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Via email: district.plan@huttcity.govt.nz

Attention: Hearings Panel

Proposed Lower Hutt District Plan (Hearing Stream 7 – Other topics)

1. The New Zealand Defence Force (NZDF) (submitter 404, FS27) has reviewed the Section 42A Reports for Hearing Stream 7 and determined that it will not attend this hearing, but requests that this letter be tabled with the Hearings Panel.
2. As outlined in NZDF's submission, a key matter of importance to NZDF is the appropriate provision for temporary military training activities (TMTA) within the District Plan. NZDF engages in statutory processes seeking appropriate and consistent rules for TMTA in all District Plans throughout the country to enable it to meet its statutory purposes and Government expectations.
3. While most provisions relevant to TMTA are contained in the Temporary Activities / TEMP chapter, the district-wide provisions also apply and the relevant noise standards are contained in the Noise chapter. Therefore, NZDF's submission covers a range of topics in this hearing stream.

Temporary Activities

4. NZDF undertakes TMTA in order to meet statutory defence purposes under section 5 of the Defence Act 1990. Those purposes include the defence of New Zealand, the protection of the interests of New Zealand, the provision of assistance to the civil power in times of emergency and the provision of any public service.
5. TMTA include a wide range of activities, including, physical training, dog training, small construction tasks, camp setup including field kitchens and ablutions, search and rescue, Civil Defence support, driver training, and infrastructure support. Many TMTA are relatively small-scale and "routine" in nature, have no discernible effects and are not dissimilar to training activities undertaken by other organisations such as Police, Civil Defence, Red Cross and Search and Rescue (for example). NZDF also undertakes activities that are more recognisable as military exercises, including the use and firing of weapons (both live and blank ammunition) and the detonation of explosives. TMTA may be undertaken on a continuous or intermittent basis, over a period of hours, days, or weeks, during both day and night.

6. Because TMTA must prepare NZDF personnel to operate in different unfamiliar real-world situations, training needs to occur in a wide variety of environments and zones. NZDF has been undertaking a nationwide programme to update district plan standards relating to TMTA, to ensure that where training activities are subject to controls, those controls are consistent, and compliance is simply achieved and assessed. National consistency is particularly important because some exercises are mobile and cross district boundaries. If the applicable standards change as an exercise moves between districts, planning and delivering the training becomes unnecessarily complex. Nationally consistent controls make compliance easier to determine and assess.
7. Through NZDF submitting on district plan reviews and engaging with the Ministry for the Environment (MFE) and now the Ministry for Cities, Environment, Regions and Transport (MCERT), a more nationally consistent approach to TMTA is emerging. The National Planning Standards 2019 introduced a standard definition for “temporary military training activities” which is being progressively introduced as district plans are reviewed. NZDF expects a more consistent nationwide approach to district plan provisions is likely under the new Planning Act.
8. NZDF supports the district-wide approach to temporary activities in the Lower Hutt District Plan. However, the policy and rules framework in the Plan as notified does not contain dedicated TMTA provisions. In the absence of dedicated TMTA provisions, such activities must be assessed against the general temporary activities framework within the Plan.

Temporary Activity policies

9. Policies TEMP-P1, TEMP-P2 and TEMP-P3 recognise the benefits of temporary activities and the limited duration of their effects. NZDF supports the application of these general policies to temporary military training activities (TMTA).
10. NZDF also seeks a specific policy for TMTA, that recognises the different nature of TMTA compared to other temporary activities.
11. The section 42A Report does not recommend the insertion of a new policy on the basis it would not add anything to the management of temporary activities, as the issue of amenity values is already covered in a similar way in TEMP-P6. To clarify, NZDF is not seeking to duplicate TEMP-P6. Rather, NZDF is seeking a specific policy for TMTA that would apply in place of the other policies, which are focused on large public events and activities in public places and are not relevant to the particular characteristics of TMTA. Policies TEMP-P1, P2 and P3 however, are of general application and could continue to apply to TMTA alongside the specific policy sought by NZDF.
12. NZDF does not consider that a wide range of standards need to apply to TMTA, given the nature of the activities and expected effects. Therefore, the focus of the policy is on matters particularly relevant to managing TMTA, namely effects on amenity values and site remediation following the activity.

13. NZDF therefore seeks the following new policy for TMTA:

TEMP-PX: Provide for temporary military training activities where adverse effects on amenity values are remedied or mitigated.

Temporary Activity rules

14. With respect to the rules, the proposed application of general Rule TEMP-R1 to TMTA means that permitted activity standards TEMP-S1 to TEMP-S5 apply to TMTA. These permitted activity standards differ depending on the zoning of a site. While this provides a permitted activity pathway, the approach adds unnecessary complexity for NZDF.
15. For this reason, NZDF has requested in its submission a specific permitted activity rule for TMTA. The section 42A Report identifies the effect of NZDF's requested amendment on the application of the standards, noting that the circumstances where TMTA would not meet the standards is extremely rare (at para 359). NZDF does not agree with this assessment, particularly in relation to duration (TEMP-S1) and hours of operation (TEMP-S3).
16. NZDF seeks provision for TMTA to occur for up to 31 consecutive days in any calendar year, excluding set-up and pack-down. In contrast, TEMP-S1 limits an individual temporary activity to six consecutive days, albeit allowing temporary activities for up to 30 days in total within a calendar year. The practical effect is materially different from the relief sought by NZDF, which is intended to enable a single TMTA to extend beyond six consecutive days where operational requirements necessitate this.
17. Similarly, NZDF seeks no separate restriction on the hours during which TMTA may operate, provided the applicable daytime and night-time noise limits are met. The relevant effects would therefore continue to be managed through the Noise chapter rather than through restrictions on operating hours.
18. More fundamentally, NZDF is concerned with the complexity of compliance. As described above, TMTA are different from most temporary activities in that they often need to occur across zones and districts and can vary greatly in nature and duration. Consistency across districts and across zones within a district is therefore important to NZDF. While introducing a specific rule for TMTA adds another rule to the Plan, a straightforward option is set out below which would make compliance less complex for NZDF (and therefore Council) and would not increase complexity for other temporary activities.
19. NZDF has considered the comments made by the reporting planner in paragraphs 358 – 361 and proposes a revised version of the TMTA rule:

TEMP-R3	Temporary Military Training Activities
All Zones	1. Activity status: Permitted

	<i>Where</i> a. <i>The activity is carried out for no longer than 31 days on the site in any one calendar year, excluding set up and take down which can occur one week immediately prior to and one week immediately following the activity; and</i> b. <i>The activity complies with TEMP-S5.</i>
All Zones	<i>2. Activity status: Controlled</i> <i>Where</i> a. <i>Compliance is not achieved with TEMP-R3 (a) and (b)</i> <i>Matters of control are limited to:</i> 1. <i>The effect of the activity on amenity values of surrounding properties</i> 2. <i>The extent and effect of non-compliance with Rule TEMP-R3 (a) and (b)</i> 3. <i>Whether information about the activity has been or is proposed to be provided to surrounding properties.</i> <i>Note. Refer to the Noise chapter for relevant noise standards</i>

20. The proposed rule above addresses the reporting planner's concerns and seeks minor additional amendments as follows:

- a) The reference to the Defence Act 1990 is already captured in the proposed definition of "temporary military training activities" and does not need to be duplicated. This has therefore been deleted.
- b) NZDF continues to seek provision for TMTA for up to 31 days on a site in any calendar year. This reflects operational requirements associated with planning and conducting military training and, importantly, provides a consistent duration standard for NZDF activities across different zones and districts. A 31-day limit for TMTA is not unusual in district plan provisions, including the Porirua District Plan 2025 and Proposed Wairarapa Combined District Plan¹.
- c) NZDF acknowledges that there is an existing standard TEMP-S5 relating to site reinstatement and considers this could apply to TMTA, rather than the reinstatement standard proposed in its submission.
- d) NZDF intends that the applicable matters of control include non-compliance with the relevant standards applying to TMTA, being the standards proposed in Rule TEMP-R3.

¹ Rule TEMP-R6 under both District Plans.

- e) NZDF seeks a controlled activity status if permitted activity standards and conditions cannot be met, rather than restricted discretionary. Controlled activity status provides requisite certainty for NZDF to undertake TMTA if permitted activity standards and conditions cannot be met, while allowing relevant effects to be assessed and appropriately managed through conditions.

Noise

- 21. The NOISE Chapter includes NOISE-R3 which applies to noise generated from TMTA. NZDF supports the recommendations made by the Reporting Officer in the Section 42A Report regarding most of its submission and further submission points on the Noise Chapter. In relation to specific submission points, NZDF notes the following:

Activity status of Rule NOISE-R3

- 22. NZDF supports the Reporting Officer's recommendation to adopt its requested noise standards for permitted activities as appendix NOISE-APPxxx, which aligns with NZDF's nationally consistent approach.
- 23. NZDF sought controlled activity status as the default status if permitted activity standards and conditions cannot be met. The section 42A Report considers restricted discretionary activity status more appropriate because it allows the Council to decline a resource consent application for TMTA that fails to meet the relevant standards. The Reporting Officer notes that this would be consistent with NOISE-P2, which requires the best practicable option to be adopted, unreasonable adverse effects to be avoided, and noise not to compromise people's health.
- 24. NZDF maintains that controlled activity status is appropriate because it provides certainty for the undertaking of TMTA while allowing the relevant effects to be assessed and appropriately managed through conditions.

NOISE-P1

- 25. NZDF requested **NOISE-P1** be amended to provide for noise effects caused by temporary activities (submission point 404.2).
- 26. The Reporting Officer has not recommended any change, on the basis that noise from temporary activities is already addressed in NOISE-P2.
- 27. NZDF acknowledges that NOISE-P2 is supportive of short-term noise generating activities. However, there is nothing in the wording of the policies that suggests that NOISE-P1 does not apply in addition to NOISE-P2. This creates potential uncertainty as to how the two policies are intended to operate together.

28. Both policies address effects on people's health. However, NOISE-P1 also requires noise to be compatible with people's wellbeing and the planned purposes, character and amenity values of the relevant receiving zones and precincts. This creates a potential tension for temporary activities that are anticipated and provided for by NOISE-P2 but which may, for their limited duration, generate noise that is not characteristic of the usual amenity of the receiving environment.
29. The temporary nature of those effects is important. A short-term activity may result in a temporary change to the acoustic environment without undermining the longer-term character or amenity values anticipated for the receiving environment. NZDF therefore considers that the policy framework should make clear that an activity expressly provided for under NOISE-P2 is not also required to satisfy the separate character and amenity test in NOISE-P1(2).
30. The amendment sought by NZDF would clarify the relationship between the two policies while retaining the specific effects-management direction contained in NOISE-P2.
31. NZDF therefore continues to seek the following amendment:

NOISE-P1 Appropriate noise generating activities

Enable the generation of noise from any activity where that noise:

1. Does not compromise people's health, and
2. Is compatible with people's wellbeing and the planned purposes, characters, and amenity values of the relevant receiving zones and precincts; *or*
3. Is provided for in NOISE-P2

Activities on the surface of water

32. Rule ASW-R2 permits motorised activities on the surface of water bodies, but only in narrowly defined circumstances, including waterbody management activities undertaken by Hutt City Council or Wellington Regional Council.
33. NZDF's submission sought an amendment to Rule ASW-R2 to expand the permitted activity to include motorised activities undertaken by a government department or local government body. NZDF's intention was to capture the Hutt City Council and Wellington Regional Council and also include activities undertaken by NZDF and other agencies such as search and rescue training, and military training involving the use of watercraft, including hydrographic survey and underwater search activities.
34. The section 42A Report notes the Reporting Officer's concern that the relief sought by NZDF in its submission is overly broad. NZDF considers that Rule ASW-R2.1 could be amended to allow for a narrower set of activities, specifically TMTA and emergency response activities and training. NZDF proposes the amended wording below:

ASW-R2: Motorised activities on the surface of water bodies.

1. Activity status: Permitted

Where:

a. On the Hutt River, the activity takes place downstream of the Ava Bridge, or

b. The activity is associated with waterbody management activities undertaken by Hutt City Council or Wellington Regional Council.

c. The activity is associated with temporary military training activities, emergency response, and emergency response training.

35. However, NZDF suggests that consideration be given to broader wording, due to the very narrow set of circumstances permitted by the rule, which would, for example, preclude the Ministry for Primary Industries undertaking waterbody management activities for biosecurity surveillance or incursion response. Tiaki Wai may also have legitimate operational reasons to undertake activities on waterbodies.

Earthworks

36. Minor earthworks may occasionally be required in association with TMTA and the provisions in the Earthworks chapter will apply. Rule EW-R2 provides for earthworks as a permitted activity, subject to compliance with the Earthworks standards. NZDF supports the recommendations on Rule EW-R2 made by the Reporting Officer in the Section 42A Report which continues to provide for earthworks activities on a district-wide basis where they are not otherwise addressed by more specific provisions within the chapter.

Closing

If the Hearings Panel considers it useful for NZDF to appear before the Panel to explain or answer any questions on the matters above, it would be happy to do so.

Yours faithfully,



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