

IN THE MATTER OF the Resource
Management Act 1991

AND

IN THE MATTER OF The Proposed One Plan
notified by Manawatu-
Wanganui Regional
Council

**SUPPLEMENTARY STATEMENT OF EVIDENCE
OF EMILY SUZANNE GRACE
FOR NEW ZEALAND DEFENCE FORCE
BIODIVERSITY SUBMISSIONS ON THE PROPOSED ONE PLAN**

Dated: 25 November 2008

1.0 Introduction

1.1 My full name is Emily Suzanne Grace.

1.2 I am a Resource Management Consultant and have been employed by Tonkin & Taylor Limited since February 2005. I hold a Bachelor of Science degree with Honours in Physical Geography and a Bachelor of Laws. I have five years experience in the planning and resource management profession, working for both local authorities and the private sector.

1.3 As part of my role at Tonkin and Taylor Limited I have reviewed and made submissions on a number of proposed planning documents, including regional policy statements, regional plans and district plans. I also regularly prepare resource consent applications to both regional and district councils, and process district council applications.

1.4 I am familiar with the Proposed One Plan (One Plan) to which these

proceedings relate.

1.5 I appear at the request of the New Zealand Defence Force (NZDF), who lodged a submission and further submissions on the One Plan. I submitted expert evidence on behalf of NZDF to the Hearing Panel for the Biodiversity and Heritage Hearing in July this year.

1.6 In preparing my evidence I have reviewed the Environment Court Code of Conduct for Expert Witnesses and I agree to comply with it.

2.0 Summary of Evidence

2.1 This evidence is presented as supplementary evidence, to address issues arising out of the supplementary Horizons Regional Council Officer Reports and revised Biodiversity Provisions (Chapter 7, parts of Chapter 12, and Version Four of Schedule E), released by Horizons Regional Council in early November 2008.

2.2 NZDF's concerns with the Biodiversity Provisions of the One Plan relate to ensuring that its particular, essential and nationally important activities are appropriately provided for by the One Plan. A large area of the Waiouru Military Training Area appears to fall into the classification of rare, threatened or at-risk habitat, as defined by Schedule E of the One Plan (I understand from Ms Maseyk that the reference to "grassland" in Table E.2 of Schedule E is incorrect and should be a reference to "tussockland"). NZDF's day-to-day activities, as well as specific projects, which it has undertaken in this area for an extended period of time, therefore have the potential to be restricted by the One Plan Biodiversity Provisions. The revised Biodiversity Provisions go some way to addressing these concerns. However, some of NZDF's concerns, which were addressed in the evidence I submitted on this topic in July this year, remain outstanding.

2.3 This evidence provides general support for the re-wording of the Biodiversity Provisions of the One Plan, particularly Objective 7-1.

2.4 This evidence also addresses NZDF's two main outstanding issues with the Biodiversity Provisions of the One Plan. These relate to:

- The need for the preference given to activities related to infrastructure by the Biodiversity Provisions to also be applied to NZDF facilities
- The need for a controlled activity rule to cover NZDF activities not otherwise provided for by the recommended permitted activity rule (Rule 12-1).

2.5 Please note that the evidence I provided to the Hearing Panel on this topic in July this year addresses the two issues identified above. This supplementary evidence refers to that evidence in order to minimise repetition of the arguments I made in the earlier evidence.

3.0 Support for re-worded Biodiversity Provisions

Objective 7-1 Indigenous biological diversity:

3.1 I support the re-wording of Objective 7-1 presented in the "pink version" of the revised Biodiversity Provisions of the One Plan. The re-wording is simple and straight forward and provides a clear framework for the following policies in Chapter 7 and the policies and rules in Chapter 12. It provides strong direction, which will greatly assist in the application and interpretation of the One Plan in the future. For these reasons, I recommend that the Hearing Panel adopt the re-worded Objective 7-1.

Policy 7-1A (b)(i):

3.2 The re-worded Policy 7-1A(b)(i) requires that the Regional Council "*allow activities for the purpose of pest control and habitat maintenance or enhancement*". The inclusion of the word "maintenance" was requested by NZDF. This request and the reasons for it are discussed in Section 4.0 of my earlier evidence on this topic. I therefore support Policy 7-1A(b)(i) and recommend that the Hearing Panel adopt this part of the policy as it is written in the "pink version" of the Biodiversity Provisions.

Rule structure:

3.3 Rule 12-1 lists specific permitted activities. Rules 12-7, 12-8 and 12-9 then specify that activities permitted under Rule 12-1 are not subject to Rules 12-7, 12-8 and 12-9. The rule structure therefore clearly identifies permitted activities. I support this approach as it avoids ambiguity and provides certainty to users of the One Plan. I recommend that the Hearings Panel adopts the Rule structure as set out in the “pink version” of the re-worded Biodiversity Provisions, particularly the ‘exclusion’ references in Rules 12-7, 12-8 and 12-9 to activities permitted by Rule 12-1.

4.0 Provision for infrastructure

4.1 The re-worded Biodiversity Provisions make specific reference to infrastructure, and encourage the granting of consent applications for activities that are for the purpose of providing infrastructure of regional or national importance. I refer particularly to re-worded Policy 7-1A(b)(ii) and Policy 12-6(b), which I have quoted below:

“Policy 7-1A Regulation of activities affecting indigenous biological diversity

(a) ...

(b) When regulating the activities described in subsection (a), the Regional Council shall:

(i) ...

(ii) Recognise and provide for the establishment of infrastructure of regional or national importance as identified in Policy 3-1; and ...”

“Policy 12-6 Consent decision-making for activities in Rare and Threatened Habitats

(a) ...

(b) The activities regulated by Rule 12-8 may be allowed where the activity is for the purpose of providing infrastructure of regional or national importance as identified in Policy 3-1 and ...”

4.2 As I discussed in my earlier evidence on this issue, I generally support such preferential treatment for infrastructure of regional or national importance. I also explained in my earlier evidence on this topic, and in my evidence submitted to the Hearing Panel for the Infrastructure Energy & Waste Hearing, why I think all NZDF facilities should be afforded the same preferential treatment as other infrastructure. I consider that the re-worded Policy 7-1A(b)(ii) and Policy 12-6(b) still do not adequately provide for NZDF activities.

4.3 The re-worded Land Provisions, on which I have recently submitted supplementary evidence, provide a similar preference for activities related to infrastructure. However, the re-worded Land Provisions make this preference in a slightly different way to the re-worded Biodiversity Provisions. The corresponding Land Provision to Policy 12-6(b) is Policy 12-2 and is as follows:

“Policy 12-2 Consent decision-making for vegetation clearance and land disturbance

When making decisions on resource consent applications ... the Regional Council shall:

- (a) ...*
- (b) Generally allow vegetation clearance or land disturbance caused by an activity that is important or essential to the well-being of local communities, the Region or a wider area of New Zealand, including, but not limited to, natural hazard management and the provision of infrastructure.”*

4.4 I consider that the Land and Biodiversity Provisions should be aligned and be consistent with each other where possible. In this case, I recommend that the infrastructure-related Biodiversity Provisions are reworded to align with the infrastructure-related Land Provisions. I support the use of Policy 12-2(b) as a ‘template’ as it would provide for activities that cannot fit the definition of infrastructure, but which do have the same characteristics as infrastructure that

is regionally and nationally important and are therefore are also worthy of protection by the One Plan. (More detail of my reasoning is provided in my earlier evidence on this topic, and my evidence submitted to the Hearing Panel for the Infrastructure Energy & Waste Hearing.)

4.5 I recommend that Policy 7-1A(b)(ii) and Policy 12-6(b) are amended as follows:

“Policy 7-1A Regulation of activities affecting indigenous biological diversity

(a) ...

(b) When regulating the activities described in subsection (a), the Regional Council shall:

(i) ...

(ii) Recognise and provide for activities that are important or essential to the well-being of local communities, the Region or a wider area of New Zealand, including, but not limited to, the provision of infrastructure ~~the establishment of infrastructure of regional or national importance as identified in Policy 3-1~~; and ...”

“Policy 12-6 Consent decision-making for activities in Rare and Threatened Habitats

(a) ...

(b) The activities regulated by Rule 12-8 may be allowed where the activity is for the purpose of providing activities that are important or essential to the well-being of local communities, the Region or a wider area of New Zealand, including, but not limited to, the provision of infrastructure ~~of regional or national importance as identified in Policy 3-1 and ...”~~

5.0 Military training using live ammunition

5.1 Re-worded Rule 12-1 lists the following activity as a permitted activity:

“(xiii) Military training using live ammunition under the Defence Act 1990”

- 5.2 NZDF's day-to-day training activities are therefore permitted activities under reworded Rule 12-1. My supplementary evidence to the Hearing Panel for the Land Hearing expresses support for this provision of Rule 12-1. My earlier evidence to the hearing panel for the Biodiversity Hearing sets out my reasoning for providing such a permitted activity rule for live firing activities.
- 5.3 My earlier evidence on this topic also recommends a controlled activity rule for activities that might have a significant effect on habitat (for example a new shooting range where the intensity of the discharge would be greater than typical training activities and focused on a specific area over an extended period of time). This controlled rule is offered in order to narrow the permitted rule to activities that do not have a significant effect on the environment, and to ensure that activities that do have the potential to cause a more significant adverse effect are subject to some control under the One Plan.
- 5.4 The reasoning for recommending a controlled rule is set out in section 8.0 of my earlier evidence on this topic. In summary, if not permitted, such an activity would be discretionary or non-complying and as such, consent could be declined. This would be inappropriate to NZDF's role in national and international security. A controlled activity, however, would provide HRC with the ability to impose conditions to minimise effects to habitat, while providing certainty to NZDF that essential military training can be undertaken.
- 5.5 The Officer states, in the table on page 8 of her "Introductory Statement and Supplementary Recommendations" that such a rule is not necessary for the following reason:
- "The establishment of new firing ranges is likely to be an infrequent occurrence with contained adverse effects on defence force land"*
- 5.6 This reasoning appears to be counter to the discretionary or non-complying activity status that an application for a new firing range would have. The reasoning appears to support a controlled rule for such activities.

5.7 I maintain the recommendation in paragraph 8.8 of my earlier evidence, to include a controlled activity rule within the Rules table in Chapter 12. I have included below a recommended rule, altered slightly from my earlier recommendation to fit more appropriately within the re-worded rules of Chapter 12:

Rule	Activity	Classification	Conditions Standards Terms	Control/Discretion/Non-notification
12 - ? Military activities within at-risk and/or rare and threatened habitats	Any vegetation clearance or land disturbance within an at-risk and/or rare and threatened habitat associated with establishing a built shooting range for Defence purposes, including any ancillary: <ul style="list-style-type: none"> • discharge contaminants into water, or into or onto land pursuant to s15 RMA • diversion of water pursuant to s14 RMA 	Controlled		Control is reserved over: <ul style="list-style-type: none"> (a) measures to mitigate effects to habitat from the activity (b) compliance with any management plans or best practice guidelines for the activity

6.0 Minor Corrections

6.1 It appears that re-worded Policies 12-4 and 12-6 include incorrect rule references, as follows:

6.2 Policy 12-4 refers to Rule 12-7, when it appears that it should also refer to Rule 12-8 (the discretionary rule for activities within at-risk habitats). The wording of Policy 12-4, which is phrased in a permissive manner (such as “consents shall generally be granted ...”), appears to be most suited for decision making related to discretionary activities.

6.3 Policy 12-6 refers to Rule 12-8, when it appears that it should refer to Rule 12-9 (the non-complying rule for activities within rare and threatened habitats). The wording of Policy 12-6, which is phrased in a restrictive manner (such as “not

granting consent ... unless ...”), appears most suited for decision making related to non-complying activities.

6.4 I recommend that these references are corrected in the final version of the One Plan.

7.0 Conclusion

7.1 NZDF’s main concerns with the Biodiversity Provisions of the One Plan relate to ensuring that sufficient provision is made for NZDF’s ongoing nationally important activities within rare and threatened and at-risk habitats.

7.2 In my opinion, the re-worded Biodiversity Provisions, particularly Objective 7-1 and Rule 12-1, are clear and concise and should be adopted by the Hearing Panel.

7.3 I recommend further amendments to Policy 7-1A(b)(ii) and Policy 12-6(b), in order to afford protection to nationally and regionally important activities, such as NZDF activities. I also recommend further amendments to the rules in Chapter 12, to provide a controlled rule for NZDF activities that are not permitted by Rule 12-1.

Emily Grace, 25 November 2008

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