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
LAND SUBMISSIONS ON THE PROPOSED ONE PLAN

Dated: 20 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 prepare resource consent applications for 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 and presented expert evidence on behalf of NZDF to the Hearing Panel at the Land 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 Land Provisions (Chapter 5 and parts of Chapter 12), released by Horizons Regional Council in early November 2008.

2.2 NZDF's concerns with the Land Provisions of the One Plan relate to ensuring that its particular, essential and nationally important activities are appropriately provided for by the One Plan. The revised Land Provisions go some way to addressing these concerns. However, some of NZDF's concerns remain outstanding.

2.3 This evidence supports aspects of the revised Land Provisions that satisfy aspects of NZDF's concerns. In particular, this evidence supports:

- The exclusion of NZDF land from Hill Country Erosion Management Area
- Policy 5-1(c): management plans for land outside of Hill Country Erosion Management Areas
- Policy 5-2(c)(iv) and (v), and Policy 12-2(b): support for activities related to structures and infrastructure
- Policy 5-2 (viii): support for activities that result in an environmental benefit

- Policy 5-3 and Policy 12-2(c): support for codes of practice, standards and guidelines
- Rule 12-1: specified permitted vegetation clearance and land disturbance activities

2.4 This evidence recommends changes to some of the Land Provisions, to improve the clarity, effectiveness and operation of the Land Provisions. In particular, this evidence recommends changes to:

- Section 5.1.3: to add an explanation for why NZDF land is excluded from the Hill Country Erosion Management Area
- Policy 5-1: to remedy the existing disconnection between the opening sentence of the policy and subsection (c)
- Policy 5-2(c)(iv): so that this subsection provides more support for, and a link to, the words of Policy 12-2(b)
- Policy 5-2(c)(viii): to include the word "maintenance" of indigenous plant species and therefore provide support for, and a link to, condition (vii) of Rule 12-1
- Rule 12-1: to add the word "permitted" to the classification column
- Condition (d) of Rule 12-3: to change the "per property" qualification
- Rule 12-5: to add reference to Rules 12-1 and 12-2 into the final part of the activity definition

3.0 Excluding NZDF land from the Hill Country Erosion Management Area

3.1 The map on page 5-3 of Chapter 5 of the One Plan identifies NZDF land contained within the Waiouru Military Training Area and does not include it as land at risk of accelerated erosion. In a similar way, the maps in Schedule A do not identify land contained within the Waiouru Military Training Areas as being within the Erosion Management Area.

3.2 This exclusion only has an effect on the application of Rule 12-3 (the permitted "catch-all" rule). The exclusion means that the restriction on vegetation clearance and land disturbance within the Hill Country Erosion Management

Area provided by condition (b) of Rule 12-3 does not apply to NZDF land. That is, NZDF would be able to remove woody vegetation greater than 7 years old and undertake greater than $100m^3/y$ per property or $100m^2/y$ per property of land disturbance on a slope greater than 25 degrees, provided the other conditions of Rule 12-3 are complied with (not within Rare, Threatened or At-Risk Habitat, a coastal foredune or 5m of a waterbody; and an Erosion and Sediment Control Plan followed). The exclusion of NZDF land from the Hill Country Erosion Management Area therefore means that most vegetation clearance and land disturbance activities carried out by NZDF, which are located outside of Rare, Threatened or At Risk Habitats, are likely to be permitted activities, subject to conditions.

3.3 The reason for this exclusion is given on page 7 of the supplementary Section 42A Report prepared by Allan Kirk on behalf of Horizons Regional Council. The reason given is that NZDF's current management plan (Sustainable Land Management Strategy) "is sufficient and land management officers would, if concerns arose, request them to comply with their own plan regulations".

3.4 I note that the Sustainable Land Management Strategy is used to guide use of NZDF land. It is not a binding document in the same was as a Regional Rule is. The document is subject to review and updating. However, NZDF do currently adhere to the document and intend to continue to do so into the future.

3.5 I consider that excluding NZDF land from the Hill Country Erosion Management Area is an effective way for the One Plan to provide for NZDF's nationally important activities. I consider that it is appropriate to exclude NZDF land in this way for the following reasons:

- The nature of the activities undertaken on the land means that the land is unlikely to be subject to large-scale vegetation clearance and land disturbance, and is therefore unlikely to be subject to accelerated erosion
- NZDF's nationally important functions should be provided for by the One Plan
- NZDF uses a management plan to guide its use of the land

3.6 I consider that it is the combination of these factors, rather than just the third bullet point as noted by the Officer, that warrant an exclusion of NZDF land from the Hill Country Erosion Management Area.

3.7 I also consider that because the exclusion has a reasonably significant effect, in that it results in most vegetation clearance and land disturbance activities undertaken by NZDF, outside of Rare, Threatened and At-Risk Habitats, being capable of a permitted activity status, the reasons for the exclusion should be incorporated into the text of One Plan. This would avoid the situation of other landowners making argument that their land should also be excluded from Erosion Management Areas.

3.8 I recommend that the explanation for the exclusion of the Waiouru Military Training Area from the Hill Country Erosion Management Area is incorporated into Section 5.1.3 of the One Plan (Land and Soil Management). This section discusses the One Plan's focus on reducing accelerated erosion and sets out the basic rationale for the rules. This therefore appears to be an appropriate place to set out the reasons why the One Plan does not address accelerated erosion within NZDF land at the Waiouru Military Training Area. I recommend that the following paragraph is added to the end of this section:

> *"The Regional Council has not limited the volume or area of vegetation clearance and land disturbance activities that can be undertaken within the New Zealand Defence Force Waiouru Military Training Area. This is because the ownership and use of this area means that it is unlikely to be subject to large scale vegetation clearance or land disturbance and is therefore not at high risk of accelerated erosion. In addition, the Regional Council acknowledges NZDF's current use of a Sustainable Land Management Strategy to guide use of the area, and as the activities undertaken are nationally important, additional control by the One Plan is not considered necessary".*

3.9 Other locations for including an explanation would be within Schedule A, or

within the definition of Hill Country Erosion Management Area in the glossary. However, these locations do not appear as appropriate to me as Section 5.1.3. There is no introductory text to Schedule A in which to add an explanation. The glossary does not generally include explanations following definitions.

4.0 "Per-property per year"

4.1 I have previously presented evidence to the Hearing Panel, explaining why I consider that the use of a "per property" qualification for vegetation clearance and land disturbance activities is not an appropriate way to control the effects of these activities. In summary, this is because "per-property" qualifications are not effects-based and are therefore not reasonable or equitable. My previous evidence recommended a "per hectare" qualification as being effects-based and therefore more appropriate.

4.2 The revised rules in Chapter 12 maintain the "per property" qualification. This impacts on NZDF activities through condition (d) of Rule 12-3, which requires an Erosion and Sediment Control Plan to be implemented for land disturbance involving a volume greater than $1000m^3/y$ per property, or an area greater than $2500m^2/y$ per property. This evidence therefore focuses on condition (d) of Rule 12-3.

4.3 I agree with the Council Officers that a "per activity" qualification is problematic and has the potential to be easily manipulated. However, I disagree with the opinion of the Officers that a property, which is an entirely irregular and random quantity, is an appropriate qualification. (I am referring to the supplementary planning statement of Phillip Percy for the Land Hearing, paragraphs 46 to 50.)

4.4 I do not dispute the need for a Sediment and Erosion Control Plan to be followed when larger quantities of earthworks are being undertaken (condition (d) of Rule 12-3). However, for the trigger to be "per year per property" does not achieve any consistent or regular control of effects. It makes no reference to the ability of the surrounding area to absorb effects. I have listed below two

examples that illustrate this point:

- If NZDF undertook 600m^3 of earthworks in February in one corner of its 60,000ha property at Waiouru, the earthworks would not need to be undertaken in accordance with an Erosion and Sediment Control Plan. If NZDF then undertook another 600m^3 of earthworks in October in the opposite corner of the 60,000ha property, these earthworks would be required to be undertaken in accordance with an Erosion and Sediment Control Plan. In this example (all other things being equal), the effects of the first 600m^3 of earthworks are similar to the effects of the second 600m^3 of earthworks, but the effects are not physically connected as they are separated by a large distance. However, controls are required for the second activity but not the first.

- A 1ha lot owner could undertake 900m^3 of earthworks without the need for an Erosion and Sediment Control Plan, and the owner of the neighbouring 1ha lot could also undertake 900m^3 of earthworks at the same time without the need for an Erosion and Sediment Control Plan. In this example, sediment runs off from both properties into the same stream. In comparison, a farmer with a 100ha property could undertake 900m^3 of earthworks in one location within the farm, and 900m^3 of earthworks within a different location. In this example, sediment runs off into two separate streams. I would say that the first example creates water quality effects that would be more significant than the second example, yet it is the second example that would (under the current recommendation) be required to provide an Erosion and Sediment Control Plan, and not the first.

4.5 As I have explained in my previous evidence, a "per hectare" qualification is an effects-based qualification and is therefore more appropriate than a "per property" qualification.

4.6 In paragraph 49 of Mr Percy's supplementary evidence, he states that a per

hectare basis becomes problematic where the shape of the hectare is variable, particularly if it allows long tracks to be constructed. It is possible to limit the shape of the hectare by including a width limit. If this width limit were 100m for a 1ha area (as compared to the 10m recommended in my earlier evidence), there would be no variance in the shape, as a square would result.

4.7 I note also that condition (d) allows for tracking without limit as to length. The limit is that sediment and erosion control is required for longer tracks.

4.8 It is possible that consecutive 1ha "boxes" could be lined up next to each other to allow longer areas to be subject to earthworks. However a separate requirement within the conditions of Rule 12-3 could require erosion and sediment control for tracks over a certain length, for example 1km (the current condition (d) would allow a 1250m long track that was 2m wide that required 0.5m depth of cutting or filing before requiring sediment control).

4.9 Another method for minimising manipulation of a "per hectare" qualification is to increase the size of the area, for example to "per 10 hectares". Paragraph 49 of Mr Percy's supplementary evidence refers to a "per 200 hectares" threshold. Mr Percy acknowledges that this would be less easily manipulated, and would be beneficial for large landholdings.

4.10 I consider that the size of the qualification should reflect the ability of the land to accommodate the potential effects. One would assume that the 2500m^2/y per property qualification in condition (d) was chosen based on an average size of a property and the ability for effects to be accommodated within that area. That average property size may be a practical number to use for the size qualification.

4.11 I recommend that condition (d) of Rule 12-3 is amended as follows:

"(d) Any land disturbance involving a volume greater than 1000m^3/year ~~per property~~ <u>within one 10,000m^2 area (calculated using a minimum width of 100m)</u> or an area greater than 2500m^2/y ~~per property~~ <u>within one 10,000m^2 area (calculated using a minimum width of 100m)</u> shall be undertaken in accordance

with an Erosion and Sediment Control Plan, no matter where in the Region the activity takes place. This condition does not apply to cultivation."

4.12 I also recommend that an additional condition is added to Rule 12-3, as follows:

"The construction of new tracks exceeding 1km in length per year shall be undertaken in accordance with an Erosion and Sediment Control Plan, no matter where in the Region the activity takes place."

5.0 Amendments to improve clarity, effectiveness and operation

5.1 I recommend that a number of relatively minor changes are made to the Land Provisions, in order to improve the clarity, effectiveness and operation of these provisions.

Policy 5-1

5.2 The introductory sentence of Policy 5-1, and subsection (c) are as follows:

"The Regional Council shall encourage and support the adoption of sustainable land management practices in order to meet subsection (a) of Objective 5-1 by:

(a) …

(b) …

(c) Responding to requests from owners or occupiers of land that is not within the Hill Country Erosion Management Area to prepare a management plan, provided this does not impede the achievement of subsection (a).

5.3 Subsection (a) of Objective 5-1 is related to sustainable management of farms. However, it appears that subsection (c) of the policy is related to management of land that is not solely farm land.

5.4 I support the concept of encouraging the sustainable management of non-farm land. This is a concept that is included throughout Chapter 5 and Chapter 12. I therefore consider that it is important to ensure that clarity is provided to Policy

5-1(c), so that it is not interpreted to apply only to farm land outside of Hill Country Erosion Management Area.

5.5 I recommend that this clarity is achieved by moving subsection (c) into Policy 5-2, which appears to have a more direct link to sustainable management of non-farm land.

Policy 5-2(c)(iv)

5.6 Policy 12-2(b) is as follows:

"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."

5.7 I support this policy, particularly the reference to "activities that are important or essential to the well-being of local communities, the Region or a wider area of New Zealand." There are a number of activities that would fit this definition, including NZDF activities, but which the One Plan does not define as infrastructure.

5.8 Policy 5-2(c)(iv) is as follows:

"Recognise and provide for the establishment of infrastructure"

5.9 This policy is more specific than Policy 12-2(b). I consider that to provide more support for, and a link to, Policy 12-2(b), Policy 5-2(c)(iv) should also refer to "activities that are important or essential to the well-being of local communities, the Region or a wider area of New Zealand", rather than just referring to infrastructure. This would provide greater consistency between the One Plan provisions. I recommend amending Policy 5-2(c)(iv) as follows:

"Recognise and provide for the establishment of activities that are important or essential to the well-being of local communities, the Region or a wider area of

New Zealand, including infrastructure."

Policy 5-2(c)(viii)

5.10 Condition (vii) of Rule 12-1 permits activities undertaken for the purpose of protecting or enhancing areas of indigenous vegetation or habitat.

5.11 NZDF undertakes habitat maintenance within the Waiouru Military Training Area. Condition (vii) of Rule 12-1 therefore makes this activity permitted.

5.12 Some support for this Rule is provided by Policy 5-2(c)(viii), which is as follows:

"Allow other activities that result in an environmental benefit including improved land stability, enhanced water quality and the establishment of indigenous plant species"

5.13 If the word "maintenance" were inserted into this policy, the policy would provide more direct support for the permitted rule. I recommend that Policy 5-2(c)(viii) be amended so that it reads as follows:

"Allow other activities that result in an environmental benefit including improved land stability, enhanced water quality and the establishment and maintenance of indigenous plant species"

Rule 12-1 activity classification

5.14 The activity classification has mistakenly been left out of the "classification" column of Rule 12-1. I recommend that this is remedied by adding the word *"permitted"* into the column (which is the activity status intended for this rule).

Rule 12-5

5.15 Rule 12-5 is the "catch-all" restricted discretionary activity rule for vegetation and land disturbance that does not meet any of the other rules. The definition of the activity in the "activity" column of the rules table is written as follows:

"Any vegetation clearance or land disturbance pursuant to s9 RMA and any ancillary …

…

that does not comply with Rule 12-3 or 12-4."

5.16 For the sake of certainty and clarity, I recommend that Rules 12-1 and 12-2 are also added to the "does not comply with" list. Rules 12-1 and 12-2 set out specified permitted activities. It could therefore be argued that inclusion of reference to these rules is not necessary in the "catch-all" rule. However, I believe including them in this "does not comply with" list will improve clarity and interpretations of the rules.

6.0 Other areas of support

Codes of practice and other standards

6.1 Policy 5-3 and Policy 12-2(c) now provide support for "codes of practice, standards, guidelines and other sector-based initiatives targeted at achieving sustainable land use".

6.2 I support the widening of these provisions to encompass more than just codes of practice. Codes of practice are generally industry-wide documents that are put together by, and apply to, a number of different parties. In the case of NZDF, being a unique organisation, it is unlikely to have codes of practice as such. However, NZDF dose have other sustainable management documents, and it is encouraging to see the One Plan reference these documents.

Rule 12-1

6.3 I support the use of a rule that specifies minor, essential and beneficial activities as being permitted activities. This is a very "user friendly" way to set out the rule and is preferable to the "exception" permitted activity method used previously.

6.4 In particular to NZDF, condition (v) maintenance and upgrade of structures,

condition (vii) activities undertaken for the purpose of protecting or enhancing areas of indigenous vegetation or habitat, and condition (xiii) military training using live ammunition under the Defence Act 1990, are supported. These conditions will provide for NZDF's day-to-day activities, which do not cause significant environmental effects.

7.0 Conclusion

7.1 The revised Land Provisions within Chapter 5 and Chapter 12 go some way towards resolving NZDF's original concerns. The revised policy and rule framework appears to be more straightforward and "user friendly" than as originally notified. Minor amendments are recommended to improve the clarity, effectiveness and operation of these provisions.

7.2 Support is expressed for removing NZDF land from the Hill Country Erosion Management Area. However, an explanation for this exclusion should be included for clarity.

7.3 The continued use of "per property" qualifications within the rules is disappointing. I consider that this type of qualification is not an effects-based approach and is therefore unreasonable. The use of "per hectare" qualifications are effects-based and will achieve the environmental outcomes desired by the Regional Council.

Emily Grace, 20 November 2008

P:\84404\IssuedDocuments\Hearings\supplementary land evidence.doc