

**Before the Hearings Panel
At Porirua City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Porirua District Plan

Between **Various**

Submitters

And **Porirua City Council**

Respondent

**Statement of supplementary planning evidence of Michael David Rachlin on
behalf of Porirua City Council**

Date: 8th February 2022

INTRODUCTION

1 My full name is Michael David Rachlin. I am employed as a Principal Policy Planner for Porirua City Council.

2 I have read the statement of evidence for

- Alex Gifford, Rebecca Davies and Darran Humpheson for the New Zealand Defence Force (“NZDF”)
- Robert Swears and Luke Braithwaite for Waka Kotahi New Zealand Transport Agency (“Waka Kotahi”)

3 I have also read the Hearing Statement for Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Limited (“Oil companies”).

4 I have read the joint witness statement (“JWS”) for Nigel Lloyd and Darran Humpheson, regarding noise arising from temporary military training activities (TMTA), dated the 28th January 2022.

5 No other submitter provided a statement of evidence or hearing statement in relation to Temporary Activities topic and Signs topic.

6 I have prepared this statement of evidence on behalf of the Porirua City Council (**Council**) in respect of technical related matters arising from the submissions and further submissions on the Proposed Porirua District Plan (**PDP**).

7 Specifically, this supplementary statement of evidence relates to the matters in Chapter TEMP-Temporary Activity and Chapter SIGN-Signs.

8 I am authorised to provide this evidence on behalf of the Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

9 Appendix C of my section 42A report sets out my qualifications and experience.

10 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2014.

SCOPE OF EVIDENCE

11 My statement of evidence addresses the following matters:

Temporary Activities

- Amendment to APP2 Noise standards for temporary military training activities

Signs

- Amendment to Standard SIGN-S6
- Correction regarding digital signs – SIGN-S12
- Use of bylaw under Land Transport Act 1998

Recommended Amendment to APP2

12 Mr Gifford in his statement of planning evidence for NZDF, notes that permitted activity standards for helicopter landing areas are included within APP2-Table 1 within the body of my s42A report for temporary activities but missing from the Appendix A (Recommended Amendments to TEMP-Temporary Activities chapter and APP) version. I confirm that this was an omission and the intention was to include the standards for helicopter landing areas.

13 I also note the outcomes of the expert conferencing between Mr Lloyd and Mr Humpheson regarding noise arising from temporary military

training activities. Based on the matters agreed by the acoustic experts, I consider it appropriate to include the following additions to APP2:

- A note confirming that NZS 6802:2008 'Acoustics – Environmental Noise' should not be used to assess noise from weapon firing or the use of explosives.
- A permitted activity setback standard of 500m for daytime weapons firing and single or multiple explosive events. This setback will be to the notional boundary of any building housing a noise sensitive activity in the rural zones and the site boundary in all other zones.
- An amended permitted activity standard that where the 500m separation distance specified above cannot be met, then the activity shall comply with the peak sound pressure level when measured at the notional boundary of any building housing a noise sensitive activity in the rural zones and the site boundary in all other zones.
- The addition of a note in relation to other stationary noise sources that noise shall be measured at the notional boundary of any building housing a noise sensitive activity in the rural zones and the site boundary in all other zones.

14 I have shown these recommended changes in blue in attachment 1 to this supplementary statement.

15 In my opinion, these agreed changes provide clarity for plan users in terms of how and where to measure the noise effects for TMTA. I also agree with Mr Gifford's evidence in paragraphs 38 and 39 of his evidence in chief, where he identifies the benefits of the use of a setback as a planning method. Larger areas of the district can achieve the 500m daytime setback and so it would be appropriate to provide for this option

for the NZDF when conducting daytime weapons firing and single or multiple explosive events.

16 I have not undertaken a s32AA further evaluation since the changes either achieve the same outcome as the version of APP2 in my s42A report or simply provide clarification in terms of where and how to measure the noise effects.

17 However, I do not agree with Mr Gifford or the JWS that the following permitted activity standard should be included in APP2:

“Notice is provided to the Council at least 5 working days prior to the commencement of the activity.”

18 Mr Gifford describes that the purpose of the notice would be to include details such as the location, timing, duration and the particular nature of the activity. He considers that prior notice will assist Council in confirming compliance with the permitted activity standards and also in responding to any enquiries that may be received from the public.

19 In my opinion, the use of such a notice as a permitted activity standard is unusual and would not mitigate or remedy an adverse effect. I consider that such a notice would be better suited to a controlled activity whereby consent conditions can be imposed to manage the activities detailed in the notice.

20 I am also concerned that it would create an expectation that the Council, at its cost, will identify and inform affected residents in the 5-day grace period of the upcoming live firing exercise. It also raises the expectation that Council will actively monitor the noise effects of the activity.

21 I do not consider that this permitted activity standard is required to mitigate the adverse noise effects of the activity over and above the setback and/or noise standards already included in APP2.

Recommended Amendment to Standard SIGN-S6.4

22 Mr Braithwaite in his statement of planning evidence (paragraph 6.12, page 7) for Waka Kotahi raises concern that the use of the term, “at right angles” means that a sign that has an angle greater or lesser than this from the road would not need to comply with this standard. Mr Swears in his statement of evidence on transport engineering (paragraph 4.4, page 5) for Waka Kotahi, also recommends that this requirement be deleted. I agree with their concerns.

23 Standard SIGN-S6.4 requires that any sign located on a site adjoining the road or road reserve and which is at right angles to the road or State Highway must be located a minimum separation distance from any existing traffic sign, railway crossing or intersection. This is to ensure that these transport features are not obscured by signage to the detriment of the safety of road users. Signs located at right angle to the road or State Highway present the bigger visual barrier, but I also consider that “off-angle” signs will represent an unacceptable visual barrier to the listed key transport features.

24 However, I note that Waka Kotahi did not directly seek this change to Standard SIGN-6.4 in their submission. I also do not believe that the submitter’s broader submission points 82.294 and 82.301 provides the necessary scope.

25 Submission 82.294 seeks:

“Amend the provisions of the Proposed District Plan as detailed in Table 1 including such further, alternative or consequential relief sought in the submission.”

26 Submission point 82.301 seeks, “Amendments to the signage requirements as they relate to the state highway network”. The reason given is:

“The changes requested are made to: a. Ensure that Waka Kotahi can carry out its statutory obligations. b. Reduce interpretation and processing complications for decision makers. c. Provide clarity for all plan users.”

27 I do not believe the amendment identified in Mr Braithwaite’s statement of planning evidence represents a further, alternative or consequential relief sought (submission point 82.294). I also consider that the suggested amendments extend beyond the state highway network (submission point 82.301). The submitter might wish to address the issue of scope at the hearing.

28 In absence of scope, I do not recommend that the qualifier, “...and is at right angles to the road or state highway” be deleted from Standard SIGN-S6.4.

Correction regarding digital signs – SIGN-S12

29 In paragraph 189 of my s42A report I discuss the changes sought by Waka Kotahi to SIGN-S12 (digital signs) and state that:

For example, I have previously used the commercial areas along Mana Esplanade as examples of low speed commercial urban environments where shopfront signs would be captured by this requirement. The amendment is likely to require shopfronts with digital displays in these locations to require resource consent.

30 I need to correct this statement, since under rule SIGN-R11, all digital signs require resource consent, regardless of whether they comply with SIGN-S12. Digital signs require resource consent as a restricted discretionary activity in the City Centre Zone and Large Format Retail Zone and are a non-complying activity in all other zones.

31 However, my concerns regarding the introduction of the term “visible from a state highway” into SIGN-S12, as sought by Waka Kotahi, remain.

Power to make bylaw under Land Transport Act 1998

32 I note that Waka Kotahi continues to seek that the SIGN chapter control signs that are “visible from a state highway” in SIGN-S6.1 to SIGN-S6.4

and SIGN-S12 (Luke Braithwaite EIC). I remain of the opinion, that these amendments are not appropriate for the reasons set out in my S42A report. This includes issues of plan administration and an extension of regulatory reach in a way not anticipated by the PDP.

33 I understand that Waka Kotahi have bylaw making powers under section 22AB(1) of the Land Transport Act regulating signs that are visible from a State Highway. This provides for:

A road controlling authority may make any bylaw that it thinks fit for 1 or more of the following purposes:

[.....]

(y)regulating, controlling, or prohibiting the display or continuance of the display of posters, placards, handbills, writings, pictures, or devices for advertising or other purposes on or over public buildings or bridges, or on or over buildings, walls, fences, posts, trees, pavements, or hoardings, that are situated—

(i) in or on or adjoining any land or road that is the property of, or under the control of, the relevant road controlling authority; or

(ii) where that display is visible from a road or public place

34 Given the regulatory reach of the amendments Waka Kotahi are seeking, they may wish to address at the hearing why using the District Plan is the most effective and efficient, given there are alternative means of achieving the same outcome.

Date: 8th February 2022



Attachment 1 – amended APP2

| APP2-Table 1 | Noise standards for temporary military training activities | |
|---|--|---|
| Noise source | Time | Minimum separation distance from noise-sensitive activities Noise standard |
| <p>Live firing weapons and single or multiple explosive events</p> <p><u>Noise from weapons firing and use of explosives shall not be assessed using NZS 6802:2008 Acoustics – Environmental Noise.</u></p> | 7.00am to 7.00pm | <p>4500m</p> <p><u>a. The activity complies with the following minimum separation distances to the notional boundary of any building housing a noise sensitive activity in the rural zones and the site boundary in all other zones:</u></p> <ul style="list-style-type: none"> • <u>500m</u> <p><u>b. Where the minimum separation distances specified above cannot be met, then the activity shall comply with the following peak sound pressure level when measured at the notional boundary of any building housing a noise sensitive activity in the rural zones and the site boundary in all other zones:</u></p> <ul style="list-style-type: none"> • <u>95 dBC</u> <p>A peak sound level of 95dBC measured at or within the notional boundary of a noise-sensitive activity</p> |
| | 7.00pm to 7.00am | 4500m |
| Firing of blank ammunition | 7.00am to 7.00pm | <p>750m</p> <p>A peak sound level of 95dBC measured at or within the notional boundary of a noise-sensitive activity</p> |
| | 7.00pm to 7.00am | 2250m |
| Other mobile noise sources | <p>Shall comply with the noise limits set out in tables two and three in the NZS on Acoustics-Construction Noise (NZS 6803:1999). Acoustics – Construction Noise with reference to 'construction noise' taken to refer to mobile noise sources</p> <p>This includes: Personnel, light and Heavy vehicles, Self-propelled equipment; and Earthmoving equipment.</p> | |

| | | |
|--|--|--|
| <p><u>But excludes:</u> <u>The firing of weapons and explosives.</u></p> | | |
| <p>Other stationary noise sources</p> <p><u>This includes:</u> <u>Power generation Heating, ventilation or air conditioning systems, Water and wastewater pumping/treatment systems</u></p> <p><u>Noise shall be measured at the notional boundary of any building housing a noise sensitive activity in the rural zone and the site boundary in all other zones.</u></p> | <p>7.00am to 10.00pm <u>7.00pm</u></p> | <p>55 dB L_{Aeq}(15 min)</p> |
| | <p><u>7.00pm to 10.00pm</u></p> | <p><u>50 dB L_{Aeq}(15 min)</u></p> |
| | <p>10.00pm to 7.00am</p> | <p>45 dB L_{Aeq}(15 min) 75 dB L_{Amax}</p> |
| <p>Between 7.00am to 7.00pm noise levels shall not exceed a peak sound level of 120dBC measured at or within the notional boundary of a noise-sensitive activity.</p> <p>Between 7.00pm to 7.00am noise levels shall not exceed a peak sound level of 90dBC measured at or within the notional boundary of a noise-sensitive activity.</p> <p><u>Helicopter landing areas shall comply with NZS 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.¹</u></p> | | |

¹ This document will be incorporated into the PDP and as such the Council will need to hold a certified copy in accordance with Part 3, Schedule 1 to the RMA.