

**Supplementary Report to the
District Plan Review Hearing Panel**

**Proposed Horowhenua District Plan
Open Space Zone and Access to Water Bodies
Water and Surface of Water**

April 2013

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1. Introduction

1.1 Outline

This Supplementary Report considers the evidence received from submitters as well as any outstanding matters that require updating or clarification since the release of the original Section 42A Report on 15th March 2013.

This report is structured according to the following format:

- Process to date
- Overview of evidence received from submitters
- Consideration and recommendations on the evidence presented by New Zealand Defence Force (Submitter Number 95) and Todd Energy Ltd (Submitter Number 80) and KCE Mangahao (Submitter Numbers 92).
- Other updates

2. Process to Date

The Hearings Commissioners issued a Minute on 8th March 2013 relating to preliminary and procedural matters, including pre-circulation of evidence prior to certain hearings. This Minute stated that expert evidence for the hearing on Open Space Zone/Access to Water Bodies, Water and Surface of Water was to be pre-circulated and set down a timeframe. The original Section 42A Report for the Open Space Zone and Access to Water Bodies, and Water and Surface of Water was sent to submitters on the 15th March. This notice sent with the Report explained that submitters must pre-circulate their expert evidence prior to the hearing. This process was to enable submitters to respond to the Section 42A Report and provide written evidence by the 2nd April 2013. Expert evidence was received from the following submitters:

- New Zealand Defence Force (planning and acoustic evidence)
- Todd Energy and KCE Mangahao Ltd (planning evidence)

The purpose of this Supplementary Report is to provide a written response to the submitters' evidence received.

In addition, at the time of writing the original Section 42A Report, I did not have technical comments from HDC's acoustic consultant (Nigel Lloyd, Acousafe). Therefore, the evaluation in the original Section 42A Report was solely from a planning perspective. These technical acoustic comments have subsequently been received. I understand these technical acoustic comments were sent to the NZDF on 23 March 2013 so they could consider them in their evidence. This Supplementary Report considers the technical acoustic comments as well as the NZDF evidence outlined in the discussion and evaluation below.

3. Analysis of Evidence

3.1 Rule 20.6 Permitted Activity Conditions (Section 4.9 of original Section 42A Report)

Statements of evidence from Emily Grace and Malcolm Hunt were received on behalf of NZDF on this section of the original Section 42A Report.

Scope

I raised the matter of scope in my Section 42A Report in paragraph 15, page 56 as the original NZDF submission conditionally supported the noise standards but noted the results of the technical review it had commissioned were not yet available. The original NZDF submission only requested specific relief (alternative wording) for night-time noise and then 'flagged' that "NZDF will come back to the Council to confirm its support (or otherwise) for the change and to discuss any specific recommendations or requests that may arise from the review". This relief sought was included in the notified summary of submissions in December 2012. In February 2013, information was received from NZDF following receipt of their commissioned review which includes specific changes. As the original NZDF submission did not state any specific relief sought apart from the night-time noise standards and now other specific changes are sought (referred to as 'alternative' relief sought in Section 42A), the question of scope arises.

In paragraphs 2.9 – 2.12 of Ms Grace's evidence she comments on the question of scope. While I agree with many of the comments of Ms Grace, to me, the question of scope is still a relevant consideration. In the original Section 42A Report, I commented on the scope issue for each recommendation I made. I consider that the 'alternative' relief sought by NZDF was provided for within the breadth of their original submission point (95.25) in terms of the amendments relating to fixed and mobile noise. However, there is a question of scope in relation to submission point 95.35 and I will discuss this further below.

Commonalities between original Section 42A Report and Evidence Received

The Section 42A Report evaluates and recommends that the noise limits and methods to manage fixed and mobile noise sources (excluding the use of explosives and weapon use) by NZDF had the scope to be provided for in the Proposed Plan. I note paragraph 5.5 – 5.7 in Malcolm Hunt's evidence refers to my evaluation and would seem to support the evaluation made. Since receiving the technical acoustic comments from Acousafe on the submission points made by NZDF, I can confirm that the fixed and mobile noise provisions are appropriate and I recommend amendments to Rule 20.6.22 to provide for these.

Differences between original Section 42A Report and Evidence Received

Noise generated from the use of explosives and weapons

The Proposed Plan manages noise generated from the use of explosives and weapons in two ways. Firstly, during the day and early evening (7.00am – 8.00pm) this type of noise is managed like all other noise generated from temporary military training activities and is required to comply with the Construction Noise Standard (NZS6803:1999). I understand that part of this standard provides guidance on peak sound levels for airblast and refers to a limit of 120dBC. Secondly, the

Proposed Plan restricts the use of explosives and weapons during the nighttime period (8pm – 7.00am) and therefore a Controlled Activity is required.

In terms of scope, the original relief sought by the NZDF was to use the Operative District Plan provision set out in the Rural Zone, which provided the following permitted activity condition:

Impulse Noise Resulting from the use of explosives and small arms is not to exceed 122 dBC.

This relief sought effectively permits night-time use of explosives or weapons. The alternative provisions requested by NZDF received in February 2013 are an alternative form of this original request and do not extend beyond what was originally sought. Having read the evidence of Ms Grace and Mr Hunt I now better understand the alternative provisions sought in February 2013. Therefore, I correct my statement on scope (para 22 – 24, page 57 of the Section 42A Report) as I now consider the alternative provisions to be within scope of the original requested relief.

I understand the effects based principle that Ms Grace refers to in her evidence (para 2.7) and seeks to uphold through the use of separation distances that have been generated through the technical evaluation of Malcolm Hunt Associates. This approach using separation distances may be an appropriate way to manage noise generated from explosives and weapon use during the night, in areas that can achieve the separation distances (2.25km – 4.5km) (i.e. areas that do not have residential dwellings within the radius that these distances create). However, based on a conceptual application of these separation distances from the Residential Zone boundary and buildings in the rural zone, we believe that there would be small and remote area where activities would be able to comply. As a result, I consider that the separation distances would be an inefficient and ineffective method to use in the Horowhenua district.

Where the NZDF separation distances cannot be achieved, the NZDF provisions default to using peak sound blast limits of 120d BC during the day and 90dBC during the night. They also offer the use preparation of a noise management plan.

The daytime 120d BC limit as sought by NZDF (Appendix A: Relief Sought), equates to the 120b BC which is set out in Construction Noise Standard limit for airblast (Section 8.1.4 of NZS6803:1999) and is already provided for in the Proposed Plan.

In reference to the nighttime 90d BC limit as sought by NZDF the following comments were received from Nigel Lloyd:

The Generic Table [NZDF's Relief Sought in Appendix A of Emily Grace's Evidence] would have the noise limit as 90dBC for live firing of weapons and single or multiple explosive events and firing of blank ammunition. The live firing would need to be at least 4,500 metres from the noise sensitive activity to comply with this limit and the blank firing at least 2,250 metres. It is unreasonable to have night-time firing of weapons and single or multiple explosions as permitted activities in the District Plan given the high potential for noise impact on residents, stock and wildlife and given the large separation distances required to achieve reasonable night-time criteria.

The Proposed Plan currently provides for night-time firing and explosions as controlled activities and this is appropriate given that a resource consent can then provide details of the noise levels that are likely to be generated and also include provision for noise management plans. The resource consent and noise management plans would provide for a case-by-case assessment of the night-time firing taking into account the location and nature of the proposed activity, proximity to

noise sensitive activities, and measures to mitigate noise impacts. I consider the approach in the Proposed Plan is more appropriate in managing the noise effects than that sought by NZDF.

I consider the key point to take from My Lloyd's technical review, is that to comply with the technical parameters (whether separation distances or peak sound blast dBC limits) would be difficult during the nighttime period and could create unreasonable noise if not complied with. Therefore additional mitigation and management of this type of noise would be appropriate during the nighttime period, through a Controlled Activity resource consent process.

I note the further explanation of the application of a night time 90dBC peak sound blast limit in paragraphs 5.10 – 5.12 of Malcolm Hunt's evidence. Based on my understanding of these points, a 90dBC peak sound blast limit would still require some level of buffering (ie. 1500m separation distance) in order for this level to apply and meet the equivalent sound measure of 65dBA.

Malcolm Hunt notes that I support the provision of an L_{max} 75dB for fixed noise sources, as per their relief sought. This again is equivalent to the night-time limits for short duration activities provided for in the Construction Noise Standard NZS 6803:1999.

The NZDF seek the use of a noise management plan to presumably set out the methods to ensure compliance of the 90dBC peak sound blast limit can be achieved at notional boundary of any residential dwelling or other noise sensitive activity.

I consider the application of a noise management plan requirement would be more effective as a method of demonstrating to HDC how potential effects on nearby residential dwellings and other noise sensitive activities can be avoided or mitigated through a Controlled Activity resource consent process. This process would enable HDC to review and approve any noise management plan. Should there be any complaints or questions from the public about any future nighttime noise from the use of explosives or weapons, the HDC could respond with full knowledge of the event, location (context) and management options set out in the approved noise management plan.

Helicopters

By default, the Proposed Plan would manage noise from helicopters landing for temporary military training activities through the application of the construction noise standard (NZS6803:1999).

NZDF seek that noise generated from helicopters be managed through the application of the NZ6807:1994 *Noise Management and Land Use Planning for Helicopter Landing Areas*. Paragraph 5.2 – 5.4 of Malcolm Hunt's statement of evidence reiterates why the use of this NZS is appropriate for helicopters associated with temporary military training activities.

I understand that NZS6807:1994 provides recommended guideline limits on helicopter noise and that these guidelines apply when 10 or more flight movements occur over any month or exceed certain L_{AFMAX} limits (90dB daytime, 70dB nighttime).

I outline below some of the costs and benefits from applying NZS6807:1994 on temporary military training activities.

Benefits of applying NZS 6807:1994 to temporary military training activities:

- Gives HDC and NZDF certainty on the level of noise generated by helicopters used in association with temporary military training activities;

- Better protection of amenity for residential dwellings from the noise effects of helicopters.
- Enables a level of activity to occur before applying, therefore allowing one-off events or small training activities to occur without requiring compliance to noise limits.

Costs of applying NZS 6807:1994 to temporary military training activities:

- Compliance with the standard requires significant analysis that predicts noise levels and could be an unduly high cost for NZDF.
- Uncertainty as to the application of the standard for training activities that involve multiple helicopter landing areas.
- Compliance costs to HDC for monitoring noise in response to complaints.

Nigel Lloyd expressed concern regarding the use of NZS 6807:1994 for temporary military training activities due to the compliance costs on NZDF and HDC, particularly where there would be short bursts of activity, but involve greater than 10 helicopter movements. A possible option would be the exemption for temporary military training activities that involved the use of helicopters from the noise limits for up to 7 days. However, the implications of an exemption could have the potential to generate significant effects on amenity within an open space and nearby activities that are sensitive to noise.

In considering this matter, it is important to understand how much of an issue is helicopter noise and the nature and scale of use that is anticipated by NZDF. If the scale of helicopter use is most likely to involve 10 or less helicopter movements, then applying NZS 6807:1994 would enable these to occur, but would impose justifiable limits for activities that involve a greater number of helicopter movements.

On balance, and in weighing up the costs and benefits, including the comments from Nigel Lloyd and Malcolm Hunt, I consider the use of NZS6807:1994 would be more effective than the Proposed Plan in managing noise from helicopters that are part of a temporary military training activity. Based on this conclusion, I recommend that NZDF's alternative provision for helicopter noise be provided for within the permitted activity conditions for temporary military training activities in Rule 20.6.22.

Conclusion:

Overall, I consider the amendments sought from NZDF to provide for mobile and fixed noise can be provided for in Rule 20.6.22.

I consider the use of explosives and weapons during the daytime and early evening (7.00am – 8.00pm) can be managed through the limits set out in the Construction Noise Standard.

While I understand Emily Grace's rationale and effects based principle for use of separation distances, I do not believe the application of these [nighttime] distances would be effective in the Horowhenua District, and would ultimately result in NZDF applying for a Controlled Activity resource consent. Therefore I still consider the nighttime (8.00pm – 7.00am) restriction on use of explosives and weapons is a more appropriate permitted activity condition.

A controlled activity status gives the NZDF certainty that consent will be granted, and will enable HDC to be involved in the reviewing and monitoring of any accompanying noise management plan.

Below are revised recommendations on these submission points.

3.1.1 Reporting Officer's Recommendation

Permitted Activity Standards 20.6

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
95.25		New Zealand Defence Force (NZDF)		Accept in part
95.35		New Zealand Defence Force (NZDF)		Reject

3.1.2 Recommended Amendments to the Plan Provisions

Amend the temporary military training activity permitted activity conditions in Rule 20.6.22, with respect to the noise provisions as follows:

15.6.31 Temporary Military Training Activities

- (a) *All temporary military activities shall, in addition to the other conditions, also comply with the following conditions:*
- (i) *no permanent structures shall be constructed;*
 - (ii) *the activity shall not require excavation (permanent or mechanical), unless provided for in this District Plan;*
 - (iii) *the duration of any temporary military training activity shall not exceed 31 consecutive days;*
 - (iv) *noise generated from mobile sources (other than weapons firing and use of explosives) shall not exceed the limits as set out in Table 2 of NZS 6803:1999 Acoustics - Construction noise when applied at any Residential Zone site boundary or notional boundary of any noise sensitive activity.*
 - ~~(v)~~ *Noise levels shall be measured and assessed in accordance with that Standard as if it were construction noise; and*
 - (v) Noise generated from any fixed source (other than weapons firing and use of explosives) shall comply with the noise limits and measurement set out in Rule 15.6.11(a) and (b), except that during the nighttime period (10.00pm – 7.00am) the noise limit shall be 75dB (L_{max}).
 - (vi) *Noise resulting from the use of explosives and ~~small arms~~ weapons shall not occur between 8.00pm and 7.00am the following day and shall otherwise comply with Section 8.1.4 of NZS 6803:1999.*
 - (v) *Noise generated from the use of helicopters shall comply with the noise limits set out in NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas. Noise levels shall be measures in accordance with NZS6801:2008 Acoustics - Measurement of Sound.*

3.2 20.7 Matters of Control and Conditions for Controlled Activities, Temporary Military Training Activities (Section 4.10 of the original Section 42A Report).

NZDF's submission point 95.45 on the Matters of Control for temporary military training activities is discussed and considered in Section 4.10.10 of my Section 42A Report. Emily Grace in Section 4.0 of her statement of evidence responds to this evaluation and I have taken into consideration the further points made below.

The Open Space Zone is to provide for recreation activities first and foremost (Policy 4.1.4), but recognises that non-recreation activities (Policy 4.1.6) can be provided for if managed and are compatible with the recreation, character and amenity values of the Open Space Zone. Temporary activities and temporary military training activities have short duration and are infrequent, and subject to complying with permitted activity conditions, are appropriate to operate in the Open Space Zone.

My initial concern in defining more precisely the Matters of Control when assessing a temporary military training activity was the ability to capture all matters that may arise as a result of a non-compliance with the 31 day duration condition (Rule 20.6.22(iii)). The requested provisions that Emily Grace has provided in para 4.6 of her evidence provide for majority of the considerations, but do not provide for a non-compliance with the duration condition. As an alternative, the structure and contents of the Matters of Control for 'temporary filming activities' (Rule 20.7.5) could be used as a basis for better defining the Matters of Control for temporary military training activities.

I consider applying more specific Matters of Control for temporary military training activities is appropriate based on this alternative wording. I recommend that submission point 95.45 be accepted in part and that Rule 20.7.6 be amended with the wording set out in my recommendation below.

3.2.1 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
95.45		New Zealand Defence Force		Accept in part

3.2.2 Recommended Amendments to the Plan Provisions

Amend the temporary military training activity Matters of Control in Rule 20.7.6 as follows:

20.7.6 Temporary Military Training Activities (Rule 20.2(f))

(a) Matters of Control

~~(i) The avoidance, remedying or mitigating of any adverse effects on the environment.~~

(i) The size and positioning of temporary buildings and structures;

- (ii) The actual and potential adverse effects on the amenity (in particular noise) on the surrounding environment and the measures to avoid, remedy or mitigate these effects as a result of a noise condition non-compliance or prolonged duration of a proposed activity;
 - (iii) The actual and potential adverse effects on the safety and efficiency of the road network, as a result of additional traffic generation for a prolonged period of time.
 - (iv) The provision of safe and efficient vehicular access and on-site car parking to avoid, remedy or mitigate potential traffic effects; and
 - (iv) The measures used to avoid compromising the recreation, heritage or cultural values of the site, as a result of the prolonged duration of a proposed temporary military training activity.
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3.3 Schedule 12 Priority Water Bodies

A statement of planning evidence from Lorelle Barry was received on behalf of Todd Energy Ltd and KCE Mangahao Ltd in support of their submission points 80.04 and 92.04 respectively.

The relief sought in submission points 80.04 and 92.04 refers to deleting Schedule 12 or amending Chapter 3 (Natural Features and Values) to clarify the purpose and application of Schedule 12.

The Section 42A report that considers submissions on Chapter 3 has accepted in part the submissions seeking amendments to provide a better link to the application of Schedule 12 "Priority Water Bodies".

In paragraphs 10 and 11 of Lorelle Barry's statement of evidence she seeks improved links between the Open Space Zone, Access to Water Bodies, Water and Surface of Water Chapter(s), Schedule 12 (Priority Water Bodies) and any other strategies that need to be used to interpret this Chapter(s). This relief sought extends to seeking amendments to Chapter 4 and Chapter 11 which was not set out in their original submission. I noted that no further submission points were made on any of the Chapter 4 or Chapter 11 provisions by the submitters. However, amendments to Chapter 4 and 11 may be considered as consequential changes as a result of their submission point on Chapter 3.

Chapter 4: Open Space and Access to Water Bodies

Issue 4.2 sets out the resource management issue relating to the provision of public access to water bodies and the coast. It essentially describes the tension between providing for public access and weighing up other qualities of the water bodies (and their margins) as well as the potential effects on activities adjoining these water bodies.

In re-reading the text from Issue 4.2 to the Methods and Anticipated Environmental Results, I consider the policy framework is clear in the link to Schedule 12 and the Open Space Strategy. The policies do not specifically refer to Schedule 12, but direct that water bodies are to be prioritised based on their significant values (Policy 4.2.2) and that esplanade reserves or strips are to be used along with those considered significant (Policy 4.2.3). The Explanation and Principal Reasons reference the Open Space Strategy and its use in the understanding the key water bodies and their values. The subdivision process is also referenced in its capacity in providing opportunities to create esplanade reserves and strips. The Methods list the tools to achieve the objective and implement the policies and in relation to the District Plan, the following methods are stated:

District Plan

- *Identify the priority water bodies (coast, lakes, rivers and streams) with significant values (Schedule 12 – Priority Water Bodies, Groups 1 and 2).*
- *Rules which require esplanade reserves or strips based on priority water bodies (Schedule 12 – Priority Water Bodies, Groups 1 and 2), with ability to reduce or waive the requirement where appropriate.*
- *Rules which provide for esplanade reserve/strips and access strips to be created appropriate along other water bodies.*

I consider that this list clearly links the policy on prioritisation and identification, and the requirement for esplanade reserves and strips to the implications on subdivision activities that adjoin water bodies. Reference to Chapter 24 (Subdivision and Development) could be made on

bullet point 2 and 3 to improve the linkage to the subdivision provisions. This cross-reference would be appropriate as Group 1 and 2 priority water bodies have different standards applying to them in the rules.

Chapter 11: Water and Surface of Water

Chapter 11 provides policy framework for the appropriate use of the surfaces of river and lakes. The policy framework applies to all water bodies in the district therefore it does not include any reference to prioritising water bodies in the management of surface water activities. Therefore I do not consider any amendments to link this Chapter to Schedule 12 or the Open Space Strategy would be appropriate.

3.3.1 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
80.04	524.07	Todd Energy Ltd Higgins Group Holdings Ltd	Support	Reject in part Reject in part
92.04	524.08	KCE Mangahao Ltd Higgins Group Holdings Ltd	Support	Reject in part Reject in part

3.3.2 Recommended Amendments to the Plan Provisions

No recommended amendments to Schedule 12, but consequential amendments to the list of Methods in Chapter 4 under Issue 4.2 and Objective 4.2 as follows.

Methods for Issues 4.2 & Objective 4.2.1 District Plan

- Identify the priority water bodies (coast, lakes, rivers and streams) with significant values (Schedule 12 – Priority Water Bodies, Groups 1 and 2).
- Rules which require esplanade reserves or strips based on priority water bodies (Schedule 12 – Priority Water Bodies, Groups 1 and 2), with ability to reduce or waive the requirement where appropriate (Chapter 24 Subdivision and Development Esplanade Reserves/Strips Rule 24.2.5).
- Rules which provide for esplanade reserve/strips and access strips to be created appropriate along other water bodies (Chapter 24 Subdivision and Development Esplanade Reserves/Strips Rule 24.2.5).

4. Other Updates

4.1 Levin Golf Club:

I state on Page 40, para 13, that any recommended consequential changes to the Open Space Zone provisions as a result of the relief sought from rezoning the Levin Golf Club from Rural to Open Space would be provided in this addendum. However, this submission point is still being evaluated and the Planning Maps Section 42A Report is not available at this time. Therefore, any consequential changes to the Open Space Zone provisions would need to be made with the Part 3 General Matters (Planning Maps) report and crossed referenced back to the hearing panel for the Open Space Zone.

4.2 Text Corrections

4.2.1 Policies 4.1.3 - 4.1.7 (Section 4.4 of the original Section 42A Report)

Section 4.4 of the Section 42A report considers the submissions on the Open Space Zone Policies 4.1.3 - 4.1.7. NZHPT seeks to amend Policy 4.1.3 to reflect heritage values of parks (submission point 117.04). I explain in paragraphs 1 and 2 of the Discussion and Evaluation that heritage values are already captured in Policy 4.1.3. The last sentence should have concluded that an amendment as sought by NZHPT was not necessary and therefore read as follows:

“I believe the reference to special values provides recognition of the heritage values in parks and reserves and therefore provides for the relief sought by NZHPT (117.04), and an amendment is not required.”

In addition, the recommendation on this submission point should be “accepted in part”, rather than “reject”, given the relief sought is already provided for in the Proposed Plan.

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
117.04		New Zealand Historic Places Trust (NZHPT)		Accept in Part

4.2.2 General Matters Raised in Submissions (Section 4.7 of the original Section 42A Report)

Section 4.7 of the Section 42A report considers a range of general matters on Chapter 4. The relief sought in submission point 83.08 (Hood) inferred that Chapter 4 be amended to give greater certainty on the compensation and maintenance process for esplanade reserves and strips. I explain in paragraphs 22 (page 41) that compensation and maintenance matters would be determined by HDC on a case by case basis. The final sentence should have read “I do not consider further provision in Chapter 4 would be appropriate and therefore recommend that submission point 83.03 be rejected”.

5. Appendices

5.1 Nigel Lloyd's Technical Review and comments