA (962.137 and.192) and M and K Gerard (424.145)).
 - Delete “avoid” and replace with “mitigate” and insert “no more than minor” (NFL (990.28)).
 - Insert “option” rather than “method” and refer to dust “effects” (Fonterra (1251.120, .133 and .142)).
 - making it consistent with the RMA and MEP odour and dust controls (GBC Winstone (749.3)) given that the existing standard is neither applicable or workable for the GBC Winstone Service Centre baghouses in the Port Zone.
69. NZDF (992.76) requests Rule 23.2.7.1 in the Airport Zone is drafted so that it is consistent with Ministry for the Environment guidance on the recommended form of consent conditions.
70. I concur that the proposed standard in the MEP does create some difficulties because many legitimate activities cannot avoid discharging dust beyond the boundary. In my view the rule could be improved by rewording it so that it is similar to the odour standard such as:
- There shall be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.*
- Note 1: For the purpose of this performance standard, an offensive or objectionable discharge of dust is one which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the “FIDOL” factors shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the “site” comprises all that land owned or controlled by the entity undertaking the activity causing the dust.*
71. In respect of objectives and policies dealing with dust, Objective 15.3 and associated policies in Volume 1 of the MEP can be applied to such discharges while Policies such as 12.6.2, 12.6.3, 14.1.7 and 14.4.6 (which particularly relates to construction) provide more specific direction.
72. S and J Peoples (450.3) request the standard is amended to require a bond and notification to residents when dust occurs from the activity in the Rural Living zone. Similar to my view above on Submission 450.1, this request is overly restrictive and would be difficult to administer.

Dust from any process vent or stack.

73. In terms of dust from a process vent or stack, the effects are managed in the MEP by general performance standards attaching to all permitted activities in each zone. (There are also standards for specific permitted activities). A typical standard for all permitted activities is as follows:

Dust from any process vent or stack.

xxxx. The dust must not contain hazardous substances.

xxxx. The particulate 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.

xxxx. Dust particles must not exceed 0.05mm size in any direction

74. There are a number of submissions on this standard as follows:

75. NMFG (509.417) request deletion of the standard in the Open Space 3 Zone as this activity is not appropriate in the zone. I note that farming is a permitted activity in the zone in which such an activity may discharge dust from a vent or stack (e.g. feed silo).

76. In respect of the rule in the Industrial 1 and 2 Zones the following submissions are of relevance.

77. Timberlink NZ Ltd (460.11) requests that an alternative standard of compliance with the national air quality standards, given that the proposed limits on the particulate discharge rate and size proposed in this rule results in the possibility of the discharges on the site possibly not being or being able to achieve compliance. As such it is not realistic or practicable to require all exhausts no matter how small to comply or with regard to what will cause nuisance.

78. Fonterra (1251.143 and .144) states that the particulate discharge rate specified in Rule 12.2.8.2 is too high and that 250 mg/m³ is a fairly high limit and which might be applied for a solid fuel fired boiler with a low standard of emission control or a process vent with very little control. Fonterra's coal fired boilers would achieve 50 mg/m³ and their dryers typically achieve lower than this again.

79. Accordingly Fonterra suggests that Rule 12.2.8.2 should be amended as follows:

The particulate discharge rate from any air pollution control equipment and dust collection system must not exceed 2 50mg/m³ at any time, corrected to 0°C, 1 atmosphere pressure, dry gas basis.

80. Fonterra (1251.144) also states that in respect of dust particulate size, Rule 12.2.8.3 should be deleted because it is essentially saying that dust particles shall not be more than 50 um (same as 0.05 mm) in any direction, which is immeasurable.

81. In respect of the Port Zone, GBC Winstone (749.4) in relation to *Standard 13.2.10 Dust from any process vent or stack* states that as written this standard is meaningless and could not be enforced for the following reasons:

- Clause 13.2.10.1: the discharge of a hazardous substance in itself does not result in an effect, it is only if the discharge is of sufficient volume and or concentration that an effect may occur. Therefore this standard is not effects based and should be deleted.
- Clause 13.2.10.2: as written the words do not make sense as the standard talks about a discharge rate (which is a mass per unit time) and then quotes a concentration (mass per unit of air) as the measure. There is no test for mass, or any form of assessment as to what might be an appropriate mass. There is also no test as to whether the concentration quoted is appropriate or not. Therefore the standard is not effects based and should be deleted.
- Clause 13.2.10.3: there is no justification provided as to why particles greater than 0.05 mm in size will cause some form of effect. Therefore the test should be deleted.

82. PMNZ (433.119) requests Rule 13.2.10.3 is amended as follows:

Dust particles must not exceed ~~0.05mm~~ 0.5mm size in any direction

83. The submitter notes that the larger particle size is in the MSRMP and that there is no justification for the smaller size.
84. NZDF (992.77 and .78) is concerned with Rule 23.2.10. in the Airport Zone for the following reasons:
- The requirements in 23.2.10.1 that the dust “must not contain any hazardous substances” is overly onerous and impractical because hazardous substances are defined as having the same meaning as in Section 2 of the Hazardous Substances and New Organisms Act 1996 (HSNO). Many of the HSNO classifications are not relevant to environmental effects of discharges to air. This rule should be limited to those hazardous substances that cause adverse effects on people and the environment; and there should be a practical lower limit on the amount of a relevant hazardous substance to avoid imposing unnecessary consenting requirements on trivial discharges.
 - In addition the technical basis for the requirement that dust particles must not exceed 0.05mm (50µm) in size in Rule 23.2.10.3 is not stated and there is no apparent environmental effects related to this requirement (particularly as particles of this size will fall to the ground rapidly and are unlikely to be discharged beyond the property boundary). Accordingly the rule should be deleted or related to some environmental effect.
85. I agree that this type of standard does require some amendment to make it more workable. In particular I consider that the term “particulate” should be used rather than “dust” given the discharge is from a vent or stack. I also note that there are a number of other rules that apply to specific discharges particularly in the Industrial and Port Zones and as such I do not believe the more generic standard should apply to these discharges because of potential conflict and as such should be exempt. For example, the general standard does not allow hazardous substances (e.g. 13.2.10) whereas it is clear that hazardous substances such as petrol, diesel etc. are the subject of more specific Rules e.g. Rule13.3.25.
86. As such I consider that the first general standard relating to hazardous substances can remain as applying to activities that are not subject to specific performance standards. However I agree that the discharge should be linked to adverse effects.
87. In terms of the second general standard relating to particulate discharges from air pollution equipment and dust discharge equipment not exceeding 250 mg/m³ I believe this is an appropriate general standard on the basis that there are other standards relating to specific discharges.
88. In relation to the third general standard relating to particle size I agree with the submitters that the standard should be deleted because it is impractical to measure; all dusts will have a size range that extends over many orders of magnitude; and the likely absence of adverse effects.
89. S and J Peoples (450.4) request the standard is amended to require a bond and notification to residents when dust occurs from the activity in the Rural Living Zone. Similar to my view above on Submission 450.1, this request is overly restrictive and would be difficult to administer.

Recommendation

90. That General Rule 2.21 - 2.23 is amended by the following:

Discharge to Air⁴

These activities apply to roads and railway corridors identified on the zoning maps.

2.21. Permitted Activities

⁴ The Section 42A report on “Waste and Discharge to Land” recommends changing the title to “Discharge to Land within Road and Rail Corridor Air” in paras 355/356.

Unless expressly limited elsewhere by rule a in the Marlborough Environment Plan (the Plan), the following activities shall be permitted without resource consent where they comply with the applicable standards in 2.22:

[R]

2.21.1. Application of an agrichemical.

2.21.2. Discharge of Dust

2.22. Standards that apply to specific permitted activities

[R]

2.22.1. Application of an agrichemical.

2.22.1.1. The agrichemical must be approved for use under the Hazardous Substances and New Organisms Act 1996.

2.22.1.2. The application must not result in the agrichemical being deposited on a river, lake, Significant Wetland, drainage channel or Drainage Channel Network that contains water.

2.22.1.3. The application must be undertaken in accordance with the most recent product label. All spills of agrichemicals above the application rate must be notified to Council immediately

2.22.1.4. The application must be carried out in accordance with Sections 5.3 and 5.5 of NZS 8409:2004 Safe Use of Agricultural Compounds and Plant Protection Products – Management of Agrichemicals.

2.22.2. Discharge of Dust

2.22.2.1 There shall be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.

Note 1: For the purpose of this performance standard, an offensive or objectionable discharge of dust is one which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the "FIDOL" factors may shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the dust⁵.

2.23. Discretionary Activities

Application must be made for a Discretionary Activity for the following:

[R]

2.23.1. Any activity provided for as a Permitted Activity that does not meet the applicable standards.

[R]

2.23.2. Any discharge to air not provided for as a Permitted Activity.

91. That the following permitted activity is added to each Zone:

xxxx Discharge of dust⁶

92. That the standard for "Dust" in the MEP Zone Chapters be amended as follows:

xxxx ~~The best practicable method must be adopted to avoid dust beyond the legal boundary of the area of land on which the activity is occurring.~~

There shall be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.

Note 1: For the purpose of this performance standard, an offensive or objectionable discharge of dust is one which can be detected and is considered to be offensive or objectionable by a Council officer. In

⁵ FHL (717.69)

⁶ FHL (717.54)

determining whether an odour is offensive or objectionable, the "FIDOL" factors may shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the "site" comprises all that land owned or controlled by the entity undertaking the activity causing the dust.

Note 2: This performance standard shall not apply if the discharge of dust is authorised by an air discharge permit.

93. That the standard for "Dust from any process vent or stack" in the MEP Chapters be amended as follows:

Particulate ~~Dust~~ from any process vent or stack.

xxxx. The ~~dust~~ particulate must not contain hazardous substances such that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.

xxxx. The particulate 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.

xxxx. ~~Dust particles must not exceed 0.05mm size in any direction~~

This standard does not apply to discharges to air which are subject to "Standards for specific permitted activities".⁷

Key Matter-NZTA Reverse Sensitivity/Cumulative Effects

94. NZTA made a number of submissions relating to reverse sensitivity and/or cumulative effects in respect of the State highway network. Some of these were initially considered under the Transportation Topic but during the hearing earlier this year it was agreed that these submissions and others are best considered under the Nuisance Effects Topic. These submissions are discussed below but it is noted that at the Transportation hearing, NZTA advised it no longer wished to pursue the implementation of Transport Cumulative Effects Areas as an overlay (NZTA 1002.274).

95. NZTA (1002.89 and .101) requests new objectives and/or policies as follows:

A new RPS and regional objective and/or policy that will ensure an integrated planning approach is taken to managing the effects of growth and development on transport infrastructure.

Ensure noise sensitive activities are set back a sufficient distance from land transport network boundaries to avoid, remedy and mitigate effects.

Allow noise sensitive activities to be located near land transport networks only where they do not compromise or limit the existing or planned function of the land transport network.

96. In respect of this submission I repeat my earlier assessment from the Transportation and Signage Section 42A Report (para 58) which states:

I consider the existing provisions are generally considered to provide for an integrated approach to managing the effects of activities on transport infrastructure, as specifically referred to in Issue 17D. In particular this includes Objective 17.4, and Policies 17.4.1-.6, and I therefore consider the additional provisions are not considered necessary. I do however support some amendments to the existing provisions as described below.

97. Generally I still concur with that statement but following the hearing I recommended some minor changes as set out in my Closing Statement (dated 29 May 2018) including reference to cumulative or

⁷ NZDF (992.76)

reverse sensitivity effects in the explanation to Policy 17.4.1. This is set out in the Recommendation below.

98. NZTA (1002.272) also suggests adding Buffer and Effects Areas adjacent to the state highway network in which particular activities would be regulated because of reverse sensitivity effects e.g. new residential buildings in proximity to the state highway could be affected by traffic noise which in turn leads to complaints about the operation of the state highway. The provisions are set out in Annexure 1 to the NZTA submission. At the Transportation hearing NZTA advised that the previous “no build provision” within 40m of the state highway was likely to be replaced by a provision allowing building within 100m provide noise attenuation was provided. NZTA advised that the provisions would be confirmed prior to the hearing on Nuisance Topic but to date no amendments have been received by Council. I note I addressed this matter partly in paragraph 214 of my Transportation and Signage Section 42A report.
99. Overall, I do not favour the proposed Buffer and Effects Areas. Clearly there is some uncertainty on NZTA’s part, but as indicated above I consider it adds unnecessary complexity to the plan and relates to a matter which has not been identified as significant resource management issue in Marlborough by Council. Generally I believe there are sufficient provisions in the MEP to control these matters including zonings, activity status and setbacks. Accordingly while reverse sensitivity effects are a legitimate concern, I do not consider additional controls are necessary or justified.

Recommendation

100. That Policy 17.4.1 is amended as follows:

Manage the density, scale and location of subdivision and/or activities to maintain the planned function of the ~~road~~ing land transport network.

A major method in the MEP for managing the efficiency of the road network is through identification of a road's function, which is established by the road hierarchy (set out in Appendix 17 and Policy 17.3.2). It is important that subdivision or and activities that generate traffic (whether on land or in the coastal marine area) are managed so that their location, density, design, and/or scale does not impair the function of a particular road, including as a result of cumulative or reverse sensitivity effects. Management will occur through district rules that describe where there is a need to consider the impacts of activities on the function of a road through the resource consent process.⁸

Key Matter- Definitions

101. A number of submitters have asked for the following new definitions.
102. NZTA (1002.238) submits that the terms “external lighting and outdoor lighting” are used frequently throughout the MEP and so should be defined to assist in interpreting relevant provisions, although “street lighting” should be excluded as this lighting is already designed and located in accordance with other standards.
103. I note the submitter does not provide any wording. In my view the terms are reasonably self-explanatory and does not require additional wording. I also note that the terms including “lighting” are not defined in the proposed MFE Draft National Planning Standards.
104. NZTA (1002.250), NZDF (992.94), Pernod Ricard Winemakers NZ Ltd (1039.134), Horticulture NZ (769.129) and Villa Maria (1218.66) all request a definition of “Reverse Sensitivity” with several versions suggested.
105. Generally I concur that a definition is appropriate as it is a term that is referred to in the MEP and can cause confusion. I suggest that the definition of “reverse sensitivity” defined in the MFE Draft National Planning Standards is adopted which is not dissimilar to the suggestions in the submissions. This definition is also consistent with the recommendation in the Rural Environment (Topic 12) Reply to Evidence for a definition of “reverse sensitivity”.

⁸ NZTA (1002.89)

Recommendation

106. That the following definition is inserted into Chapter 19 (Volume 2) of the MEP:

*Reverse sensitivity means the potential for the operation of an existing lawfully established activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which may be sensitive to the actual, potential or perceived adverse environmental effects generated by an existing activity.*⁹

Temporary Military Training Activities

Key Matter – Temporary Military Training Activities

Submissions and Assessment

107. Temporary military training activities are managed by General Rule Temporary Military Training Activity in which Rule 2.41 - 2.43 allows the activity as a permitted activity subject to standards that relate to:

- The activity not exceeding 31 days
- No permanent structures
- Noise limits.

108. For completeness “Temporary Military Training” is defined in the MEP as *a temporary training activity undertaken for the defence purposes in accordance with the Defence Act 1990.*

109. NZDF (992.51) suggests amending the introductory sentence in respect of which rules of the MEP apply by the following:

Temporary Military Training Activities are not required to comply with the requirements of any other part of the Plan except the provisions for earthworks and permanent structures, and any relevant regional rules.

110. I note this is dependent on permanent structures being permitted (refer 992.54 below) which I have recommended is rejected. It is also not clear why there is a reference to earthworks. In any event I consider the existing wording is satisfactory in describing which rules apply.

111. NZDF (992.52) and H.Thomson (116.1) both support Rule 2.41.1 Permitted Activities which is noted.

112. NZFS (993.23) request that “Emergency Management and Training Activities” be added to the Temporary Military Training Activity provisions, including a rule allowing the discharge of contaminants to land from the use of firefighting foam for training purposes. I agree with the further opposing submission from NZDF who state that it is not appropriate to provide for emergency management and training activities within the same rule as temporary military training activities, given the rules are specifically directed at military activities, particularly in respect of the use of weapons and explosives and bespoke noise provisions.

113. NMDHB (280.96) states that in respect of Rule 2.42.1.3 relating to noise, this be amended to provide for nationally consistent terms although the noise limit of 122dBC in Rule 2.42.1.4 is supported. NZDF in a supporting further submission agrees on the issue of a consistent term but notes that it proposes its own set of noise provisions in submission 992.55. NZDF (992.56) requests the deletion of Rule 2.24.1.4 relating to impulse noise given its own set of noise provisions while H Thomson (117.1) wants the limit of 122dBC is increased. These submissions are dealt with in the Section 42A report Topic 18 Nuisance Effects.

114. S and J Peoples (450.32) submission is not clear although it appears to query the status of temporary military training activities in the Open Space 3 Recreation Zone with reference made to the Conservation Zone of the WARMP. The submitter should clarify this matter although I note that Rule 2.41 is applicable

⁹ NZTA (1002.250)

to the Open Space 3 Zone i.e. temporary military training activities are permitted subject to the specified standards.

115. Transpower (1198.77) request that a standard be included regulating temporary military training activities in the National Grid Yard as it relates to buildings and explosives. NZDF, in an opposing submission, indicate that this is not necessary, without giving a particular reason. While I consider such activities unlikely to occur in proximity to the National Grid, I accept that there are no controls in respect of this matter. Given Policy 10 of the NPSET and related policy direction within the MEP, I consider it appropriate to include the standard, noting that if it is likely to occur, the standard is not overly onerous.
116. NZDF (992.53) requests that Rule 2.42.1.1 which restricts the length of a temporary military training activity to 31 days is deleted, because it is inappropriate to place an arbitrary time limit on such an activity, as the effects of an activity lasting for 32 days have little different effect of an activity lasting 31 days.
117. While I agree that the limit may be somewhat arbitrary I believe there should be some time limit given that the activities are titled “temporary”. The submitter should clarify what an appropriate time is but I am of the view that 31 days does appear reasonably substantial and is the length of time in the WARMP and the MSRMP.
118. NZDF (992.54) requests that Rule 2.42.1.2 which does not allow permanent structures is deleted because it requires a resource consent to be obtained for a building or structure, even if it complied with the building standards for the zone and this is considered inappropriate and inefficient. The submission states that while temporary military training activities do not usually result in construction of permanent structures, there may be some instances where a permanent structure results from training activities such as when NZDF personnel are involved in “constructing a habitat for humanity home for example”.
119. The submitter should clarify these comments as it is acknowledged in the submission that permanent structures are unlikely (which is logical given the military activities are temporary). In respect of the example given of a humanity home further details are required, including if the activity complies with the definition of a temporary military training activity, the location of such a project and the likelihood that consenting procedures for a new house are likely to be a separate process.
120. NZDF (992.57) considers Rule 2.43.2 should be a restricted discretionary activity because the potential effects relate to noise only. This assumes that the other standards relating to length of time and permanent structures are deleted, as requested by NZDF in separate submissions. I have recommended that these provisions remain and given that there are relatively few controls for temporary military training activities I consider discretionary activity status is appropriate.
121. NZDF (992.95) supports the definition of “temporary military training activity” as it is consistent with that requested by NZDF in other district and regional plans, although the submissions notes there is an extra “the” which should be removed. I agree with this amendment.

Recommendation

122. That Rule 2.42.1 is amended to include the following:

2.42.1.5 Within the National Grid Yard:

(a) buildings, temporary structures and activities must meet the safe electrical clearance distances set out in the New Zealand Electrical Code of Practice (NZECP34:2001); and
(b) no explosives may be used.¹⁰

123. That the definition of “temporary military training activity” is amended by the following:

Temporary military training activity means a temporary training activity undertaken for the ~~the~~ defence purposes in accordance with the Defence Act 1990.¹¹

¹⁰ Transpower (1198.77)

¹¹ NZDF (992.95)

Appendix 1: Recommended decisions on decisions requested

| Submission Number | Submission point | Submitter | Volume | Chapter | Provision | Recommendation |
|-------------------|------------------|------------------------------|----------|----------------------------------|-----------|----------------|
| 1002 | 215 | New Zealand Transport Agency | Volume 2 | 2 General Rules | 2. | Accept |
| 845 | 9 | Kenneth R and Sara M Roush | Volume 2 | 5 Urban Residential 1 and 2 Zone | 5.2.3.1. | Reject |
| 845 | 10 | Kenneth R and Sara M Roush | Volume 2 | 6 Urban Residential 3 Zone | 6.2.3.1. | Reject |
| 424 | 177 | Michael and Kristen Gerard | Volume 2 | 7 Coastal Living Zone | 7.2.3. | Accept |
| 845 | 11 | Kenneth R and Sara M Roush | Volume 2 | 7 Coastal Living Zone | 7.2.3.1. | Reject |
| 1042 | 13 | Port Underwood Association | Volume 2 | 7 Coastal Living Zone | 7.2.3.1. | Reject |
| 845 | 12 | Kenneth R and Sara M Roush | Volume 2 | 8 Rural Living Zone | 8.2.4.1. | Reject |
| 1042 | 14 | Port Underwood Association | Volume 2 | 8 Rural Living Zone | 8.2.4.1. | Reject |
| 1002 | 198 | New Zealand Transport Agency | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.3. | Accept |

| | | | | | | |
|------|-----|--|----------|-----------------------------|-----------|--------|
| 460 | 8 | Timberlink New Zealand Limited | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.3.3. | Reject |
| 845 | 13 | Kenneth R and Sara M Roush | Volume 2 | 13 Port Zone | 13.2.5.3. | Reject |
| 1042 | 15 | Port Underwood Association | Volume 2 | 13 Port Zone | 13.2.5.3. | Reject |
| 433 | 151 | Port Marlborough New Zealand Limited | Volume 2 | 14 Port Landing Area Zone | 14.2.4.1. | Reject |
| 845 | 14 | Kenneth R and Sara M Roush | Volume 2 | 14 Port Landing Area Zone | 14.2.4.3. | Reject |
| 1042 | 16 | Port Underwood Association | Volume 2 | 14 Port Landing Area Zone | 14.2.4.3. | Reject |
| 433 | 161 | Port Marlborough New Zealand Limited | Volume 2 | 15 Marina Zone | 15.2.4.1. | Reject |
| 845 | 16 | Kenneth R and Sara M Roush | Volume 2 | 17 Open Space 1 Zone | 17.2.3.3. | Reject |
| 845 | 17 | Kenneth R and Sara M Roush | Volume 2 | 18 Open Space 2 Zone | 18.2.3.3. | Reject |
| 1039 | 116 | Pernod Ricard Winemakers New Zealand Limited | Volume 2 | 3 Rural Environment Zone | 3.2.7. | Accept |

| | | | | | | |
|------|-----|--|----------|----------------------------------|----------|----------------|
| 1089 | 34 | Rarangi District Residents Association | Volume 2 | 3 Rural Environment Zone | 3.2.7. | Accept |
| 1251 | 132 | Fonterra Co-operative Group Limited | Volume 2 | 3 Rural Environment Zone | 3.2.7. | Accept |
| 348 | 38 | Murray Chapman | Volume 2 | 3 Rural Environment Zone | 3.2.7.1. | Reject |
| 425 | 515 | Federated Farmers of New Zealand | Volume 2 | 3 Rural Environment Zone | 3.2.7.1. | Accept in Part |
| 424 | 143 | Michael and Kristen Gerard | Volume 2 | 4 Coastal Environment Zone | 4.2.4. | Reject |
| 425 | 638 | Federated Farmers of New Zealand | Volume 2 | 4 Coastal Environment Zone | 4.2.4.1. | Accept in Part |
| 457 | 4 | Accolade Wines New Zealand Limited | Volume 2 | 5 Urban Residential 1 and 2 Zone | 5.2.4. | Accept |
| 1089 | 37 | Rarangi District Residents Association | Volume 2 | 8 Rural Living Zone | 8.2.5. | Accept |
| 450 | 1 | Shaun and Jane Peoples | Volume 2 | 8 Rural Living Zone | 8.2.5.1. | Reject |
| 1004 | 80 | Z Energy Limited, Mobil Oil New Zealand Limited and BP Oil Limited | Volume 2 | 9 Business 1 Zone | 9.2.4.1. | Accept |

| | | | | | | |
|------|-----|--|----------|-----------------------------|-----------|----------------|
| 1004 | 86 | Z Energy Limited, Mobil Oil New Zealand Limited and BP Oil Limited | Volume 2 | 10 Business 2 Zone | 10.2.5.1. | Reject |
| 1004 | 96 | Z Energy Limited, Mobil Oil New Zealand Limited and BP Oil Limited | Volume 2 | 11 Business 3 Zone | 11.2.5.1. | Reject |
| 1004 | 68 | Z Energy Limited, Mobil Oil New Zealand Limited and BP Oil Limited | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.5.1. | Reject |
| 1251 | 141 | Fonterra Co-operative Group Limited | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.5.1. | Reject |
| 1140 | 66 | Sanford Limited | Volume 2 | 13 Port Zone | 13.2.7.1. | Reject |
| 1140 | 65 | Sanford Limited | Volume 2 | 14 Port Landing Area Zone | 14.2.5. | Reject |
| 1140 | 67 | Sanford Limited | Volume 2 | 16 Coastal Marine Zone | 16.2.4.1. | Reject |
| 509 | 414 | Nelson Marlborough Fish and Game | Volume 2 | 19 Open Space 3 Zone | 19.2.3. | Accept |
| 425 | 721 | Federated Farmers of New Zealand | Volume 2 | 19 Open Space 3 Zone | 19.2.3.1. | Accept in Part |

| | | | | | | |
|------|-----|--|----------|-----------------|-----------|--------|
| 992 | 74 | New Zealand Defence Force | Volume 2 | 23 Airport Zone | 23.2.7.1. | Reject |
| 548 | 126 | Awatere Water Users Group Incorporated | Volume 2 | 2 General Rules | 2.8.3. | Accept |
| 318 | 3 | Reade Family Holdings | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |
| 336 | 2 | William Ian Esson | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |
| 425 | 454 | Federated Farmers of New Zealand | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |
| 440 | 2 | Ian Esson | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |
| 962 | 137 | Marlborough Forest Industry Association Incorporated | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |
| 990 | 28 | Nelson Forests Limited | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |
| 1002 | 136 | New Zealand Transport Agency | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |
| 1251 | 120 | Fonterra Co-operative Group Limited | Volume 2 | 2 General Rules | 2.8.3.1. | Reject |

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|------|-----|--|----------|--------------------------|----------|--------|
| 1039 | 117 | Pernod Ricard Winemakers New Zealand Limited | Volume 2 | 3 Rural Environment Zone | 3.2.9. | Accept |
| 1089 | 36 | Rarangi District Residents Association | Volume 2 | 3 Rural Environment Zone | 3.2.9. | Reject |
| 167 | 24 | Killearnan Limited | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Reject |
| 336 | 10 | William Ian Esson | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Reject |
| 348 | 36 | Murray Chapman | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Reject |
| 425 | 516 | Federated Farmers of New Zealand | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Reject |
| 440 | 3 | Ian Esson | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Reject |
| 448 | 7 | Lloyd Kenneth Powell | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Reject |
| 769 | 96 | Horticulture New Zealand | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Accept |
| 1090 | 64 | Ravensdown Limited | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Accept |

| | | | | | | |
|------|-----|--|----------|----------------------------|----------|--------|
| 1251 | 133 | Fonterra Co-operative Group Limited | Volume 2 | 3 Rural Environment Zone | 3.2.9.1. | Reject |
| 424 | 145 | Michael and Kristen Gerard | Volume 2 | 4 Coastal Environment Zone | 4.2.6. | Reject |
| 167 | 23 | Killearnan Limited | Volume 2 | 4 Coastal Environment Zone | 4.2.6.1. | Reject |
| 425 | 639 | Federated Farmers of New Zealand | Volume 2 | 4 Coastal Environment Zone | 4.2.6.1. | Reject |
| 962 | 192 | Marlborough Forest Industry Association Incorporated | Volume 2 | 4 Coastal Environment Zone | 4.2.6.1. | Reject |
| 990 | 125 | Nelson Forests Limited | Volume 2 | 4 Coastal Environment Zone | 4.2.6.1. | Reject |
| 1089 | 39 | Rarangi District Residents Association | Volume 2 | 8 Rural Living Zone | 8.2.7. | Accept |
| 450 | 3 | Shaun and Jane Peoples | Volume 2 | 8 Rural Living Zone | 8.2.7.1. | Reject |
| 450 | 4 | Shaun and Jane Peoples | Volume 2 | 8 Rural Living Zone | 8.2.8.1. | Reject |
| 509 | 417 | Nelson Marlborough Fish and Game | Volume 2 | 19 Open Space 3 Zone | 19.2.6. | Reject |

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| 130 | 2 | Vivienne Harris | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.7. | Reject |
| 1251 | 142 | Fonterra Co-operative Group Limited | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.7.1. | Reject |
| 460 | 11 | Timberlink New Zealand Limited | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.8. | Reject |
| 1251 | 143 | Fonterra Co-operative Group Limited | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.8.2. | Reject |
| 1251 | 144 | Fonterra Co-operative Group Limited | Volume 2 | 12 Industrial 1 and 2 Zones | 12.2.8.3. | Reject |
| 749 | 3 | GBC Winstone | Volume 2 | 13 Port Zone | 13.2.9.1. | Reject |
| 749 | 4 | GBC Winstone | Volume 2 | 13 Port Zone | 13.2.10. | Reject |
| 433 | 119 | Port Marlborough New Zealand Limited | Volume 2 | 13 Port Zone | 13.2.10.3. | Reject |
| 425 | 722 | Federated Farmers of New Zealand | Volume 2 | 19 Open Space 3 Zone | 19.2.5. | Reject |
| 509 | 416 | Nelson Marlborough Fish and Game | Volume 2 | 19 Open Space 3 Zone | 19.2.5. | Accept |
| 992 | 76 | New Zealand Defence Force | Volume 2 | 23 Airport Zone | 23.2.9.1. | Reject |

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| 992 | 77 | New Zealand Defence Force | Volume 2 | 23 Airport Zone | 23.2.10.1. | Reject |
| 992 | 78 | New Zealand Defence Force | Volume 2 | 23 Airport Zone | 23.2.10.3. | Reject |
| 1039 | 134 | Pernod Ricard Winemakers New Zealand Limited | Volume 2 | 25 Definitions | 25. | Accept in Part |
| 769 | 129 | Horticulture New Zealand | Volume 2 | 25 Definitions | 25. | Accept in Part |
| 992 | 94 | New Zealand Defence Force | Volume 2 | 25 Definitions | 25. | Accept in Part |
| 1002 | 238 | New Zealand Transport Agency | Volume 2 | 25 Definitions | 25. | Reject |
| 1002 | 242 | New Zealand Transport Agency | Volume 2 | 25 Definitions | 25. | Dealt with in Topic 13 s42A report |
| 1002 | 250 | New Zealand Transport Agency | Volume 2 | 25 Definitions | 25. | Accept in Part |
| 1218 | 66 | Villa Maria | Volume 2 | 25 Definitions | 25. | Accept in Part |
| 1251 | 148 | Fonterra Co-operative Group Limited | Volume 2 | 25 Definitions | 25. | Dealt with in Topic 13 s42A report |

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| 992 | 95 | New Zealand Defence Force | Volume 2 | 25 Definitions | 25. | Accept |
| 1002 | 193 | New Zealand Transport Agency | Volume 2 | 8 Rural Living Zone | 8. | Accept |
| 1002 | 216 | New Zealand Transport Agency | Volume 2 | 3 Rural Environment Zone | 3. | Accept |
| 717 | 54 | Fulton Hogan Limited | Volume 1 | 15 Resource Quality (Water, Air, Soil) | 15. | Accept |
| 962 | 142 | Marlborough Forest Industry Association Incorporated | Volume 2 | 2 General Rules | 2.21. | Reject |
| 1002 | 192 | New Zealand Transport Agency | Volume 2 | 7 Coastal Living Zone | 7. | Accept |
| 1002 | 218 | New Zealand Transport Agency | Volume 2 | 21 Floodway Zone | 21. | Accept |
| 1002 | 219 | New Zealand Transport Agency | Volume 2 | 22 Lake Grassmere Saltworks Zone | 22. | Accept |
| 990 | 35 | Nelson Forests Limited | Volume 2 | 2 General Rules | 2.21. | Reject |
| 717 | 69 | Fulton Hogan Limited | Volume 2 | 2 General Rules | 2.21. | Accept |

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| 845 | 5 | Kenneth R and Sara M Roush | Volume 1 | 13 Use of the Coastal Environment | Policy 13.10.15 | Reject |
| 845 | 6 | Kenneth R and Sara M Roush | Volume 1 | 13 Use of the Coastal Environment | Policy 13.10.22 | Reject |
| 717 | 49 | Fulton Hogan Limited | Volume 1 | 14 Use of the Rural Environment | Issue 14B | Reject |
| 1002 | 274 | New Zealand Transport Agency | Volume 4 | Overlay Maps | | Reject |
| 1002 | 89 | New Zealand Transport Agency | Volume 1 | 17 Transportation | Issue 17D | Accept in Part |
| 1002 | 101 | New Zealand Transport Agency | Volume 1 | 17 Transportation | Issue 17D | Reject |
| 1002 | 272 | New Zealand Transport Agency | Volume 4 | Overlay Maps | | Reject |
| Temporary Military Activities | | | | | | |
| 992 | 51 | New Zealand Defence Force | Volume 2 | 2 General Rules | 2 | Reject |
| 992 | 52 | New Zealand Defence Force | Volume 2 | 2 General Rules | 2.41.1 | Accept |
| 992 | 53 | New Zealand Defence Force | Volume 2 | 2 General Rules | 2.42.1.1 | Reject |

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| 992 | 54 | New Zealand Defence Force | Volume 2 | 2 General Rules | 2.42.1.1 | Reject |
| 992 | 56 | New Zealand Defence Force | Volume 2 | 2 General Rules | 2.42.1.4 | Dealt with in Topic 18 s42A Noise report |
| 992 | 57 | New Zealand Defence Force | Volume 2 | 2 General Rules | 2.42.1.4 | Reject |
| 1198 | 77 | Transpower New Zealand Limited | Volume 2 | 2 General Rules | 2.42.1 | Accept |
| 116 | 1 | Herb Thompson | Volume 2 | 2 General Rules | 2.41.1 | Accept |
| 117 | 1 | Herb Thompson | Volume 2 | 2 General Rules | 2.41.1 | Dealt with in Topic 18 s42A Noise report |
| 280 | 96 | Nelson Marlborough District Health Board | Volume 2 | 2 General Rules | 2.42.1 | Dealt with in Topic 18 s42A Noise report |
| 450 | 32 | Shaun and Jane Peoples | Volume 2 | 2 General Rules | 2.42.1 | Reject |
| 993 | 23 | NZFS | Volume 2 | 2 General Rules | 2.42.1 | Reject |