15 October 2026

Lower Hutt City Council
Proposed District Plan
Hearing Stream 7 – Noise

Submission to Hearings Commissioners

1. Submitters Details

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2. Statement

TKL / Rosco submitted on NOISE-R5 (Activities that result in vibration) in the Noise chapter of the Proposed District Plan (PDP). The submission sought that construction related activities are not subject to NOISE-R5.

NOISE-R5

NOISE-R5 sets a permitted standard that applies to any activities that generate vibration.

NOISE-R5 – Activities that result in vibration

1. ***Activity status:*** *Permitted*

   Where:

   a. *The activity is managed in such a way that ground vibration effects are contained as far as practical within the boundary of the site and do not compromise public health or safety, or well-being and amenity values within any other site, and*

> b. *The activity is managed to avoid damage to buildings, by ensuring vibration levels received at any building except for any building located on the same site do not exceed vibration guideline values set out in Tables 1 and 3 of DIN 4150-3:1999-02 Structural vibration – Part 3: Effects of vibration on structures.*

Part a) of the standard is a qualitative standard. That is, it does not set a specific threshold value that can be measured. Instead, a judgement decision has to be made about the level of vibration that is permitted, which will involve discretion being exercised.

This means that it is not possible for a person undertaking an activity to know whether or not their activity is likely to be permitted.

While I understand Council's preference for a qualitative standard is because setting a permitted vibration value is somewhat arbitrary and doesn't recognise that there is likely to be potential for variation of environmental circumstances between sites that would make a specific vibration value too high in one circumstance and too low in another - even within the same zone. However, the approach proposed by Council proposes a single qualitative rule for all activities and all circumstances. This approach has the same risks as if an arbitrary vibration value is specified.

In my view, Council is attempting to create a rule that is already covered by Section 16(1) RMA. While Section 16(2) allows Council to make a rule in respect of noise emissions, the intention appears to be that any such rule would prescribe a noise emission standard.

Given the significant discretion that Council has under this permitted rule, it appears that Council is expecting that the public should 'trust' the Council enforcement officers to exercise their discretion and judgement appropriately under the proposed qualitative standard. This is similar to Section 16(1) RMA where the best practicable option has to be adopted to manage noise / vibration emissions. While it is appropriate for Council to have wide discretion under Section 16(1), a similar discretion should be avoided for permitted rules under the PDP.

In my opinion, the problem with NOISE-R5.1(a) is that it is trying to address all and every activity that could generate vibration. This is evident where the standard refers to managing vibration effects on public health and safety, but it also seeks to address vibration effects on well-being and amenity. These are vastly different circumstances, where the threshold for vibration that could affect public health and safety would be significantly different to the threshold for vibration that affects someone's amenity.

To avoid the uncertainty with NOISE-R5, I agree with the evidence of Mr Yang and recommend that two separate rules are required to appropriately manage vibration effects so that the PDP can be administered and understood with a much greater level of confidence. That is, one rule would be for operational or continuous vibration effects, with a second rule for construction related activities of short or defined duration.

The advantage of having a separate rule for construction related activities is that it would outline the temporary or limited duration of the construction vibration effects, but also indicate an expectation that a higher level of vibration is allowed given the short-term nature of the vibration effect.

Accordingly, I disagree with the Officers and Council advisors in their rebuttal evidence who say that there would not be sufficient differentiation between the two qualitative rules. While both would be based on qualitative standards, the intention is that there are clear and specific differences in the way the PDP assesses permanent vibration and temporary vibration. This would be achieved via the qualitative standards being expressed specifically for each rule, together with the different purpose of each rule and also through the different matters of discretion related to each rule.

I consider that there would be sufficient and notable differences between the two rules that would give the public more confidence in what outcome is intended under each rule. This then also gives the Council greater certainty of the expected outcome of each rule when administering the rules for the relevant circumstances.

3. Conclusion

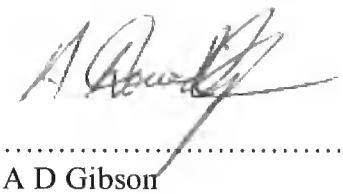
I remain of the view that there should be different rules for 1) operational or continuous vibration effects and another for 2) construction or short-term duration vibration effects.

I acknowledge that the Officers have recommended the inclusion of the term "unreasonably" within NOISE-R5.1(a).

Nevertheless, my opinion is that the proposed changes to NOISE-R5 and the inclusion of a further rule NOISE-RX as outlined in my primary evidence and as supported by Mr Yang are required for the PDP to appropriately manage vibration related effects.

I am happy to answer any questions.

Signature of person making submission.



..... Date 15 / 10 / 2026

A D Gibson

On behalf of Te Kārearea Ltd / Rosco Ice Cream Ltd