

BEFORE THE ENVIRONMENT COURT

IN THE MATTER of the Resource Management Act 1991
AND of an appeal under Clause 14 of the First
Schedule of the Act
BETWEEN MINISTER FOR DEFENCE
(ENV-2016-CHC-090)
Appellant
AND INVERCARGILL CITY COUNCIL
Respondent

Environment Judge J J M Hassan – sitting alone pursuant to section 279 of the Act

In Chambers at Christchurch

Date of Consent Order: 10 November 2017

Date of Issue: 10 November 2017

CONSENT ORDER

A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that the Invercargill City Council is directed to make amendments to the proposed Invercargill City District Plan Decisions Version - October 2016, as set out in Annexure "A", attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991; there is no order as to costs.



REASONS

Introduction

[1] The Minister for Defence appealed part of a decision of the Invercargill City Council on the proposed Invercargill City District Plan Decisions: Version – October 2017, concerning the noise controls around Temporary Military Training Activities.

[2] The court has now read and considered the consent memoranda of the parties dated 1 September 2017 and 8 November 2017 (with accompanying affidavit)¹ which propose to resolve the appeal.


Other relevant matters

[3] No person has given notice of an intention to become a party under section 274 of the Act.

Orders

[4] The court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.



J J M Hassan
Environment Judge



¹ This memorandum, together with the affidavit of M J Hunt, was lodged by way of response to the court's Minute dated 18 October 2017, which asked for further explanation from a noise expert on the technical details.

'A'

SECTION THREE

RULES

3.13 NOISE

3.13.3 Exemptions:

(C) The noise limits detailed in Rule 3.13.2 above do not apply to noise from the following sources:

(f) Temporary Military Training Activities.

3.13.14 — Temporary Military Training

(A) — Weapons firing and/or the use of explosives

(a) — Notice is provided to the Council at least 48 hours prior to the commencement of the activity, specifying whether the activity involves live firing and/or the use of explosives, or firing of blank ammunition; the location of the activity and the boundaries within which the activity will take place, and distances to buildings housing noise sensitive activities; and the timing and duration of the activity.

(b) — Weapons firing and the use of explosives is limited to the hours of 0700 to 1900 hours.

(c) — The separation distance required between the boundary of the activity and the notional boundary to any building housing a noise sensitive activity shall be at least:

- (i) — 1,500 metres for the live firing of weapons and single or multiple explosive events.
- (ii) — 750 metres for the firing of blank ammunition.

(d) — Sound levels at any point within the notional boundary to any building housing a noise sensitive activity shall not exceed a peak sound pressure level of 120 dB L_{Cpeak} .

(B) — Noise from Mobile Sources

Noise from mobile sources, including but not limited to personnel, light and heavy vehicles, self-propelled equipment and earthmoving equipment, shall comply with the noise limits set out in Tables 2 and 3 of NZS6803:1999 Acoustics — Construction Noise, with reference to "construction noise" referring to noise from mobile sources.

(C) — Noise from Fixed (Stationary) Sources

Noise from fixed (stationary) noise sources, other than provided for in 4 above, including but not limited to power generation, heating, ventilation or air conditioning systems, or water or wastewater



~~pumping/treatment systems shall not exceed the following when measured in accordance with NZS6801:2008 Acoustics – Measurement of Sound:~~

- ~~(a) at any point within the notional boundary of any building housing a noise sensitive activity;~~
- ~~(b) at any point within any land zoned Residential 1, 1A, 2 or 3 or Otatara.~~

Time	Noise Level
0700 – 1900 hours	55 dB $L_{Aeq(15 mins)}$
1900 – 2200 hours	55 dB $L_{Aeq(15 mins)}$
2200 – 0700 hours the following day	40 dB $L_{Aeq(15 mins)}$ 75 dB L_{AFmax}

~~(D) Helicopter Landing Areas~~

~~The operation of helicopter landing areas shall comply with the noise limits set out in NZ6807 Noise Management and Land Use Planning for Helicopter Landing Areas.~~

3.14 PUBLIC OPEN SPACE

3.14.1 (A) Subject to Rule 3.13.42~~16~~, it is a permitted activity to undertake any activity proposed within areas administered under the Reserves Act 1977 where they are specifically provided for in a Management Plan approved by the Minister.

~~(B) Subject to Rule 3.20A, it is a permitted activity to carry out Temporary Military Training Activities within areas administered under the Reserves Act 1977.~~

(B) It is a discretionary activity to undertake any activity proposed within areas administered under the Reserves Act 1977 where:

(a) There is no approved Management Plan for the area; and/or

(b) The Management Plan does not make specific provision for the proposed activity.

3.14.2 Applications under Rule 3.14.1(B) above shall address the following matters, which will be among those taken into account by the Council:

(A) The extent to which the proposal differs from the approved Management Plan.

(B) The extent to which the proposal is compatible with the amenities of the surrounding neighbourhood.



- (C) The effect of the proposal on the characteristics of any outstanding natural feature or landscape, any locally distinctive landscape, or townscape in which the development is to be located.
- (D) Details of consultation undertaken.

Note: The landowner's consent is required prior to carrying out Temporary Military Training Activities. Rule 3.20A also sets performance standards for these activities.

3.20A TEMPORARY MILITARY TRAINING ACTIVITIES

3.20A Subject to Rules 3.1 - 3.12 and 3.15 - 3.20, Temporary Military Training Activities are a permitted activity subject to the following performance standards:

- (A) The activity shall be carried out for no longer than 31 days on the site in any one calendar year, excluding set up and pack down which can occur one week immediately prior to and one week immediately following the activity.
- (B) There shall be no construction of a permanent structure.
- (C) Notice is provided to the Council at least two working days prior to the commencement of the activity, specifying whether the activity involves live firing and/or the use of explosives, or firing of blank ammunition; the location of the activity and the boundaries within which the activity will take place, and distances to buildings housing noise sensitive activities; and the timing and duration of the activity; and evidence of consultation with landowners of sites on which the activity is to occur.

(D) Noise

Noise Measurement and assessment: Sound levels are to be measured in accordance with the provisions of NZS 6801:2008: Acoustics - Measurement of Environmental Sound and assessed in accordance with the provisions of NZS 6802:2008: Acoustics Environmental Noise, except where expressly provided elsewhere in the Plan.

(a) Any weapons firing and/or the use of explosives shall comply with the following standards:

- (i) The activity complies with the following minimum separation distances to the notional boundary of any building housing a noise sensitive activity:

0700 to 1900 hours: 500m
1900 to 0700 hours: 1250m



(ii) 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:

0700 to 1900 hours: 95 dB L_{Cpeak}
1900 to 0700 hours: 85dB L_{Cpeak}

(b) Noise from Mobile Sources

Noise from mobile sources, including but not limited to personnel, light and heavy vehicles, self-propelled equipment and earthmoving equipment, shall comply with the noise limits set out in Tables 2 and 3 of NZS6803:1999 Acoustics - Construction Noise, with reference to "construction noise" referring to noise from mobile sources.

(c) Noise from Fixed (Stationary) Sources

Noise from fixed (stationary) noise sources, other than provided for in 3.20A.1(D)(a) above, including but not limited to power generation, heating, ventilation or air conditioning systems, or water or wastewater pumping/treatment systems shall not exceed the following when measured in accordance with NZS6801:2008 Acoustics - Measurement of Sound:

- (i) at any point within the notional boundary of any building housing a noise sensitive activity; or
(ii) at any point within, any land zoned Residential 1, 1A, 2 or 3 or Otatara.

<u>Time</u>	<u>Noise Level</u>
<u>0700 - 1900 hours</u>	<u>55 dB $L_{Aeq(15 mins)}$</u>
<u>1900 - 2200 hours</u>	<u>50 dB $L_{Aeq(15 mins)}$</u>
<u>2200 - 0700 hours</u>	<u>45 dB $L_{Aeq(15 mins)}$</u>
<u>the following day</u>	<u>75 dB L_{AFmax}</u>

(d) Helicopter Landing Areas

The operation of helicopter landing areas shall comply with the noise limits set out in NZ6807 Noise Management and Land Use Planning for Helicopter Landing Areas.

3.20A.2 Where any of the standards in Rule 3.20A.1 will not be met then the activity is a restricted discretionary activity.

The matters over which the Council shall exercise its discretion are:

- (A) The timing and duration of the activity;
(B) Site reinstatement;
(C) Noise



- (D) Adverse environmental effects of the activity associated with any permanent structures, with particular assessment against the environmental standards for the subject Zone.

3.38
3.38.1

RURAL ZONE

Permitted Activities: The following are permitted activities in the Rural Zone:

...

(I) Veterinary Clinic

~~(J) Temporary Military Training Activities~~

(JK) On the land legally described as...

