

Section 42A Officer’s Report

Hearing Stream 7:	Other Topics
Subjects:	Light
	Noise
	Temporary Activities
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2 Introduction

2.1 Purpose and Scope

- (1) This is the section 42A Officer's Report for the Light, Noise, and Temporary Activities portions of the Proposed Lower Hutt District Plan (the PDP).
- (2) This report is prepared under section 42A of the Resource Management Act 1991 (the RMA) to:
 - Assist the Hearing Panel in making their recommendations on the submissions and further submissions on the Light, Noise, Temporary Activities, and Definitions chapters of the PDP, and
 - Provide submitters with information on how their submissions/further submissions have been evaluated by the reporting officer for these chapters, and the reporting officer's recommendations to the Hearing Panel on the decisions requested.
- (3) This report considers submissions/further submissions received by Council on the Light, Noise, and Temporary Activities chapters of the PDP and definitions within the Definitions chapter that primarily relate to those chapters, and concludes with the officer's recommendations with respect to decisions requested by submitters on these parts of the PDP.
- (4) The Hearing Panel may choose to accept or reject the conclusions and recommendations of this report, or may come to different conclusions and make different recommendations, based on the information provided to them, including evidence provided to them by submitters.

2.2 Author – Stephen Davis

- (5) My full name is Stephen Davis. I am a Senior Policy Planner in the Policy Planning team at Hutt City Council (the Council).
- (6) I hold the qualifications of Bachelor of Science from Victoria University of Wellington, and Master of Urban Planning (Professional) from the

University of Auckland. I am an intermediate member of the New Zealand Planning Institute.

- (7) I have seven years' experience in planning and resource management roles in local government, covering this district plan review, previous council-initiated and private plan changes, monitoring, and compliance.
- (8) I have been involved in the District Plan Review since 2020, including working on the Industrial Zones, Commercial and Mixed Use Zones, Seaview Marina Zone, Light, Noise, and Temporary Activities chapters, the urban design approach (cross-zone), and the maps, including their associated s32 reports. I helped prepare and was lead reporting officer for Hutt City Council's Intensification Planning Instrument in 2022-2023. I also serve on the Ministry for Cities, Environment, Regions and Transport working groups for Industrial Zones and Noise for standardised plan content under the government's proposed resource management reforms.
- (9) I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. I have complied with the Code of Conduct when preparing my written report and will follow it when I give any oral evidence.
- (10) Other than where I state that I am relying on the advice of another person, this evidence is within my areas of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- (11) Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinion. Where I have set out opinions in my evidence, I have given reasons for those opinions.

2.3 Supporting evidence

- (12) The s32 evaluation reports for these chapters remain relevant, including the Noise and Vibration Review prepared to support the Noise chapter¹. I also attach expert evidence from noise and acoustic consultant Malcolm Hunt, who has assisted Council during preparation of the PDP. This is attached as Appendix 3.
- (13) I do reference other existing publicly available reports which will be shown in the body of the report.

2.4 Glossary and abbreviations

Term or abbreviation	Meaning
AS/NZS	Australian Standard/New Zealand Standard
AUP	Auckland Unitary Plan
dB	Decibel – sound measurement unit measured using a logarithmic scale. As a measurement of noise, decibels are only meaningful when combined with a sound quantity. The Proposed District Plan adopts the sound quantities of NZS6801:2008, “Acoustics – Measurement of environmental sound”, such as L_{AFmax} (maximum sound level), and $L_{Aeq(t)}$ (time average sound level over a reference time level, e.g. 15 minutes). Sound quantities in the Operative District Plan come from NZS 6801:1991 “Measurement of Sound” and include dBA/dB L_A . These are not directly comparable to those in the PDP.
DIN	Deutsches Institut für Normung (the German Institute for Standardization)

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Term or abbreviation	Meaning
$D_{tr,2m,nTw}$	Standardised level difference – a measure of standardised acoustic absorption, essentially the reduction (in dB) of noise from outside the building to inside.
FENZ	Fire and Emergency New Zealand (submitter 374)
FIDOL	Frequency, Intensity, Duration, Offensiveness, and Location
Foot/feet	A traditional measure of distance used in aviation for expressing altitude, equivalent to 0.3048 metres.
The Fuel Companies	The joint submission of BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd ² (submitter 471).
GIS	Geographic Information System
HCC	Hutt City Council
Hz	Hertz (measurement of frequency – one cycle per second)
ISO	International Organization for Standardization
LIM	Land Information Memorandum
MCERT	Ministry for Cities, Environment, Regions, and Transport
MfE	(former) Ministry for the Environment
MPHRCIS	Manor Park and Haywards Residents Community Incorporated Society (submitter 377)
NZDF	New Zealand Defence Force (submitter 404)
NZS	New Zealand Standard
NZTA	New Zealand Transport Agency (submitter 385)
ODP	Operative District Plan
PDP	Proposed District Plan

² Note that Z Energy Ltd also made a separate individual submission (468), although not on the provisions in this report.

Term or abbreviation	Meaning
Policy Planning Team	Policy Planning Team of the Hutt City Council (submitter 440). For the avoidance of doubt this is a submission by officers, not a submission of the Hutt City Council.
PPV	Peak particle velocity (a measurement of vibration)
RMA or 'the Act'	Resource Management Act 1991
RPS	Regional Policy Statement for the Wellington Region
TMTA	Temporary Military Training Activities
WRC, GW, GWRC, Greater Wellington, Metlink	Wellington Regional Council, t/a "Greater Wellington" and "Metlink", further submitter F38.

2.5 Procedural issues

2.5.1 Conferencing and additional evidence

- (14) The conferencing directed in Hearing Stream 2 for the Hazardous Substances topic included discussion of the submission points of the Fuel Companies (471) of how hazardous substance risk affected temporary activities.
- (15) At time of writing, a Joint Witness Statement³ had been agreed by hazardous substances experts acting for Seaview Marina Ltd (343) and the Fuel Companies (471). No Joint Witness Statement was available for planning experts.
- (16) This conferencing included only parties involved in Hearing Stream 2, and so is subject to potential further evidence in this hearing stream. Notably, NZDF is a further submitter in opposition to the Fuel Companies' requested

3

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relief on the Temporary Activities chapter and was not involved in Hearing Stream 2.

- (17) Nonetheless, the evidence of the Joint Witness Statement is the best available at time of writing and so I adopt it, subject to further information arising in this hearing stream.

2.5.2 Scope and validity

- (18) Some submissions seek changes to the plan that in themselves would be invalid – for example, by being contrary to the National Planning Standards. I have discussed these in their relevant topics, and they should be considered to the extent that the broader aims of the submission might be achieved by some other means.

2.5.3 Assignment of submissions to hearings streams and topics

- (19) Submitters and their individual submission points have been covered in this report where:
- They explicitly seek changes to provisions in the Light, Noise, or Temporary Activities chapters,
 - They explicitly seek changes to maps linked to the chapters,
 - They explicitly seek changes to definitions mostly used in these chapters, or whose issues would mostly impact these chapters,
 - They seek broad relief, and mainly reference or relate to the chapters,
 - They seek broad relief and are more closely linked with these chapters than others, or
 - They have no other obvious topic/hearing stream that they better sit within. For such submissions reporting officers have attempted to group them with the aim of reducing duplication and the number of hearing streams a particular submitter would be involved in.

- (20) Some submission points cover broad, cross-plan issues, especially structural issues, and may be covered both in this report and reports on other topics.
- (21) For this report, submissions are divided into points on each of the Light, Noise, and Temporary Activities chapters, with each including a discussion of relevant definitions.

2.5.4 Partial withdrawal of the PDP

Light

- (22) The Light chapter, while having no significant issues in contention from submitters, needs considerable change to reflect the partial withdrawal of provisions, as the chapter makes cross-references to concepts and overlays relevant in the Natural Environment Values section of the plan.
- (23) Light spill and glare provisions in the operative plan are extremely limited, and are found in individual Activity Area chapters. Given that they all relate to the intra-zone and inter-zone amenity effects still covered by LIGHT-S1 (Light spill), they will all still be replaced with PDP provisions despite the withdrawal, so there are no issues with integration with the ODP, and none of the light spill and glare provisions of the ODP will remain.
- (24) I show consequential changes in Appendix 1 to address:
- Links with the withdrawn Natural Character, Natural Features and Landscapes, Public Access, Historical Heritage, and Sites and Areas of Significance to Māori chapters, and the withdrawn sections of the Coastal Environment chapter, and
 - Other elements of provisions primarily relating to topics outside the scope of the Plan Stop exemption
- (25) The key change is to remove the provisions relating to *light sensitive areas*, which relate to cultural, heritage, and ecosystem values in defined areas. This removes LIGHT-O6 and LIGHT-S2 entirely and references in the policy, rules, and other standards.

Noise

- (26) For the Noise provisions, there are no notable issues for integration with the remaining parts of the Operative District Plan (ODP). The non-

withdrawn provisions of the PDP will replace in full the Noise chapter of the ODP and related definitions, and noise-related provisions elsewhere in the ODP. There are no significant cross-references to withdrawn chapters.

Temporary Activities

- (27) The Temporary Activities chapter as notified before the partial withdrawal would have completely replaced the Temporary Activities and Filming chapters in the ODP. The ODP and PDP have similar structures for temporary activities, as a district-wide chapter with permitted activity standards and a restricted discretionary rule pathway with broad matters of discretion when those standards are not met. The major difference is that in the ODP, filming is a separate chapter to other temporary activities.
- (28) As proposed, there are cross-references to the withdrawn Sites and Areas of Significance to Māori and Historical Heritage schedules, as well as cultural and heritage values in general, public access, and “effects on the natural environment” which as written would incorporate effects on ecosystems and biodiversity. These issues are now out of scope of the Plan Stop exemption.
- (29) ODP provisions relating to these issues will instead remain.
- (30) I show consequential changes in Appendix 1 to address:
- Links with the withdrawn Historical Heritage and Sites and Areas of Significance to Māori chapters, and
 - Other elements of provisions primarily relating to topics outside the scope of the Plan Stop exemption, including effects on ecosystems and biodiversity and effects on public access to the coastal marine area, lakes, and rivers.

2.6 Statutory and Policy Context

- (31) The broader context of statutory considerations and national and regional direction as set out in the s32 report for the chapter remains relevant. There are no notable changes since that s32 report was prepared.
- (32) There is little relevant national or regional direction on light, noise, or temporary activities. A number of council policies and strategies affect the use of public land for temporary activities, and some (particularly the Use

of Hutt City Council Land Policy) have had updates since the s32 report was prepared, but these are generally operational and do not affect the management of environmental effects under the RMA.

3 Light

3.1 Chapter summary

- (33) The Light chapter controls issues of light spill and glare. Technical compliance involves either modelling (for proposals) or technical measurements (for existing installations), and this is provided for through the use of AS/NZS 4282:2023 (Control of the obtrusive effects of outdoor lighting).
- (34) Light chapter provisions are cross-referenced from the Signs chapter in relation to digital and illuminated signs. The cross-referenced provisions (e.g. LIGHT-Table3) are not directly subject to submissions, but their effect in the Signs chapter is. These submission points are dealt with in the Signs s42A report, which is also in this hearing stream.

3.2 Discussion of submissions and recommendations

- (35) This section will discuss submission points on the text of the plan. There are no relevant map layers for the Light chapter directly, although the plan does rely on zone boundaries, which were discussed in the relevant zone hearing streams; and on some now-withdrawn layers indirectly referred to through the definition of *light sensitive areas* relating to coastal natural character and outstanding natural features and landscapes, which are no longer relevant as discussed in section 2.5.4.
- (36) I will also discuss some minor errors and consequential changes not raised by submitters.

3.2.1 Provisions not in dispute

- (37) The following provisions only have submissions in support, with no changes sought, and on which I do not think any further comment is necessary:

- Definition of “activity sensitive to light” – supported by Z Energy (468.10c), Fuel Companies (471.3)
 - LIGHT-S4 (Glare) – supported by NZ Transport Agency (385.70)
 - LIGHT-S5 (Illuminated surfaces) – supported by NZ Transport Agency (385.70)
- (38) As these points are all thus beyond contention, they all should be accepted.
- (39) The following provisions only have submissions in support, with no changes sought, but need consequential modifications as discussed in section 2.5.4:
- LIGHT-P1 (Providing for and managing artificial lighting) – supported by NZ Transport Agency (385.68)
 - LIGHT-S1 (Light spill) – supported by NZ Transport Agency (385.69)
 - LIGHT-S2 (Lighting within light sensitive areas) – supported by NZ Transport Agency (385.70)
- (40) I thus recommend these points be accepted in part to the extent that those provisions remain, and rejected where those provisions need to be modified and withdrawn.
- (41) Where other provisions in the chapter are not listed in this report, they did not receive provision-specific submissions.

3.2.2 Issues raised by submitters

- (42) There are no substantive resource management issues raised by submitters, but two submissions seek changes for plan usability reasons.

LIGHT-R1 (Artificial light)

- (43) The Policy Planning Team (440.57) seeks to clarify that LIGHT-R1 should require compliance with all of the standards LIGHT-S1 to LIGHT-S6, rather than implying compliance is required with only one of them, and accordingly seek that the condition be reworded as follows:

...

Where:

a. The lighting complies with:

- i. *LIGHT-S1: Light spill, ~~or~~*
- ii. *LIGHT-S2: Lighting within light sensitive areas, ~~or~~*
- iii. *LIGHT-S3: Sky glow, ~~or~~*
- iv. *LIGHT-S4: Glare, ~~or~~*
- v. *LIGHT-S5: Illuminated surfaces, ~~or~~ and*
- vi. *LIGHT-S6: General standards, or*
- b. *The lighting is within a building or structure and the light does not spill outside that building or structure, or*
- c. *One of the exceptions in appendix LIGHT-APP1 applies.*

...

- (44) I agree this would aid interpretation of the rule and recommend accepting this change, subject to the changes discussed in section 2.5.4, and including “and” between all of the standards rather than only the last two in the list.

LIGHT-TABLE1 (Illumination at site boundary, ~~boundary of light sensitive area, or window~~)

- (45) Winstone Aggregates (444.35) support the table as notified, particularly in regards to the Quarry Zone.
- (46) Laura Skilton (314.95) seeks in general terms that the table (which refers to the definition of *restricted lighting period*), also set out what the hours of that period are, so plan users do not need to look up the definition.
- (47) I agree that this would aid plan usability and recommend accepting this change by altering the table column titles as follows:

...

Outside of the restricted lighting period (from 7am or dawn, whichever is earlier, until 10pm)

...

During the restricted lighting period (from 10pm until 7am or dawn, whichever is earlier)

...

- (48) I also recommend the same changes be consequentially made to LIGHT-TABLE2.

- (49) I also recommend a consequential change to the introduction to state these hours as the phrase *restricted lighting period* is also used throughout other provisions:

...

This chapter sets out standards that lighting installations should be designed and operated to. For designs that do not meet these standards, the resource consent process allows designs to be considered on a case by case basis.

As light spill and glare issues vary between day and night, the standards vary based on the time of day – there are more restrictions during the “restricted lighting period”, which lasts from 10pm until either 7am or dawn the following day, whichever is earlier.

The limits and assessment methods in this chapter are based on...

3.2.3 Issues not raised by submitters

LIGHT-S4 (Glare)

- (50) One submission on the Signs chapter (NZTA, 385.92) relates to the issue of light spill on the roadway, which is addressed for digital signs and other illuminated signs in standard SIGN-S9.2. LIGHT-S4 was not intended to duplicate or conflict with this but as written it is ambiguous whether it applies to signs – the phrase used is “outdoor lighting” which is not defined or otherwise used in any provisions in the plan⁴.
- (51) I recommend making a minor correction and also partially giving effect to the submission point and those of submitters who support SIGN-S9 (Out of Home Media Association, 413.23, and oOh Media Limited, 517.51), to make it clear that only SIGN-S9.2 applies to glare from digital signs and other illuminated signs as affecting the roadway.

⁴ Other than in the context of the title of AS/NZS 4282:2023, “Control of the Obtrusive Effects of Outdoor Lighting”, where the term is part of a proper name and does not need to be interpreted.

4 Noise

4.1 Chapter summary

- (52) The Noise chapter manages noise, including vibration. The chapter relies significantly on the New Zealand Standards for noise, which are required by the National Planning Standards.
- (53) The Noise chapter applies in conjunction with other chapters in the plan, and in particular, is one of the few chapters that applies even when activities fall within the provisions of the Infrastructure or Temporary Activities chapters.

4.2 Major resource management issues

4.2.1 Temporary military training activities

- (54) NZDF (404.22a) seeks a package of changes to provide distinct noise limits for temporary military training activities.
- (55) I discuss general issues with temporary military training activities in the Temporary Activities chapter in section 5.2.2.
- (56) Malcolm Hunt discusses noise issues with temporary military training activities in paragraphs 31–38 of his evidence in Appendix 3.
- (57) I adopt and support Mr Hunt’s recommendation to adopt the noise standards requested by NZDF for permitted activities, and show the recommended changes to achieve this in Appendix 1.
- (58) I do however recommend some changes to the approach by:
- Adopting the standards as an appendix integrated into the main rules, rather than a standalone rule. This is a more straightforward approach given that I do not recommend a separate rule for temporary military training activities themselves in the Temporary Activities chapter (see section 5.2.2).
 - Keeping non-compliance with the standards as a restricted discretionary activity (as in the PDP as notified), rather than a

controlled activity. In my view, the Council would potentially have good reasons to consider declining an application for temporary military training activities that do not meet the standards, consistent with the direction in NOISE-P2 that the best practicable option be used, that unreasonable adverse effects be avoided, and that the noise not compromise people's health.

- Some minor changes to assessment locations and methods to match those of the general approach to temporary activities in the PDP.
- Other minor changes to meet the general structure and style of the PDP.

4.2.2 Reverse sensitivity – neighbouring areas

- (59) Z Energy (468) seeks a package of provisions to manage reverse sensitivity⁵ for industrial areas by requiring acoustic insulation for new development sites adjoining or opposite industrial areas.
- (60) It is the general approach of the RMA to require effects to be avoided, remedied, or mitigated by the person causing those effects and specifically provides for a duty for occupiers of land to avoid unreasonable noise. The fact that an activity causing a nuisance has been able to do so in the past because there were then no neighbours to be affected does not entitle them to keep doing so if that context changes.
- (61) The PDP departs from a pure application of this principle only in limited circumstances in line with national and regional direction and comparable contexts. The RMA also does not require that all reverse sensitivity be avoided or managed.
- (62) The PDP requires acoustic insulation to manage reverse sensitivity for some regionally significant infrastructure which would otherwise be incapable of managing its effects and where the greater social benefits of

⁵ The PDP as notified envisaged reverse sensitivity as a concept that potentially applied to incompatibility between a nuisance activity and a sensitive activity in some cases regardless of which was there first. The definition sought by the submitter, and the definition I recommended in the s42A report for Hearing Stream 2 (para 765) would limit this to only where a sensitive activity sets up near a nuisance activity that already exists. I will use the latter concept here.

that infrastructure make up for those costs (i.e. railways and highways). It also requires acoustic insulation where practical in some commercial centres that anticipate higher levels of noise and which anticipate a flexible mix of uses over time and where an approach of purely avoiding noise at the source would undermine the vibrancy and mix of uses anticipated in those areas.

- (63) Neither of these situations are comparable to the boundaries of industrial and residential zones (or for that matter, the boundaries of commercial and residential zones). These are static, and the affected residential properties do not themselves benefit from being part of a mixed-use environment themselves.
- (64) I therefore consider it more effective to manage the incompatibility of residential and industrial land uses at the zone boundary by requiring the effects to be mitigated by those causing the effects. This is also consistent with the management of effects other than noise (see e.g. GIZ-P12, which in the General Industrial Zone requires screening of activities and limits servicing hours near residential zone boundaries).

4.2.3 Separation of High and Moderate Highway and Railway Noise Overlays, and acoustic insulation performance

- (65) NZTA (385) and KiwiRail (442) each seek a package of amendments that would replace the two “Moderate” and “High” subareas of the Highway and Railway Noise Overlay with a single overlay, and also change the boundaries.
- (66) This connects with their relief to replace the PDP approach of requiring acoustic insulation performance to achieve a defined level of noise reduction from outside to inside (either 35dB or 30dB) (“standardised level difference”), with an approach seeking a target maximum indoor noise level.
- (67) NZTA and KiwiRail expressed their preference for this approach during consultation prior to notification of the PDP. Council considered this

approach as an alternative but considered it less efficient and effective than the proposed approach of a standardised level difference⁶.

- (68) Malcolm Hunt also once again discusses these connected issues in his evidence attached to this report (Appendix 3, paras 44–52).
- (69) I adopt and support his conclusion that the PDP approach of having separate Moderate and High subareas, and using a noise reduction approach is preferable, rather than an indoor noise limit approach.

4.2.4 Relationship with Building Code

- (70) Laura Skilton (314) seeks relief in relation to a number of provisions around acoustic insulation that the plan rely on the Building Code instead.
- (71) Malcolm Hunt addresses this issue in his evidence in Appendix 3 (paragraph 53), which I adopt.
- (72) More broadly, the Building Code only covers noise between tenancies within the same building, and not external sources such as rail and road noise, or other activities on other sites in the same zone. It does not have a suitable construction schedule or verification methods for provisions in district plans. I agree with Mr Hunt’s conclusion that the acoustic insulation standards do need to remain in the PDP and that the Building Code does not cover this particular issue.

4.3 Discussion of submissions and recommendations

- (73) This section will discuss submission points on the text of the plan, related definitions and the maps linked to the Noise chapter, being the Highway and Railway Noise Overlay.
- (74) I will also discuss some minor errors and consequential changes not raised by submitters.

⁶ See the Noise Section 32 Report, pp42–43, and the Noise and Vibration Review of Malcolm Hunt, pp30–32.

4.3.1 Provisions not in dispute

- (75) The following provisions only have submissions in support, with no changes sought, and on which I do not think any further comment is necessary:
- Definition of “rail vehicle” – supported by KiwiRail (442.13)
 - NOISE-O1 (Adverse effects of noise) – supported by Ministry of Education (399.45)
- (76) As these points are all thus beyond contention, they all should be accepted.
- (77) Where other provisions in the chapter are not listed in this report, they did not receive provision-specific submissions.

4.3.2 Not in scope of this process

- (78) KiwiRail (442.14; supported by Wellington Regional Council F38.57) seeks a map and definition of a “rail vibration alert area overlay” for areas within 100 metres of the rail corridor boundary.
- (79) Their relief explicitly does not seek any provisions that would be triggered by the presence of this overlay.
- (80) The National Planning Standards do not allow for spatial layers that have no purpose⁷.
- (81) The Council could potentially publish a Rail Vibration Alert Area overlay in maps that do not form part of the District Plan, such as an informational layer, in Council’s public GIS system, or in Land Information Memoranda, but this is not a decision on the proposed district plan and so not within the scope of the PDP hearings.
- (82) Accordingly, I recommend the relief be rejected.
- (83) KiwiRail’s separate but related submission points (442.81a, 442.81b) seeking a that the Highway and Rail Noise Control Overlay apply likewise

⁷ National Planning Standards, direction 12.2, forbids map layers that would not have a purpose listed in Table 18. None of the spatial layers listed in that table provide for a layer that would not affect any provisions, and each require that provisions be .

to areas within 100m of the rail corridor is intended by the submitter to have relevant provisions (for noise generally rather than vibration), and so is in scope. This is discussed in section 4.3.11.

- (84) MPHRCIS (377.10a, part; opposed by Te Kārearea/Rosco Ice Cream F40.7 and Waste Management NZ F39.15) seeks that HCC be able to require the results of noise and vibration monitoring from people carrying out construction works.
- (85) Council's enforcement powers under the Act can include requiring people carrying out activities to monitor noise and vibration and report the results to Council. However, this arises from powers under the Act and not provisions in the plan. Accordingly, I recommend this part of the relief be accepted to the extent that the plan already inherently provides for it.

4.3.3 General

- (86) Laura Skilton (314.83) requests that fewer references be made to NZS 6801:2008 and NZS 6802:2008, considering that mentioning the standards in the introduction is sufficient.
- (87) The National Planning Standards require the use of the NZS 6800-series of noise standards, but this is not self-executing. Where the use of a New Zealand Standard is required, it does need to be mentioned in a rule or other provision in order to have effect.
- (88) Accordingly, I do not recommend accepting this relief, subject to submission points on individual provisions which may have the side effect of reducing the number of references to the NZS 6800-series.
- (89) MPHRCIS (377.10a, part; opposed by Te Kārearea/Rosco Ice Cream F40.7 and Waste Management NZ F39.15) seeks that noise and vibration from heavy vehicles and machinery be able to be monitored at the site boundary. Laura Skilton (314.92 and 314.94, part) seeks similarly that noise restrictions apply at the boundary of the property for temporary activities.
- (90) Malcolm Hunt discusses this issue in his evidence in Appendix 3 (paragraph 22).
- (91) The standards and appendices as proposed are generally worded so that noise can be monitored at any location within a site. This includes being

able to monitor at the boundary of the site. Accordingly, I recommend the relief be accepted to the extent that the plan already provides for it.

4.3.4 Objectives

NOISE-O2 (Reverse sensitivity)

- (92) FENZ (374.63), the Ministry of Education (399.46), and NZDF (404.20) support the policy as notified.
- (93) NZTA (385.72) and KiwiRail (442.71) seek that the policy be amended as follows:

Existing noise generating activities, and future or expanded noise generating activities in locations anticipated for such activities, are not unreasonably constrained in their operations by reverse sensitivity from inappropriately located or designed activities sensitive to noise.

- (94) I think that the logic for avoiding unreasonable constraints for noise generating activities in locations where they are anticipated applies equally to expanded activities as it does to completely new activities and so recommend accepting this change.

4.3.5 Policies – Proposed

NOISE-P1 (Appropriate noise generating activities)

- (95) NZTA (385.73) and the Ministry of Education (399.47) support the policy as notified.
- (96) NZDF (404.21) seek in general terms to amend the policy to provide for noise effects caused by temporary activities even where this has an effect on amenity values.
- (97) This is the approach of the PDP as notified, and temporary activities are addressed in NOISE-P2. I therefore recommend accepting this relief in part to the extent that the plan as notified already provides for it.

NOISE-P3 (Reverse sensitivity)

- (98) The Ministry of Education (399.48) supports the policy as notified.

- (99) NZTA (385.74) and KiwiRail (442.72) seek to amend the policy as follows:

Require sound insulation ~~where practical~~ for activities sensitive to noise...

- (100) Such a change would, effectively, mean avoiding any activities if providing sound insulation for them was impractical. I think this is excessive in relation to the issue, which intends to require a limited design intervention to improve wellbeing and reduce reverse sensitivity, where this can be done at relatively low cost, rather than an absolute approach of trying to avoid any reverse sensitivity issue.

- (101) I thus recommend rejecting this relief.

- (102) Z Energy (468.23) seeks to amend the policy as follows:

Require sound insulation where practical for activities sensitive to noise:

- 1. Near the rail network,*
- 2. Near major highways, including State Highways, and*
- 3. Within or adjoining zones that anticipate higher levels of noise.*

- (103) I discuss this issue in general in section 4.2.2 in which I recommend not expanding the reverse sensitivity approach to neighbouring zones, and so recommend rejecting this relief.

4.3.6 Policies – new policies sought

State Highways and the Rail Network

- (104) NZTA (385.75; supported by Wellington Regional Council F38.18) seeks a new policy as follows:

NOISE-P4: Noise related effects from State Highways and the Rail Network

Enable new and expanded activities sensitive to noise located adjacent to existing State Highways and the Rail Network that are designed, constructed and maintained to achieve indoor design noise levels and provide for other

habitable rooms when they minimise any adverse effects on the health and wellbeing of people from noise and the potential for reverse sensitivity effects from noise, having regard to:

1. The outdoor amenity for occupants of the activity sensitive to noise;

2. The location of the noise-sensitive activity in relation to the State Highway or Rail Network;

3. The ability to appropriately locate the activity within the site;

4. The ability to meet the appropriate levels of acoustic insulation through screening, alternative technologies or materials;

5. The ability to mitigate any effects on buildings from vibration generated by the State Highway or Rail Network;

6. Any mitigation of noise provided by topographical or other existing features on the site or surrounding area;

7. Any adverse effects on the State Highway or Rail Network; and

8. The outcome of any consultation with the New Zealand Transport Agency Waka Kotahi or KiwiRail Holdings Limited.

(105) This would sit alongside NOISE-P3, which sets out the requirement for acoustic insulation, and presumably be primarily relevant in a resource consent application seeking to not provide that acoustic insulation.

(106) This would be a substantial expansion of the considerations involved with that assessment, which at present hinges on the qualification in NOISE-P3 that acoustic insulation is only required “where practical”. In practice, and based on the experience of the equivalent provisions in the ODP, I think people are unlikely to go through a costly resource consent process if simply complying with the permitted activity standard is cheaper. Few people object to any aspect of the acoustic insulation requirements other than from the cost of providing them – acoustic insulation is generally a valued amenity for occupants of the insulated buildings. The resource consent is going to be in a situation where complying with those standards would cause major practical difficulties or significant expense,

and the approach under NOISE-P3 as notified is simply to consider whether those practical difficulties outweigh the benefits.

- (107) The policy sought by NZTA would amount to a reassessment of the general approach to providing for sensitive activities in the noise overlay entirely, and opens the door to declining that resource consent not only on the grounds that the acoustic insulation would, in fact, be practical, but on the idea that having activities sensitive to noise within the overlay should be avoided. A situation where an activity sensitive to noise cannot practically provide acoustic insulation would therefore mean that activity cannot occur at all. I do not think this is reasonable, or proportionate to the significance of the issue. Highways and railways exist within urban areas, and have designations to ensure their continued operation, despite the potential for reverse sensitivity. They are a well-known and accepted part of life in urban areas, and people can make decisions about where they locate knowing that railways and highways exist and produce noise.
- (108) I accordingly recommend rejecting this relief and retaining the approach set out in NOISE-P3.

4.3.7 Rules

Note on application of noise rules

Rural vehicles and machinery

- (109) Federated Farmers (410.55), David and Pauline Innes (416.9) and the Wainuiomata Rural Community Association Inc. (364.20) support note (i), relating to the exemption of rural vehicles and machinery used on a seasonal or intermittent basis.
- (110) This is not in contention from any other submissions, and so I recommend this relief be accepted.

Emergency services

- (111) FENZ (374.62; supported in part by Health NZ F37.24) seeks to add an exclusion for:

Note on application of noise rules

The rules in this chapter do not apply to the following sources of noise:

...

~~xx. Activities at emergency services facilities associated with emergency response, commissioning and emergency response training.~~

- (112) The rules already exempt most of the louder aspects of emergency service facilities, including aircraft being used in emergencies, warning devices and sirens, vehicles on the road, and generators and mobile equipment in an emergency.
- (113) In my view this is an appropriate level of exemption. Any given use of a vehicle or equipment in an emergency response is itself an emergency, and unpredictable and rare at the destination. It is obviously impractical to expect the noise to be managed in that situation.
- (114) However, it is entirely foreseeable that responding to emergencies and planning to respond to emergencies will be a routine occurrence *at emergency services facilities themselves*, where the facility exists precisely because of the expectation it will respond to emergencies. It is appropriate to thus consider the effects of that facility when deciding how to site, design, and manage it on an ongoing basis. This is particularly the case for routine activities and training, where the operator also has control over when and how they happen.
- (115) Accordingly, I recommend the relief be rejected.

Aircraft

- (116) The NZ Helicopter Association (215.4; supported in part by Health NZ F37.23) and NZ Agricultural Aviation Association (231.7) seek that the note be amended as follows:

...

The rules in this chapter do not apply to the following sources of noise:

~~a. Aircraft being operated above 1,000 feet (305m) above ground over the urban environment or above 500 feet (152m) above ground over the rural environment;~~

b. Aircraft being used ~~in~~ for agricultural aviation activities, while in flight.

...

- (117) The submitters generally consider that aircraft in flight are better managed through Civil Aviation Authority rules, rather than through the PDP.
- (118) Malcolm Hunt discusses this issue in his evidence in Appendix 3 (paragraphs 55-58).
- (119) Civil Aviation Authority rules do not allow aircraft to operate under 500/1000 feet except where taking off and landing or for some purpose that requires flying low over a specific location (e.g. a delivery to an otherwise hard-to-access location). In these cases, the aircraft is being used in connection with a particular use of land and so is within the jurisdiction of Council. Noise from low flying aircraft (in this case, generally helicopters) can be significant and in my view should be managed in the same way as for other sources of noise being used in connection with a land use.
- (120) In terms of the exact relief sought, in any case, the note describes activities that the rules do *not* apply to. Accordingly, deleting or narrowing exclusions will expand the application of the rules. Deleting (a) would mean that aircraft were not excluded at any altitude, rather than only being excluded when flying above 500/1000 feet.
- (121) Accordingly I recommend the relief be rejected.

NOISE-R2 (Emission of noise from construction activities)

- (122) The NZ Helicopter Association (215.5) seeks to add an advice note to the rule to state:

Noise from helicopters associated with construction work is provided for by NOISE-R2
- (123) This issue is discussed in Malcolm Hunt's evidence in Appendix 3 at paragraph 55.
- (124) I agree with Mr Hunt's evidence that the rule is appropriate to manage construction-related helicopter noise, and with the NZ Helicopter

Association that this should be noted in the chapter. However, given the rarity of helicopters and that this may also arise I think this note sits better in the rule that mentions helicopters, NOISE-R9. I include the note in my recommendations on that rule discussed below.

Consequential changes

- (125) I do recommend changes to the rule to implement the general relief sought by Winstone Aggregates (444.19) on NOISE-APP2, discussed in section 4.3.10, to add a matter of discretion around the occupancy of buildings:

...

4. Whether the sites and buildings that are affected by noise in excess of the limits in appendix NOISE-APP2 are occupied, and the sensitivity to noise of the use they are occupied by.

...

NOISE-R3 (Emission of noise from temporary activities, other than Major Events within the Major Events Overlay)

- (126) Laura Skilton (314.86) seeks that NOISE-R3 (and its associated standard and appendix, NOISE-S3 and NOISE-APP3) be deleted, considering that the definition of “temporary activity” is too ambiguous.
- (127) The submitter also has a separate submission point on the definition of “temporary activity”, discussed in section 5.3.7, although I think this presents a different issue.
- (128) In my view the definition of temporary activity in the PDP follows a logical evolution of the definition in the operative plan and those in other district plans in the region, and continues the overall approach to temporary activities in the operative plan. This plan has (subject to some limits discussed in the Section 32 report, and corrected in the PDP) generally proved workable.
- (129) For the scenario discussed by Ms Skilton, that of a party in a private home, that noise does not fall within the scope of NOISE-R3 (as it is excluded by the *Note on application of noise rules*), and Council will manage that

noise through the use of its general power to manage excessive noise under the Act.

(130) I therefore recommend rejecting this relief.

(131) FENZ (374.64) supports the rule as notified subject to the relief sought on the *Note on application of noise rules*, discussed above. However, they do not seek alternative relief in the case that relief is not accepted (which is what I recommend). Generally, the issue raised by the submitter is better raised in the *Note on application of noise rules* than in this rule.

(132) I therefore recommend accepting this relief in the sense of retaining the rule as notified.

NOISE-R4 (Emission of noise from major events within the Major Events Overlay)

(133) Laura Skilton (314.88b) seeks to amend the permitted activity arm of the rule as follows, considering it an error:

1.Activity status: Permitted

Where:

Compliance is achieved with ~~NOISE-S3~~ NOISE-S4: Emission of noise from temporary activities.

...

(134) The reference is not an error. The intention is that major events, being a subtype of temporary activities, should be permitted if they meet the conditions that would make any other temporary activities permitted, which are those in NOISE-S3. NOISE-R4.2 covers events that do not meet those limits but do meet the higher limits provided only for major events.

(135) Accordingly, I recommend this relief be rejected.

NOISE-R5 (Activities that result in vibration)

(136) Given the overlapping submissions on this rule, Malcolm Hunt gives comments both for specific submissions and in general in his evidence in Appendix 3 (paragraphs 59 to 72), which I adopt.

Monitoring

(137) Laura Skilton (314.89) seeks to delete the rule, considering that it is impossible to monitor and relates to vibration rather than noise.

- (138) Within the definition of the RMA, vibration is a type of noise⁸ and rules around vibration are required by the National Planning Standards to be in the Noise chapter⁹.
- (139) The broader concerns with the rules are also covered in more detail by other submitters, which I discuss below.
- (140) Accordingly, I recommend rejecting this relief.

Activity status

- (141) MPHRCIS (377.10b, 377.10c; opposed by Waste Management NZ F39.16, F39.17 and Te Kārearea/Rosco Ice Cream F40.8, F40.9) seeks that the rule be modified so that vibration not be “discernible on any residential land outside the subject development site”, and that it be a discretionary activity if not.
- (142) As proposed, the rule is a restricted discretionary activity if the permitted activity standard is not met. I think this is appropriate as the relevant effects can be and have been identified in the plan-making stage and broader discretion over other non-vibration issues is not necessary.
- (143) I also do not think that the test of “discernible ... outside the subject development site” is realistic, and prefer the PDP approach as proposed that there be some demonstrable effect on health or wellbeing.
- (144) Accordingly, I recommend rejecting this relief.

Quantitative thresholds

- (145) Te Kārearea Ltd and Rosco Ice Cream (447.12c; opposed by MPHRCIS F10.9) consider that the rule is too subjective. I infer that they seek more quantitative standards, but do not seek any specific ones.
- (146) Winstone Aggregates (444.12) seek that NOISE-R5.1.a, giving a qualitative vibration standard, be replaced with fixed numerical values for peak particle velocity:

Activities must be controlled to ensure any resulting vibration does not exceed the limits in the following table in

⁸ Resource Management Act 1991, s2, definition of “noise”.

⁹ National Planning Standards, directive 7.33.

any axis when measured in the corner of the floor of the storey of interest for multi-storey buildings, or within 500mm of ground level at the foundation of a single storey building. These limits do not apply to vibration from blasting.

<u>Receiver</u>	<u>Period</u>	<u>Peak Particle Velocity Limit</u>
<u>Occupied building housing an activity sensitive to noise</u>	<u>Night-time 22:00 to 07:00</u>	<u>0.3 mm/s</u>
	<u>Daytime 07:00 to 22:00</u>	<u>2 mm/s</u>
<u>Other occupied buildings</u>	<u>At all times</u>	<u>2 mm/s</u>

- (147) Malcolm Hunt discusses the role of quantitative standards in his evidence in Appendix 3 (paragraphs 60–70). I think this well addresses the shortcomings of relying on numeric standards for an issue that, while quantifiable, has effects not often well correlated with measurements, and the context of the rule being primarily relevant in an enforcement and monitoring context rather than a resource consent trigger.
- (148) I concur with Mr Hunt’s evidence. Accordingly, I recommend rejecting this relief.

Effects of vibration on structures

- (149) Winstone Aggregates (444.13) seek that R5.1.b use a newer version of the relevant technical standard, DIN 4150–3:2016 Vibration in buildings – Part 3: Effects on structures, rather than the 1999 version as proposed.
- (150) Malcolm Hunt discusses this standard in his evidence in Appendix 3 (paragraph 72), which I adopt.
- (151) Accordingly, I recommend this relief be accepted.
- (152) Te Kārearea Ltd and Rosco Ice Cream (447.12d; opposed by MPHRCIS F10.10) seek to modify the rule so that construction activities and temporary activities are not subject to NOISE–R5.1.a, and only NOISE–R5.1.b would apply.
- (153) NOISE–R5.1.b is only intended to manage vibration so severe it would potentially damage structures, and not more general issues of health and

nuisance arising from vibration. These are still relevant for construction and temporary activities.

(154) Accordingly, I recommend this relief be rejected.

NOISE-R6, NOISE-R7 [New buildings, or alterations and additions to existing building, to be used by an activity sensitive to noise, within the Highway and Railway Noise Overlay – Moderate/High]

(155) The Ministry of Education (399.49, 399.50) supports the rules as notified.

(156) Laura Skilton (314.90a, 314.90b; opposed by NZTA F20.23, F20.24) seeks that the rule be deleted, considering that this issue should be dealt with in the Building Code or a Council Code of Practice.

(157) I discuss the relationship of the noise chapter with the Building Code in section 4.2.4, including why the Noise chapter needs to address noise insulation in addition to the Building Code requirements.

(158) I accordingly recommend rejecting this relief.

(159) Winstone Aggregates (444.14, 444.15) supports the rules in general but requests a statement be added that they not apply to quarry activities.

(160) I think it is obvious that the rule does not apply to quarry activities – the activities are exhaustively listed in the definition of *activities sensitive to noise*, which do not include quarry activities. I accordingly recommend accepting this relief to the extent that the PDP as notified already provides for it.

(161) NZTA (385.76a; supported by Wellington Regional Council F38.19) and KiwiRail (442.73a, 442.73b) seek that the standards be deleted and replaced with a single standard based on an “indoor noise limit” approach¹⁰.

(162) I discuss the merits of the indoor noise limit approach in section 4.2.3. Based on that discussion, I recommend the relief be rejected.

¹⁰ Given the substantial length of this relief, and that I think the main issue is with the concept rather than necessarily the implementation, I will not reproduce it here – the specific changes requested are in pp20-21 and 28-32 of the original NZTA submission and pp38-40 of the KiwiRail submission.

NOISE-R8 (New buildings, or alterations and additions to existing buildings, to be used by an activity sensitive to noise)

- (163) The Ministry of Education (399.51) supports the rule as notified.
- (164) Z Energy (468.24) seeks a change to the rule, and an associated new standard¹¹, that would require acoustic insulation and ventilation to also be required in all zones where sites are adjacent to or opposite Industrial Zones.
- (165) I discuss this issue in general in section 4.2.2, which sets out why I do not think acoustic insulation or the reverse sensitivity approach in general should be expanded to sensitive activities near Industrial Zone boundaries.
- (166) I accordingly recommend rejecting this relief.
- (167) Winstone Aggregates (444.16a) points out that that NOISE-R8.3 is mislabelled as NOISE-R8.1. I recommend accepting this relief and making this correction.
- (168) Winstone Aggregates (444.16b) further seeks that the rule be amended to make activities sensitive to noise non-complying or prohibited within the Quarry Zone.
- (169) This relief is already implemented through rules in the Quarry Zone (QUARZ-R7/QUARZ-R8), discussed in Hearing Stream 4, and so I recommend accepting this relief to the extent that the PDP as notified and as recommended in Hearing Stream 4 already provides for it.
- (170) Laura Skilton (314.90c; opposed by NZTA F20.25) seeks that the rule be deleted, considering that this issue should be dealt with in the Building Code or a Council Code of Practice.
- (171) I discuss the relationship of the noise chapter with the Building Code in section 4.2.4, including why the Noise chapter needs to address noise insulation in addition to the Building Code requirements.
- (172) I accordingly recommend rejecting this relief.

¹¹ Given the substantial length of this relief, and that I think the issue is with the concept rather than the implementation, I will not reproduce it here – the specific changes requested are in pp11-12 of the original submission.

NOISE-R9 (Noise from aircraft at helicopter landing areas)

- (173) Laura Skilton (314.91; opposed in part by Health NZ F37.25) seeks in general terms that the rule be reviewed, and raises specific concerns around the categorisation of zones, whether hospitals can use helicopters only in “unforeseen circumstances”, and whether the rule is redundant given other rules.
- (174) I agree that the rules should be clarified as to how it applies in the Heavy Industrial Zone and Hospital Zone (that is, that any helicopter landing area is a restricted discretionary activity). I do think that the establishment of helicopter landing areas in the Hospital Zone should remain restricted discretionary, as the adverse effects are significant and may well be able to be managed through conditions, particularly such as the siting of the helipad or provision of acoustic insulation.
- (175) The NZ Helicopter Association (215.6) seeks that the rule be amended as follows:

1. Activity status: Permitted

Where:

~~*1. The helicopter landing area is used solely:*~~

- ~~*a. For agricultural aviation activities between dawn and dusk, on no more than 30 days in any calendar year, or*~~
~~*b. In unforeseen emergencies, and*~~

~~*2. The helicopter landing area is managed to comply with the recommended noise limits and noise management provisions set out in NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas (excluding clause 4.3 Averaging).*~~

~~*3. Movements from or to a site are undertaken on no more than 3 days (either consecutively or non-consecutively) over a 3-month period; and*~~

~~*a. Movements are only undertaken between the hours of 7am and 7pm*~~

~~*b. For the purposes of this rule a ‘day’ is counted where there is at least one movement although there is no limit on the number of movements which may be undertaken on that ‘day’.*~~

...

- (176) The NZ Agricultural Aviation Association (231.8) seeks to remove the permitted activity arm of the rule, consequential on their other relief on the *Note on application of noise rules* to exempt all agricultural aviation activities from the rules. As I do not recommend accepting that relief, this submission point is moot and retaining it gives better effect to the submitter's overall submission aim of providing for agricultural aviation activities.
- (177) Malcolm Hunt discusses helicopter noise in his evidence in Appendix 3 (paragraphs 55-58). I adopt his evidence and agree that the rule should remove reference to NZS 6807:1994, as that standard is only relevant to sites where helicopter movements occur ten times a month or more.
- (178) I agree with the overall position of the NZ Agricultural Aviation Association (231) that agricultural aviation activities are a special case, as they occur in rural and open space areas, fill important operational needs, and directly support the overall function of those zones. There is also the case for providing for other practical tasks that only helicopters can perform, such as supporting construction, but this is provided for in NOISE-R2. It is also (I infer) common ground between submitters that use of aircraft in genuine emergencies should not be covered by the rules, and this is addressed in the *Note on application of noise rules* as discussed above.
- (179) I do not consider, however, that it is reasonable to provide for helicopter landings and takeoffs as a permitted activity for other uses, even if that is ad hoc or infrequent. Helicopters are a significant source of noise that will inevitably have significant adverse noise effects on the surrounding environment, if anyone is present to receive them, and it is reasonable to have a resource consent process that can ensure that this is restricted to situations where there is a compelling enough wider public benefit in putting up with those adverse effects, as opposed to, say, simply transporting individuals.
- (180) Accordingly, I recommend the relief of the NZ Helicopter Association be accepted in part to the extent of removing reference to NZS6087:1999 in the permitted activity arm of the rule.

Consequential changes

- (181) As discussed in relation to the submission of the NZ Helicopter Association (215.5) on rule NOISE-R2, above, I recommend adding an advice note about the scope of NOISE-R9 and its relation to construction.
- (182) Putting these recommendations together, I recommend the rule be altered as shown in Appendix 1.

4.3.8 Standards

NOISE-S1 (Emission of noise)

- (183) Winstone Aggregates (444.17) supports the standard's references to NZS 6801:2008 Acoustics – Measurement of environmental sound, NZS 6802:2008 Acoustics – Environmental noise, and NZS 6803:1999 Acoustics – Construction noise.
- (184) The use of these standards is in any case required by the National Planning Standards¹².
- (185) I recommend accepting this relief, subject to my recommendation on the submission of Laura Skilton (314) that the details of NOISE-S1 be moved into the rule NOISE-R1, or, and as in this case, into NOISE-APP1. This would be a solely structural change and still have the same effect as the PDP as notified.

NOISE-S5, NOISE-S6 [Acoustic insulation and ventilation for activities sensitive to noise in the Highway and Railway Noise Overlay – High/Moderate]

- (186) Laura Skilton (314.90d, 314.90e; opposed by NZTA F20.26, F20.27) seeks that the standards be deleted, considering that this issue should be dealt with in the Building Code or a Council Code of Practice.
- (187) I discuss the relationship of the noise chapter with the Building Code in section 4.2.4, including why the Noise chapter needs to address noise insulation in addition to the Building Code requirements.

¹² National Planning Standards, standard 15: Noise and Vibration Metrics Standard.

- (188) I accordingly recommend rejecting this relief.
- (189) NZTA (385.76b; supported by Wellington Regional Council F38.20) and KiwiRail (442.73cm 442.73d) seek that the standards be deleted and replaced with a single standard based on an “indoor noise limit” approach¹³.
- (190) I discuss the merits of the indoor noise limit approach in section 4.2.3. Based on that discussion, I recommend the relief be rejected.

NOISE-S7, NOISE-S8 [Acoustic insulation and ventilation for activities sensitive to noise in certain high/moderate noise zones]

- (191) Z Energy (468.25, 468.26) supports the standards as notified.
- (192) Laura Skilton (314.90f; opposed by NZTA F20.28) seeks that the standards be deleted, considering that this issue should be dealt with in the Building Code or a Council Code of Practice.
- (193) I discuss the relationship of the noise chapter with the Building Code in section 4.2.4, including why the Noise chapter needs to address noise insulation in addition to the Building Code requirements.
- (194) I accordingly recommend rejecting this relief.

4.3.9 Rules, Standards, and Appendices – Requested

Consolidation of rules, standards, and appendices

- (195) Laura Skilton seeks to consolidate some groups of associated rules, standards, and appendices as shown in the table below, considering that this would make the chapter easier to understand:

SP	Provisions to merge
314.84	NOISE-R1, NOISE-S1, NOISE-APP1
314.85	NOISE-R2, NOISE-S2, NOISE-APP2
314.87	NOISE-R3, NOISE-S3, NOISE-APP3
314.88a	NOISE-R4, NOISE-S4, NOISE-APP4

¹³ Given the substantial length of this relief, and that I think the main issue is with the concept rather than necessarily the implementation, I will not reproduce it here – the specific changes requested are in pp20-21 and 28-32 of the original NZTA submission and pp38-40 of the KiwiRail submission.

- (196) As with other chapters, separating rule conditions out into rules and standards is useful where standards are shared across multiple rules (as is the case for NOISE-S3) and are lengthy.
- (197) In the case of the Noise chapter, the standards are fairly short with most technical detail contained in the appendices.
- (198) I agree with the submitter that, in general, reducing the number of different cross-referenced provisions will aid plan usability. However, the detail of the standards is too complex to include in the rules.
- (199) Accordingly, I recommend the relief be accepted in part, by:
- Moving the contents of NOISE-S1 into NOISE-R1 and NOISE-APP1
 - Moving the contents of NOISE-S2 into NOISE-R2 and NOISE-APP2
 - Moving the contents of NOISE-S3 into NOISE-R3, NOISE-R4, and NOISE-APP3
 - Moving the contents of NOISE-S4 into NOISE-R4 and NOISE-APP4
- (200) I however recommend the appendices remain separate from the rules, given their length.
- (201) The details of this are shown in Appendix 1 to this report.

4.3.10 Appendices

NOISE-APP1 (Noise limits by emitting and receiving zone)

Local Centre Zone

- (202) McDonald's Restaurants (174.8; supported by Bunnings Ltd F18.4) seeks to increase the night-time limit (10pm-7am) that applies where the receiving site is in the Open Space and Recreation Zones, Local Centre Zone, or Mixed Use Zone from 55dB L_{Aeq} (15min) to 65dB L_{Aeq} (15min).
- (203) The submitter generally considers that noise within the Local Centre Zone and Mixed Use Zone should be aligned with the Metropolitan Centre Zone (which has a night-time limit of 65dB for noise both generated and received within that zone).
- (204) The PDP's approach as notified is to separate zones that provide for sensitive activities into those that anticipate high levels of noise, those

that anticipate moderate levels of noise, and those that anticipate lower levels of noise:

- The City Centre Zone and Metropolitan Centre Zone anticipate higher levels of noise, require a higher level of acoustic insulation (NOISE-S7), and allow for 65dB outdoor noise limits at night.
- The Local Centre Zone, Neighbourhood Centre Zone, Mixed Use Zone, Sport and Active Recreation Zone, Hospital Zone, and Tertiary Education Zone anticipate moderate levels of noise, require a moderate level of acoustic insulation (NOISE-S8), and allow for 55dB outdoor noise limits at night.
- Other zones (e.g. Residential Zones) anticipate lower levels of noise and so do not require acoustic insulation. They allow for only 40 or 45dB outdoor noise limits at night.

(205) I do not think there is a good reason to realign the zones in the way requested by the submitters. As covered by Malcolm Hunt in his advice in Appendix 3 (paragraph 16), 65dB noise at night is a high limit and not an outdoor noise level that is compatible with healthy sleep, unless residences have substantial acoustic insulation.

(206) For the Metropolitan Centre Zone and City Centre Zone, the Council's anticipation is that these, at least in places, will be or could become nighttime centres of activity and that it is appropriate to anticipate higher levels of noise in that context. The plan also, as a result, requires sensitive activities to provide acoustic insulation so that those higher outdoor noise levels are still compatible with indoor noise levels suitable for sleeping and wellbeing.

(207) This is not an efficient or effective approach for the Local Centre Zone, which covers smaller, suburban centres, often in close proximity to residential zones, that in the context of Lower Hutt are very unlikely to see demand as significant night-life destinations. Acoustic insulation would be an excessive cost where there is unlikely to be significant noise at night in the first place. This is even more the case for the Mixed Use Zone, which applies to many areas that were previously in residential zones, have only a small fraction of non-residential uses, and are unlikely to have sufficient acoustic insulation to manage outdoor noise at that level.

- (208) The submitter notes that their main concern in their submission is around how the plan would apply to their current and planned restaurants, two of which are in the Local Centre Zone. In both cases, these are likely to be the only business nearby operating overnight. I think it is more efficient in these cases to primarily manage the noise at source.
- (209) I accordingly recommend rejecting this relief.

Residential activities – all zones

- (210) Laura Skilton (314.92) seeks that the limits for all zones be changed to:
- Daytime (7am–7pm): 55dB L_{Aeq} (15min)
 - Evening (7pm–10pm): 50dB L_{Aeq} (15min)
 - Night (10pm–7am): 40dB L_{Aeq} (15min), 70dB L_{AFmax}
- (211) This would apply at the property boundary.
- (212) The submitter considers that as residential activities are allowed in “all zones”, all zones should have noise restrictions (I infer) in line with residential zones.
- (213) This would effectively eliminate a number of features of the PDP:
- Higher noise limits in those zones that, in fact, do not anticipate residential activities (Heavy Industrial Zone, General Industrial Zone, Quarry Zone)
 - Higher noise limits in Commercial and Mixed Use Zones that do anticipate residential activities but require acoustic insulation for them to manage the impact of that noise on sleep quality
 - The use of a “notional boundary” approach in rural areas so that noise is controlled as it impacts sensitive activities, rather than in uninhabited areas of large rural properties.
- (214) In my view these three features are all reasonable features for noise limits in the zone, in line with the approach assessed and recommended in the Section 32 report and Noise and Vibration Review of Malcolm Hunt¹⁴.

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https://hccpublicdocs.azurewebsites.net/api/download/d764466f20cf454ba1010adf695ed15f/_dplanreview/90b04f2129779914e08b652e32bcefc00a1

- (215) Malcolm Hunt further discusses these limits in his evidence in Appendix 3 (paragraphs 18–22), which I adopt.
- (216) Eliminating the higher noise limits in commercial and industrial zones would place significant operational limits on commercial and industrial activities even in contexts where that noise did not cause significant adverse effects.
- (217) I thus recommend that the relief is rejected.

Quarry Zone

- (218) Winstone Aggregates (444.18) seeks that the noise limit for activities in the Quarry Zone should be 68 dB L_{Aeq} between 7am and 7pm.
- (219) Malcolm Hunt discusses this requested limit in his evidence in Appendix 3 (paragraphs 14–15), which I adopt.
- (220) Accordingly, based on the advice of Mr Hunt, I recommend keeping the limit as notified. Given the difficulty in inferring the submitter's reasons they may want to consider providing additional reasons for this relief in the hearing.

NOISE-APP2 (Noise limits for construction activities)

- (221) Winstone Aggregates (444.19) seeks to limit the application of the appendix to situations where buildings are occupied, with the limits in the PDP as proposed applying to buildings that are occupied with activities sensitive to noise, and higher limits applying to other occupied buildings. They consider this is more consistent with the approach set out in NZS6803:1999 (the source of the limits in the PDP).
- (222) Malcolm Hunt discusses this issue in his evidence (paras 23–27), which I adopt.
- (223) I agree that whether buildings are occupied, and for what purpose, is relevant to whether noise is acceptable. However, I do not think the relief sought can be implemented, as it would oblige Council in taking enforcement action to prove the use of the building at the time, an impractical task in the usually short-term and reactive nature of responding to construction noise complaints.

- (224) I thus agree with Malcolm Hunt's suggestion¹⁵ that instead this be included as a matter for consideration in resource consents. I recommend the relief be accepted in part through implementing the general relief sought in that way. I show recommended changes to the relevant rule, NOISE-R2, in my discussion of that rule in section 4.3.7.
- (225) Laura Skilton (314.93) seeks that the limits be replaced with an alternative table that, in effect, would apply the normal non-construction noise limits in NOISE-APP1 outside the hours of 7.30am-6pm Monday to Saturday.
- (226) Malcolm Hunt discusses the requested limits in his evidence in Appendix 3 (paragraphs 28-30), which I adopt.
- (227) I concur with Mr Hunt that the limits provided for in the PDP and taken from NZS6803:1999 are reasonable, and appropriately balance enabling construction while managing the adverse effects of the noise.
- (228) Accordingly, I recommend rejecting this relief.

NOISE-APP3 (Noise limits for temporary activities)

- (229) Laura Skilton (314.94) seeks that as alternative relief to her submission point 314.86, that the table be simplified to remove the separate columns for daytime and evening limits as the limits are in all cases the same.
- (230) While the daytime and evening limits are the same, the table works in conjunction with NOISE-APP1, and so I think it is beneficial to keep it in the same format for easier cross-referencing.
- (231) Ms Skilton further questions whether the Mixed Use Zone limits are appropriate. In my view, as the Mixed Use Zone is grouped with the Commercial and Mixed Use Zone zones for all other purposes in the Noise chapter it is reasonable to also do so in this case.
- (232) Accordingly, I recommend rejecting the relief.

¹⁵ Appendix 3, paragraph 24.

NOISE-APP5, NOISE-APP6 [Minimum construction schedules]

- (233) Laura Skilton (314.90g, 314.90h) seeks to delete the appendices, considering that this detail should be contained in the Building Code or a Council Code of Practice.
- (234) I discuss the relationship of the noise chapter with the Building Code in section 4.2.4, including why the Noise chapter needs to address noise insulation in addition to the Building Code requirements.
- (235) Council could include the detail of these appendices in a Code of Practice by incorporating it by reference in the plan. Given the relatively short length of the appendices, I think it will be more convenient for plan users to retain it in the appendices rather than requiring reference to an external document.
- (236) I accordingly recommend rejecting this relief.
- (237) The Policy Planning Team (440.58, 440.59) notes that the details for the row labelled "Roof – Option A" have inadvertently been swapped between the two appendices and asks that this be corrected. (NOISE-APP5, which is for producing a 35dB reduction, needs heavier cladding and plasterboard than NOISE-APP6, which is for producing only a 30dB reduction).
- (238) Malcolm Hunt addresses this issue in his evidence in Appendix 3 (paragraph 54).
- (239) Accordingly, I recommend this relief be accepted as shown in Appendix 1.

NOISE-APP7 (Ventilation)

- (240) Laura Skilton (314.90i) seeks to delete the appendix, considering that this detail should be contained in the Building Code or a Council Code of Practice.
- (241) I discuss the relationship of the Noise chapter with the Building Code in section 4.2.4, including why the Noise chapter needs to address noise insulation in addition to the Building Code requirements.
- (242) Council could include the detail of this appendix in a Code of Practice by incorporating it by reference in the plan. Given the relatively short length of the appendix, I think it will be more convenient for plan users to retain it in an appendix rather than requiring reference to an external document.

(243) I accordingly recommend rejecting this relief.

4.3.11 Maps

Highway and Railway Noise Overlay

- (244) Z Energy (468.1b, 468.6e) supports the overlay as it applies to 60 Hutt Road and 453 Hutt Road.
- (245) NZTA (385.71) and KiwiRail (442.81a, 442.81b) seek that the Moderate and High subareas be combined into a single overlay, modelled based on a level of 57 dB $L_{Aeq(24h)}$ from the state highway and rail corridor, or a 100m fixed buffer where modelling is not available.
- (246) The Highway and Railway Noise Overlay – Moderate already reflects a 57 dB $L_{Aeq(24h)}$ level as modelled¹⁶ coming from the state highway network, using data provided by NZTA during preparation of the PDP. This aspect of the relief is thus not in contention.
- (247) There is, to my knowledge, no available modelling of noise from the rail network, and so I agree with NZTA and KiwiRail to the extent that a fixed buffer should be used. The question is over the extent of that buffer. The PDP as proposed uses distances of 20m and 40m from the rail corridor for the High and Moderate subareas respectively.
- (248) Council chose these figures based on the ambient noise study conducted for the preparation of the PDP and the noise environment expected for the rail network, through measurements at a location experiencing the higher end of rail traffic experienced on the rail network in Lower Hutt. This is discussed in the Noise and Vibration Review (page 43), and further in paragraph 41 of Malcolm Hunt’s evidence in Appendix 3. I adopt and support Mr Hunt’s conclusion that the fixed 20m/40m buffers remain the most appropriate distance, and the fixed 40m buffer the most appropriate identification of the High subarea as it relates to the State Highway network.

¹⁶ This includes a 3 dB allowance for future growth, so is actually a 54 dB modelled contour at the present day. See discussion of this issue in section 4.3.12, under the definition of “reasonable maximum use scenario”.

- (249) Accordingly, I recommend that the relief be accepted in part to the extent that the PDP as notified already provides for it, and otherwise be rejected.

4.3.12 Definitions – Proposed

Activity sensitive to noise

- (250) The Ministry of Education (399.4), NZ Defence Force (404.6), Z Energy (468.10d), and Fuel Companies (471.4) support the definition as notified.
- (251) KiwiRail (442.3; supported by Wellington Regional Council F38.54) seeks that the definition be altered as follows:

Means any lawfully established:

- 1. residential activity, ~~or including activity in visitor accommodation, retirement accommodation, boarding houses, office accommodation and papakainga~~*
- ~~2. retirement village, or~~*
- 3. supported residential care facility, or*
- 4. marae, or*
- 5. healthcare activity, or*
- 6. education activity, or*
- 7. community facility, or*
- 8. custodial corrections facility, or*
- 9. visitor accommodation activity, or*
- 10. place of assembly.*

- (252) The definition is used directly in rules, and so the Council will need to establish whether the activity exists as a factual question in enforcement action. Adding the proviso that the activity be “lawfully established” would be a very broad topic and difficult or impossible for the Council to prove and not provide overall resource management benefits.
- (253) Boarding houses are a subset of residential activities and do not need to be separately listed.
- (254) Moving “retirement villages” into a run-on clause rather than separately listed, and duplicating “visitor accommodation”, would have no effect but be less readable.

- (255) I do not think that papakāinga should be separately listed, as the sensitive parts of papakāinga will already be captured by other parts of the definition.
- (256) The term “residential activity including ... office accommodation” is difficult to interpret and no definition is sought by the submitter. My assumption is that this relates to some types of home occupations. I do think that there is the potential for some types of office work to be adversely affected by noise, as with education, healthcare, and so on (including outside a residential context). However, I think this relief is too vague to implement and as it is limited to office accommodation included in a residential activity, possibly too limited in scope to have a meaningful effect on plan implementation. That said, the submitter may want to expand on alternative ways of achieving this part of the relief in the hearing.
- (257) In the meantime, I recommend the relief be rejected.
- (258) NZTA (385.3) seeks that the definition be amended to add:

means a:

- 1. residential activity, or*
- 2. retirement village, or*
- 3. supported residential care facility, or*
- 4. marae, or*
- 5. healthcare activity, or*
- 6. education activity, or*
- 7. community facility, or*
- 8. custodial corrections facility, or*
- 9. visitor accommodation activity, or*
- 10. place of assembly.*

but excludes:

a. Those rooms used solely for the purposes of an entrance, passageway, toilet, bathroom, laundry, garage or storeroom.

- (259) I agree with the submitter that the listed rooms are not generally used for sleeping or focussed work and so are not inherently sensitive to noise in the same way as habitable rooms. I thus recommend accepting this relief (subject to minor formatting changes) as shown in Appendix 1.

Agricultural aviation activity

- (260) The NZ Agricultural Aviation Association (231.1) seeks to amend the definition as follows:

means the intermittent operation of an aircraft ~~over a~~ from a rural airstrip or helicopter and UAV landing area in the rural zone or natural open space zone for primary production activities; conservation activities for biosecurity, or biodiversity purposes (including stock management); and the application of fertiliser, agrichemicals, or vertebrate toxic agents (VTAs). Aircraft includes fixed-wing aeroplanes, helicopters, and unmanned aerial vehicles (UAVs).

- (261) The submitter considers the plan should not control aircraft in flight.
- (262) The definition is used in two places in the PDP. The first is in rule NOISE-R9 which only relates to helicopter landing areas and so does not affect aircraft in flight.
- (263) The other is in the *Note on application of noise rules*. Here, agricultural aviation activities are one of the groups of activities exempt from the noise rules in the PDP. Thus, narrowing the definition of *agricultural aviation activity* would expand application of the rules, contrary to the submitter's reasons.
- (264) I therefore recommend accepting the relief in part, by keeping the definition as notified, as the PDP as notified already provides a limit on where it applies to aircraft in flight.

Best practicable option

- (265) The Fuel Companies (471.10) and Z Energy (468.10j) support the definition as notified.
- (266) The Policy Planning Team (440.12) seeks that the definition be expanded from covering only discharges of contaminants and emissions of noise, to also cover emissions of light and other discharges.
- (267) The submitter considers that this would clarify use of the term where it is used within the Light chapter.

- (268) While this is a National Planning Standards definition, and cannot be altered as it relates to emissions of noise or discharges of contaminants, in my view it is compatible with the National Planning Standards to expand coverage of the definition to additional contexts¹⁷.
- (269) However, “best practicable option” is not used in the PDP in relation to light, or indeed any context other than noise, and so I do not think expanding the definition is necessary. I thus recommend rejecting the Policy Planning Team relief and retaining the definition as notified.

Highway and Railway Noise Overlay

- (270) NZTA (385.10) supports the definition as notified.
- (271) KiwiRail (442.6; supported by Wellington Regional Council F38.56) seeks that the definition be replaced with:

The Highway and Railway Noise Overlay identifies the area potentially affected by noise between a railway corridor boundary or State Highway boundary and a distance of 100m. New buildings and alterations to habitable rooms in buildings used for sensitive land uses are required to demonstrate that adverse noise effects have been appropriately managed by demonstrating compliance with the standards specified in the Noise Chapter.

- (272) The definitions for the names of spatial layers in the plan are simply intended to make it unambiguous when reading the plan that those names refer to specific spatial layers, as opposed to some potentially context-dependent concept that plan readers would need to figure out. A definition that tried to describe the way the layer was developed risks ambiguousness from “multiple sources of truth” if the definition and map layer are not perfectly aligned. The PDP approach is that the map layers as shown on the map are the final¹⁸ source of truth.

¹⁷ See National Planning Standards, stds. 14.1 and 14.6, which anticipate a defined term being used in multiple contexts.

¹⁸ Where this is not the case, e.g. for the boundary of the Coastal Marine Area, the Council can and currently does show these as “informational layers” on the ePlan GIS viewer, but these are not part of the district plan maps.

- (273) *Explanations* of layers, as opposed to definitions, are provided in chapter introductions. I thus recommend this relief be rejected.
- (274) However, the definition as proposed does not correctly describe the layers as shown on the maps (which are split into Moderate and High subareas).
- (275) Accordingly, I recommend definitions be added for the subareas and the main definition corrected:

Highway and Railway Noise Overlay

*means the area*s *shown in the planning maps as the Highway and Railway Noise Overlay – High and Highway and Railway Noise Overlay – Moderate*

Highway and Railway Noise Overlay – High

means the area shown in the planning maps as the Highway and Railway Noise Overlay – High

Highway and Railway Noise Overlay – Moderate

means the area shown in the planning maps as the Highway and Railway Noise Overlay – Moderate

Noise

- (276) KiwiRail (442.11) supports the definition as notified.
- (277) Te Kārearea Ltd and Rosco Ice Cream (447.12s; opposed by MPHRCIS F10.7) seek that the definition is deleted or amended to not include vibration.
- (278) Noise is a defined term in the Act and defined identically in the National Planning Standards. The definition thus cannot be altered. As it is beyond contention that the term “noise” will be used in the plan, the definition must be included.
- (279) There are potentially broader options to give effect to this relief, by separating out noise (excluding vibration) and vibration within individual provisions. However, in my view, there are no good reasons to handle noise and vibration separately except in the context of specific standards, and for these the PDP as notified already does so.

(280) The submitter also has related points on individual provisions related to vibration, and so these more specific issues are better discussed in those individual provisions.

(281) Accordingly, I recommend the definition remain as notified.

Reasonable maximum use scenario

(282) KiwiRail (442.15; supported by Wellington Regional Council F38.58) seek that the definition be amended as follows:

...

1. Rail noise – The current day measured or predicted rail noise level LAeq (24 h) plus ~~2 dB~~ 3 dB

...

(283) NZTA (385.15) seek that the definition be amended as follows:

...

2. Highway noise – The current day measured or predicted road traffic noise level LAeq (24 h) plus 3 dB

(284) The definition of “reasonable maximum use scenario” is only used in the PDP in the context of NOISE-S5.1.c/NOISE-S6.1.c, where as an alternative to acoustic insulation of a new building, a qualified expert can certify that the existing external acoustic screening (e.g. from a solid noise barrier, terrain, or building) is already adequate. It does not affect the consideration of noise either where acoustic insulation is provided or a resource consent application is made because the acoustic insulation is required but will not be provided.

(285) KiwiRail does not give a reason for seeking this change. NZTA (inferred) considers that this should be done for reasons of consistency with other councils.

(286) In my view, there is no inherent value in consistency with other councils. The definition is used in a context where a qualified expert is already taking site-specific measurements and making determinations. It will depend significantly on the layout of the railway or highway, buildings, and topography, and involve a prediction of the noise level at a variety of locations. The adjustment for the maximum use scenario is then a minor matter.

- (287) There is also no consistency between other councils at present. Looking at other councils in the region, there is no consistent approach. No other plan provides the same compliance pathway in the first place, but we can compare the values with those in plans with other approaches that include some explicit assumption for a future increase in noise levels. Of these, Wellington City makes a 2dB adjustment, Porirua City a 3dB adjustment, Kāpiti Coast District and the Wairarapa combined plan make no adjustment, and Upper Hutt has no relevant equivalent provisions.
- (288) Considering potential reasons for such an allowance, the main two would be allowing for future growth in traffic resulting in increased noise, and uncertainty in identification.
- (289) Council considered the potential for growth in noise this in preparing the PDP based on the evidence available at the time. To my knowledge, there is no evidence to suggest that there are any planned upgrades to the existing State Highway network whose intent is to increase their traffic capacity or anticipated effect is to increase the noise generated, and so it is reasonable to assume that the noise will not increase. For the rail network, it is reasonable to assume some increase given that the Wellington Strategic Rail Plan provides for a future expansion of the frequency of rail services¹⁹. However, this is a question on which it is likely that the submitters hold more, and more up to date, information and so KiwiRail and NZTA may wish to consider providing further evidence on the future expectations of the change in noise generated on their networks in the hearing.
- (290) In the case of the highway noise, there is potentially a question of consistency within the plan, as the modelled noise contour from NZTA of a nominal 57 dB $L_{Aeq(24hr)}$ includes a 3 dB allowance for growth. However, the reason for this is unclear, and as stated in the Section 32 report²⁰, this modelling is only used because it is the only modelling available. NZTA may be able to provide more information in the hearing about the accuracy of this layer.

¹⁹ <https://www.gw.govt.nz/document/19937/wellington-rail-programme-business-case-wellingtons-strategic-rail-plan-july-2022/>

²⁰ Section 32 Report, Noise, paragraph 83.

- (291) In terms of uncertainty or error in measurement and modelling, this may be relevant in other contexts present in other district plans who make a wider use of the *reasonable maximum use scenario* concept, but in the context of the PDP, I do not think it is relevant as the certification is done by a suitably qualified expert who is best placed to handle measurement and uncertainty issues.
- (292) Accordingly, I recommend the relief is rejected and the definition remain as notified.

4.3.13 Definitions – new definitions sought

Helicopter landing area

- (293) The NZ Helicopter Association (215.2) and NZ Agricultural Aviation Association (231.3) each request the following definition of “helicopter landing area”, used in the title of NOISE-R9:

means any area of land, building, or structure used, whether wholly or partly, for helicopter movements on an intermittent temporary basis.

- (294) I do not agree with the inclusion of “on an intermittent temporary basis” as I think it is also important to manage the establishment of regularly used helicopter landing areas.
- (295) Otherwise, while I think the remainder of definition is suitable, I think the meaning of the term is obvious enough in the context in which it is used and defining it would be redundant. I thus recommend rejecting this relief.

Heliport

- (296) The NZ Helicopter Association (215.3) and NZ Agricultural Aviation Association (231.4) each request a definition of “heliport”. As the term is not used in the PDP and I do not recommend any changes that would introduce it, I do not think a definition is necessary and recommend rejecting this relief.

Rural airstrip

- (297) The NZ Agricultural Aviation Association (231.6) seeks a definition of “rural airstrip” as follows:

means any defined area of land in the rural zone or natural open space zone, intended or designed to be used, whether wholly or partly, for aircraft movement where the principal use of that land is for primary production or conservation activities and is used intermittently for agricultural aviation activities.

- (298) This would be consequential on the submitter's relief on the definition of *agricultural aviation activity*. As I only recommend accepting that relief in part in a way that does not introduce the term "rural airstrip", I do not think the definition is needed and so recommend rejecting this relief.

Vibration

- (299) Te Kārearea Ltd and Rosco Ice Cream Ltd (447.12b; opposed by MPHRCIS F10.8) seeks a definition be provided for "vibration".
- (300) The submission does not give reasons for seeking this. In my view vibration is a reasonably well understood term in the context of district plan provisions, and appears without being further defined in the RMA definition of "noise". The submitter's more general concerns about the scope of vibration rules are better addressed in the rules themselves, on which they have other more specific submission points.
- (301) I accordingly recommend rejecting this relief.

5 Temporary Activities

5.1 Chapter summary

- (302) The Temporary Activities chapter provides an (almost) all-in-one framework for short term activities that would not otherwise be enabled in their underlying zone.

5.2 Major resource management issues

5.2.1 Hazardous substances risk

- (303) The Fuel Companies (471.227, 471.228, 471.229, 471.230) seek a package of changes to address temporary activities in the Seaview Marina Zone and Heavy Industrial Zone that may be at risk from hazardous substance risks from the oil terminal and oil pipeline in the area.
- (304) These submission points are opposed by Seaview Marina Ltd (F14.22, F14.23, F14.24, F14.25) and NZDF (F27.2, F27.3, F27.4, F27.5).
- (305) I discuss in section 2.5.1 the conferencing that occurred in the Hazardous Substances topic (in Hearing Stream 2) on this issue, and (for the moment, noting further evidence may arise in this hearing stream) I adopt the agreed view of the hazardous substances experts involved in that conferencing that events with a population of over 250 people create a significant enough issue to warrant an assessment of the risk in a resource consent process²¹.
- (306) Based on the evidence available at this point, I recommend that a policy and standard be added to manage temporary activities in the Hazardous Substances Risk Management Overlay and in the remainder of the Seaview Marina Zone. The details of this are shown in the individual provisions on which the Fuel Companies, Seaview Marina Ltd, and NZDF each have individual submission and further submission points.

²¹ Joint Witness Statement: Hazardous Substances – Jenny Polich and Rob Van de Munckhof, 28 July 2026, p7.

5.2.2 Temporary military training activities

- (307) NZDF (404) seeks a package of changes to the chapter to provide specific treatment of *temporary military training activities*, as defined in the National Planning Standards, including a new standalone policy and rule.
- (308) NZDF's submission points out the need for temporary military training activities, which I agree are necessary. However, this is a niche and rare issue. I think the PDP as written already adequately provides for temporary military training activities through being included in the general provision for temporary activities, including a more generous limit on the duration of activities.
- (309) NZDF's submission does not address whether the PDP approach is suitable for temporary military training activities, other than suggesting national consistency would be valuable. Based on the description of NZDF's activities in Attachment 2 to their submission, I think that these will typically be able to comply with either the underlying zone rules or the PDP's approach to temporary activities as proposed.
- (310) NZDF also does not provide evidence on how frequently temporary military training activities are carried out in Lower Hutt or whether they have faced operational obstacles from the Operative District Plan, and I think this would be useful context in making a decision on this issue. A basic search of Council's records does not show any resource consent applications or RMA enforcement action from NZDF in the time the ODP's Temporary Activities chapter has been operative²².
- (311) Government has the ability to use National Policy Statements and National Environmental Standards where national consistency is seen as of major importance. In the case of defence activities, the Minister of Defence can also effectively exempt those activities if they are necessary for reasons of national security. There are currently no relevant national instruments. In my view, the best way to achieve the national consistency sought by NZDF would be through (preferably) a National Environmental Standard or a policy for more routine use of national security certification by the Minister.

²² Since 10 November 2010.

- (312) Reviewing other recent plans in the region, there is not a consistent approach to temporary military training activities, and so I do not think there is a significant advantage in national consistency that could be advanced through decisions on the PDP. Kāpiti Coast's plan does not include temporary military training activities in its Temporary Activities chapter, but relies on catch-all zone provisions, although there is special treatment for temporary military training activities in the Noise chapter. The other plans I have reviewed (Wellington, Porirua, Wairarapa) each have a special rule for temporary military training activities, but each have different conditions from both each other and those sought by NZDF in their submission on the PDP.
- (313) Finally, it is worth noting that the Temporary Activities chapter, through its definition, only applies to activities that would not otherwise be permitted in the underlying zone. The key example given by NZDF is that of a dental unit that sets up in a remote area and practices by providing services to the community. This is not necessarily a plausible example for Lower Hutt which is compact district centred on a major urban centre and does not have any remote rural areas. However, health care services would be a permitted activity subject to some conditions in the more realistic urban locations for such an exercise, for example, the Open Space Zone, Industrial Zones, or Mixed Use Zone.
- (314) Accordingly, I generally think the PDP approach of including temporary military training activities within the general framework of temporary activities, rather than standalone rules, remains appropriate. I discuss further details in relation to NZDF's submission points on, or seeking, individual provisions.
- (315) NZDF also has related submission points around the treatment of temporary military training activities in the Noise chapter, where I think the situation is somewhat different and does justify some special treatment of temporary military training, and I discuss this further in section 4.2.1.

5.3 Discussion of submissions and recommendations

- (316) This section will discuss submission points on the text of the plan. There are no relevant map layers for the Temporary Activities chapter directly, although the plan does rely on zone boundaries, which were discussed in the relevant zone hearing streams.
- (317) As discussed in section 5.2.1, the relief requested by the Fuel Companies (471) in relation to managing hazardous substances risk in relation to temporary activities also depends on zone boundaries. My recommendations are to accept this relief in part, and this would make the Temporary Activities chapter depend on the extent of the Hazardous Substances Risk Management Overlay (which affects only parts of the Heavy Industrial Zone and Seaview Marina Zone). The extent of this overlay is a topic already covered in Hearing Stream 2.

5.3.1 Provisions not in dispute

- (318) The following provisions only have submissions in support, with no changes sought, and on which I do not think any further comment is necessary:
- TEMP-P1 (Recognise benefits of temporary activities) – supported by FENZ (374.66), NZDF (404.23)
 - TEMP-P2 (Recognise limited duration of effects) – supported by NZDF (404.24)
 - TEMP-S5 (Restoration of site) – supported by FENZ (374.67b)
- (319) As these points are all thus beyond contention, they all should be accepted.
- (320) The following provisions only have submissions in support, with no changes sought, but need consequential modifications as discussed in section 2.5.4:
- TEMP-S3 (Hours of operation) – supported by FENZ (374.67b)

- (321) I thus recommend these points be accepted in part to the extent that those provisions remain, and rejected where those provisions need to be modified and withdrawn.
- (322) Where other provisions in the chapter are not listed in this report, they did not receive provision-specific submissions.

5.3.2 Introduction

- (323) NZDF (404.22b) supports the introduction as notified and in particular that it applies on a district-wide basis.
- (324) The Fuel Companies (471.227; opposed by Seaview Marina Ltd, F14.22; and NZDF, F27.2) seek that the introduction be amended as follows:

...

The benefits of temporary activities and the limited duration of adverse effects mean that those effects are likely to be more acceptable to the community. This chapter therefore provides a more liberal pathway for certain temporary activities in zones where they might not otherwise be provided for. Except in the Seaview Marina Zone and Heavy Industrial Zone at Seaview, temporary activities are permitted where they meet certain standards. Where they exceed the thresholds in those standards, operators can apply for resource consents which assess the effects of those activities case by case.

Temporary activities in the Seaview Marina Zone and Heavy Industrial Zone at Seaview require resource consent so that risk and reverse sensitivity effects associated with proximity to nearby significant hazardous facilities and the Hutt City fuel transmission pipeline are appropriately avoided or managed.

...

- (325) I discuss the issue of hazardous substances risk in section 5.2.1, and agree that the issue needs to be managed in this chapter, but only in relation to the Hazardous Substances Risk Management Overlay (in all zones) and the remainder of the Seaview Marina Zone.

- (326) I recommend accepting the relief of the Fuel Companies in part, with rewording and consolidation to reflect the policy and rule approach discussed in sections 5.3.4 and 5.3.5 below:

... Where they exceed the thresholds in those standards, operators can apply for resource consents which assess the effects of those activities case by case.

Temporary Activities in the Hazardous Substances Risk Management Overlay, and also in the remainder of the Seaview Marina Zone face an additional standard to manage residual risk from activities using hazardous substances in the area.

Temporary activities are also managed by the Council through bylaws and other local government powers ...

5.3.3 Objectives

TEMP-O2 (Adverse effects of temporary activities)

Transport network

- (327) NZTA (385.93) seeks to amend the objective to add:

Temporary activities occur in ways that:

...

6. Do not generate adverse effects on the safety and operation of the State Highway network.

- (328) This more specific test for the State Highway network would depart from the objective's current framework that temporary activities "protect people's health and safety" and "do not detract from the operations and capacity of the transport network more than is reasonable considering the benefits of the activity".
- (329) To change to such an absolute outcome – that *no* adverse effects on State Highway operation are acceptable – would be a major change in approach to temporary activities from what was proposed. The section 32

evaluation²³ noted that recognition of benefits alongside adverse effects meant that a balancing test for adverse effects was necessary. In my view more detailed reasons and a section 32AA evaluation would be needed and the submitter has not provided these.

- (330) In my view such a test would be excessive and unreasonable. Essentially any large event will generate some adverse effects on the operation of the State Highway network, but there is no reason to think that they cannot be managed or that they are unacceptable in the context of the benefits that events can provide. State Highway operations (like local road operations) are routinely and significantly impacted by traffic in daily commuting patterns – it is reasonable for them to also be impacted by traffic in occasional large scale events that bring economic, cultural, and social wellbeing to the community.
- (331) Finally, the policies implementing the plan set out more specific tests to be met in consenting larger scale events. This change to the objective would not align with the relief sought by the submitter in TEMP-P4 and TEMP-P7, or for TEMP-P2, TEMP-P3, and TEMP-P8, on which NZTA did not seek specific relief.

Hazardous substances risk

- (332) The Fuel Companies (471.228; opposed by Seaview Marina Ltd, F14.23; and NZDF, F27.3) seek to amend the objective as follows:

Temporary activities occur in ways that:

- 1. Protect cultural and heritage values, people's health and safety, and the natural environment,*
- 2. Protect public access to lakes, rivers, and the coast,*
- 3. Do not detract from public access to public spaces (other than any public space in which the temporary activity occurs) and the operations and capacity of the transport network more than is reasonable considering the benefits of the activity,*
- 4. Do not detract from amenity values more than is reasonable considering the benefits of the activity, and*

²³ Section 32 Evaluation, Temporary Activities, pp20-21

5. *Have only temporary adverse effects.*

6. *In the Seaview Marina Zone and Heavy Industrial Zone at Seaview, avoid unacceptable residual risk and reverse sensitivity effects associated with the nearby significant hazardous facilities and the Hutt City fuel transmission pipeline.*

(333) I discuss the general issues around hazardous substance risks in section 5.2.1.

(334) In my view, this is quite a specific issue and only applies in a limited location. It is already addressed in the objective in TEMP-O2.1 (“protect ... people’s health and safety”) and the details of how this is managed are better handled in the policies. There are also more relevant objectives in the Hazardous Substances chapter in HS-O1 and HS-O2.

(335) Accordingly, I recommend this relief is rejected.

5.3.4 Policies

TEMP-P4 (Minimising certain effects of temporary activities)

(336) NZTA (385.94) supports the policy as notified. This relief potentially conflicts with the relief NZTA also seeks on TEMP-P7, although I will discuss that in the section on TEMP-P7, below.

(337) The Policy Planning Team (440.61) seeks (in more specific wording) the wording of references to listed heritage items and Sites and Areas of Significance to Māori be clarified. The relevant parts of the provision need to be deleted as set out in section 2.5.4, and so this submission point is moot.

(338) Accordingly, I recommend the policy remain as notified, subject to the consequential amendments set out in section 2.5.4 and shown in Appendix 1.

TEMP-P7 (When effects of temporary activities on transport network operations and capacity must be mitigated)

(339) NZTA (385.95) seeks to amend the policy as follows:

Mitigate the adverse effects of temporary activities on the operations, safety and capacity of the transport network that are:

- 1. Unreasonable, considering the planned place function of those streets and the planned purpose and character of the zones and precincts covering those other nearby areas,*
- or*
- 2. Unreasonable in duration, or*
- 3. Disproportionate to the scale and benefits of the activity.*
- 4. Will generate unreasonable effects on the safety and/or operation of the state highway network.*

(340) This change is unclear as written and would need rewording to be implemented if it were to be implemented. I suggest that if the submitter wishes to pursue this relief that they propose alternative wording within the scope of their submission at the hearing.

(341) More broadly, the *safety* of the transport network, as opposed to operations and capacity, is already addressed in TEMP-P4, where the policy test is to “minimise the adverse effects of temporary activities on ... people’s health and safety, including the safety of the transport network”. NZTA separately supports that policy in their submission. That test is inconsistent with what NZTA seeks here.

(342) I consider that a single policy test should apply, rather than multiple inconsistent tests. In my view the test as set out in TEMP-P4 as proposed (to “minimise” the effects), is more appropriate given the scale and nature of the issue of transport safety, rather than only to “mitigate” effects that are “unreasonable”.

(343) Accordingly, I recommend the policy remain as notified.

New policy requested: Temporary Military Training Activities

(344) NZDF (404.25) seeks a new policy to provide for temporary military training activities:

Provide for temporary military training activities and emergency service training activities [where] adverse effects on the amenity values of the site and the surrounding area are remedied or mitigated.

- (345) I discuss in general the issues with temporary military training activities in section 5.2.2.
- (346) In the context of NZDF's relief, this policy would be for temporary military training activities as distinct from other temporary activities. NZDF does generally support the other temporary activities policies (404.23, 404.24, 404.25). I thus think this policy would not add anything to the management of temporary military training activities, as the issue of amenity values is already covered in a very similar way in TEMP-P6 as proposed.
- (347) I thus recommend the relief is rejected.

New policy requested: Temporary activities in the Seaview Marina Zone and Heavy Industrial Zone

- (348) The Fuel Companies (471.229) request a new policy as follows:

TEMP-PX Temporary activities in the Seaview Marina Zone and Heavy Industrial Zone at Seaview
Ensure that temporary activities within the Seaview Marina Zone and Heavy Industrial Zone at Seaview are appropriately located and managed to avoid unacceptable residual risk effects and reverse sensitivity effects associated with nearby significant hazardous facilities and the Hutt City fuel transmission pipeline.

- (349) This is opposed by Seaview Marina Ltd (F14.24) and NZDF (F27.4).
- (350) I discuss the issue of hazardous substances risk in section 5.2.1, and agree that the issue needs to be managed in this chapter, but only in relation to the Hazardous Substances Risk Management Overlay (in all zones) and the remainder of the Seaview Marina Zone.
- (351) I recommend accepting the relief of the Fuel Companies in part, as I also recommend rewording to clarify the policy approach, particularly where a resource consent is triggered:

TEMP-Pxxx: Manage hazardous substances risk to temporary activities within the Hazardous Substances Risk Management Overlay and the remainder of the Seaview Marina Zone

Manage larger-scale or longer duration temporary activities within the Hazardous Substances Risk Management Overlay and the remainder of the Seaview Marina Zone by:

1. Requiring temporary activities to be assessed to ensure that they do not expose people to unacceptable residual risk;

2. Ensuring temporary activities are timed and operated in a manner that reduces potential exposure to hazardous substance risk, including through coordination with nearby hazardous facilities; and

3. Minimising reverse sensitivity on existing significant hazardous facilities while enabling appropriate temporary use of land consistent with the purpose of the zone.

5.3.5 Rules

TEMP-R1 (Temporary activities)

(352) The Fuel Companies (471.230; opposed by Seaview Marina Ltd, F14.25; and NZDF, F27.5) seek that the rule be modified to add a restricted discretionary arm for all temporary activities in the Seaview Marina Zone and Heavy Industrial Zone that would be restricted discretionary under all circumstances:

...

3. Activity status: Restricted discretionary

Matters of discretion are restricted to:

1. Positive effects, including contribution to Lower Hutt's vibrancy, diversity, and prosperity.

2. The management of residual risk effects and reverse sensitivity effects associated with nearby significant hazardous facilities and the Hutt City fuel transmission pipeline.

- (353) As drafted this relief is unclear as to whether the matters of discretion relating to non-compliance with standards set out in TEMP-R1.2 would also apply. I have assumed that they would, if those standards are not met.
- (354) I discuss the issue of hazardous substances risk in section 5.2.1, and agree that the issue needs to be managed in this chapter, but only in relation to the Hazardous Substances Risk Management Overlay (in all zones) and the remainder of the Seaview Marina Zone.
- (355) I recommend accepting the relief of the Fuel Companies in part, to reflect the agreed position of the hazardous substances experts that events need to be managed with a population of 250 people or more, and various style and structural changes for consistency and clarity. I also recommend that to clarify the situation where a temporary activity in Seaview might also fail to meet the other, ordinary temporary activity standards, that the relief be implemented as an additional standard rather than a different arm of the rule. The details of this are shown in Appendix 1.

New rule requested: Temporary military training activities

- (356) NZDF (404.26) seeks a specific rule for *temporary military training activities*:

[SMZ-Rxx] Temporary Military Training Activities
[for all zones]

Activity status: Permitted

Where:

- 1. The activity is carried out pursuant to the Defence Act 1990; and**
- 2. 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**
- 3. The site is returned to its original condition, no more than ten days after the end of the activity; and**
- 4. The activity complies with the temporary military training provisions in the Noise Chapter.**

Activity status: Controlled

Where compliance is not achieved.

Matters over which Council has reserved control:

1. The effect of the activity on amenity values of surrounding properties

2. The extent and effect of non-compliance with any relevant rule or effects standards

3. Whether information about the event has been or is proposed to be provided to surrounding properties.

- (357) From the wording of the proposed rule, I infer that the submitter does not intend for TEMP-S1, TEMP-S2, TEMP-S3, TEMP-S4, or TEMP-S6 to be permitted activity conditions for the rule but does intend them to be matters of control under requested matter 2. TEMP-S5 would not apply but be replaced by requested condition 3.
- (358) I discuss the matter of temporary military training activities in general in section 5.2.2.
- (359) This would effectively alter the policy approach for temporary military training activities as follows:
- Increasing the annual allowed duration from 30 days to 31 days, and remove the 3 events per year limit in Residential Zones, Rural Zones, Heavy and General Industrial Zones, and the Seaview Marina Zone,
 - Reduce the annual allowed duration from 60 days to 31 days in other zones,
 - Introduce an annual allowed duration limit of 31 days in legal road,
 - Allow any one single event to be 31 days rather than 6, and including set up and pack up potentially up to 45 days rather than 10,
 - Remove the limits on hours of operation,
 - Remove the size thresholds for transport assessment,
 - Change the activity status for non-compliances from restricted discretionary to controlled,

- Effectively remove matters of control/discretion relating to transport capacity and operations, health and safety (including transport safety), and public access to public places²⁴, and
- Narrow the discretion over amenity values from the surrounding area including streets, to just “surrounding properties”

(360) I am sympathetic to the idea that the duration limit and hours of operation may be less important for many types of temporary military training activity. However, this does depend on some more specific details of the activity and in the (as far as I am aware) extremely rare circumstances that temporary military training activities that do not meet the PDP standards are proposed for Lower Hutt, I think these issues can be better considered in the resource consent process rather than through a detailed and rarely-used rule framework.

(361) I do not agree with the other changes proposed by the submitter:

- A controlled activity status is unreasonable for an activity that does not meet basic standards, particularly where this would have no firm cap on scale, location, duration, or purpose.
- It is unnecessary to include a requirement that the activity be carried out in accordance with the Defence Act; local government does not enforce or implement the Defence Act.
- I think hours of operation are still a relevant consideration in urban areas.
- I think that health and safety, transport network safety and capacity, public access to public places, and amenity values in public places remain relevant to temporary military training for the same reasons as for other temporary activities.

(362) Accordingly, I recommend the relief be rejected.

²⁴ In the original submission this would also remove matters relating to heritage, cultural values, and public access to lakes, rivers and the coast. These need to be removed regardless as a consequence of the partial withdrawal of the PDP as discussed in section 2.5.4.

5.3.6 Standards

TEMP-S1 (Duration)

- (363) The Policy Planning Team (440.62) seeks to amend the matters of discretion relating to public access as follows, for clarity:

The preservation of existing public access to lakes, rivers, the coast, and public spaces, including streets.

- (364) This distinction is relevant to public access to lakes, rivers, and the coast, but these matters need to be removed as a consequence of the partial withdrawal of the plan as discussed in section 2.5.4.

- (365) In relation to public access to public spaces this is a moot point, as it is built in to the PDP definition of “public spaces” that they have public access.

- (366) I therefore recommend rejecting this relief.

- (367) FENZ (374.67a) seek to amend the standard to add:

1. The duration of....

2. The duration of....

3. For the purposes of emergency response training, the duration is limited to a period of two days, excluding set-up or pack-down activities, which can occur up to seven days prior to commencement and up to seven days following completion of the temporary emergency services training activity.

- (368) The submitter considers that the proposed duration standard (that is, up to 6 days for the event itself, and 10 days including set up and pack up) is insufficient for emergency response training including live fire training. In comparing the proposed standard to that sought by the submitter, in relation to a 2-day event, the submitter’s standard would allow for 7 days before and 7 days afterwards, for a total of 14 days. The PDP standard would allow for 8 days total, shared across both set up and pack up.

- (369) I note that these conditions only apply to temporary activities, and thus, a situation where the activity is not permitted in the base zone. Emergency services training as part of either an established emergency services

facility, or on a site in a zone that allows for them as permitted activities (Industrial Zones), would not be subject to these standards.

(370) This condition also does not apply to construction, which is covered by TEMP-R2 and places no time limits on construction as long as the standards of the underlying zone are met.

(371) In my view, an off-site emergency services training exercise requiring non-construction set up and pack up that in total would be going on for longer than 10 days in a commercial, residential or rural zone is likely enough to present issues for amenity values, public access, and transport operations that a resource consent assessment would be reasonable, to ensure those effects can be adequately managed.

(372) Accordingly, I recommend rejecting this relief.

TEMP-S2 (Recurrence)

(373) FENZ (374.67b) supports the standard as notified.

(374) The Policy Planning Team (440.62) seeks to amend the matters of discretion relating to public access as follows, for clarity:

The preservation of existing public access to lakes, rivers, the coast, and public spaces, including streets.

(375) This distinction is relevant to public access to lakes, rivers, and the coast, but these matters need to be removed as a consequence of the partial withdrawal of the plan as discussed in section 2.5.4.

(376) In relation to public access to public spaces this is a moot point, as it is built in to the PDP definition of “public spaces” that they have existing public access.

(377) I therefore recommend rejecting this relief.

TEMP-S4 (Transport)

(378) NZTA seeks to amend the standard (for each of the three groups of zones) and matters of discretion as follows:

...

3. Temporary activities shall not generate more than 200 vehicle movements which are accessed from the state highway on any day.

Matters of discretion if the standard is breached:

...

6. Temporary activities shall not generate adverse effects on the safety and operation of the state highway network including through queuing.

- (379) The submitter raises general concerns around transport effects on the state highway, which I agree are an effect that needs to be managed, and should be managed through an assessment where the scale of activity is over a certain threshold. As far as that, this is the PDP's approach as proposed.
- (380) However, NZTA does not give reasons as to why a threshold of "200 vehicle movements which are accessed from the state highway [network] on any day" would be preferable to the threshold of 2000/1000/500 persons on site at any one time depending on zone, or why there should be a different threshold for the state highway network as opposed to other roads and the public transport network.
- (381) In my view, the thresholds as proposed are more workable and closely related to the effects being managed. There is in general no practical way for an event organiser to know, let alone control, which visitors arrive using the state highway network. A threshold of the number of attendees is more practical to implement as the event organiser will typically control access to the site (for events on a site) or work with council to manage access for events in the road corridor requiring road closures.
- (382) The requested matter of discretion is worded as a policy test rather than a matter of discretion. I suggest that if the submitter wishes to pursue this relief that they propose alternative wording within the scope of their submission at the hearing, although given the existing wording already broadly covers "the effects of the event on transport network safety and capacity" it is doubtful there is scope in the submission to widen it any further.

(383) More broadly, I discuss (and reject) the appropriateness of a policy that *no* adverse effects are acceptable in the equivalent relief NZTA seeks on TEMP-O2 in section 5.3.3 and TEMP-P7 in section 5.3.4, above.

(384) Accordingly, I recommend the standard remain as notified.

TEMP-S6 (Buildings, structures, and features)

(385) FENZ (374.67b) supports the standard as notified.

(386) The Policy Planning Team (440.62) seeks to amend the matters of discretion relating to public access as follows, for clarity:

The preservation of existing public access to lakes, rivers, the coast, and public spaces, including streets.

(387) This distinction is relevant to public access to lakes, rivers, and the coast, but these matters need to be removed as a consequence of the partial withdrawal of the plan as discussed in section 2.5.4.

(388) In relation to public access to public spaces this is a moot point, as it is built in to the PDP definition of “public spaces” that they have public access.

(389) I therefore recommend rejecting this relief.

(390) The Policy Planning Team (440.63, 440.64), seeks, for the arm of the standard applying to the Residential Zones, Rural Zones, and Quarry Zone, to amend the matters, and add a note, as follows, to be consistent with the first arm of the rule:

...

Matters of discretion if the standard is breached:

...

Effects from construction and demolition.

Note:

In this standard, "relevant standards" in zones includes only the zone's standards (i.e. those numbered S1, S2, etc.), and not conditions within rules.

(391) I agree as set out in the submission these matters should be consistent in the different zones and recommend accepting this relief.

5.3.7 Definitions

Proposed: Temporary activity

- (392) FENZ (374.12) supports the definition as notified.
- (393) NZDF (404.3) seeks broader relief around having a specific rule framework for *temporary military training activities*, but alternatively supports the definition as notified as it includes military training.
- (394) As I discuss in section 5.2.2, I support retaining *temporary military training activities* within the general framework for temporary activities. I recommend a minor consequential change to align the terms used with the National Planning Standards, by replacing “military training” in the list of examples with “temporary military training activities” (and including the National Planning Standards definition of the latter).
- (395) Laura Skilton (314.4) seeks that the definition be amended to include an exception as follows:
- Does not include social gatherings in private homes*
- (396) The submitter’s concern is that this would affect the relevant noise provisions that apply to parties in private homes.
- (397) The Noise chapter rules as set out in the “Note on application of noise rules” at the start of the Rules section state that they do not apply to “*Residential activities in the Residential Zones and Mixed Use Zone, other than vehicles, fixed plant, mobile plant, and construction*”. I therefore do not think this would make any practical difference to the Noise chapter. Parties in people’s homes are, in the PDP, intended to be managed using Council’s general powers to manage excessive noise under the RMA.
- (398) I thus recommend not accepting this change.
- (399) Wellington Electricity (415.2) seeks that the definition be amended to include mobile electricity generators used during outages, maintenance, and upgrades.
- (400) The definition as proposed is a very generic one and gives examples, rather than an exhaustive list. I think this is appropriate, and giving very specific examples of activities risks the definition being seen as exhaustive. I thus think the submitter’s broader relief is better addressed if

at all through the Infrastructure chapter, on which the submitter has more specific submission points, and so recommend not accepting this change.

(401) MPHRCIS (377.11; opposed by Waste Management NZ F39.6) seeks that the definition be amended to exclude “construction activities”.

(402) The PDP’s intent is that construction itself be addressed through:

- rules for permanent buildings and structures in zones²⁵,
- rules for temporary buildings and structures in a dedicated rule (TEMP-R2), and
- district-wide provisions for construction effects such as noise and earthworks

(403) I thus think this clarification would aid interpretation of the plan and recommend accepting it.

(404) Combining these, I recommend the definition be amended as follows:

...

does not include:

a. a construction activity, or

b. any associated temporary buildings, structures, or features.

Examples include, but are not limited to, festivals, parades, concerts, fairs, markets, circuses, carnivals, exhibitions, displays, theatrical productions, art installations, filming on location, temporary military training activities, emergency response training, cultural events, sporting events, ceremonies, public meetings, public gatherings, and other community or special events.

²⁵ See the Section 32 report, paragraph 8.

Requested: Temporary military training activities

- (405) NZDF (404.4) requests a new definition of *temporary military training activities*, being that in the National Planning Standards:

means a temporary activity undertaken for the training of any component of the New Zealand Defence Force (including with allied forces) for any defence purpose. Defence purposes are those purposes for which a defence force may be raised and maintained under section 5 of the Defence Act 1990 which are:

(a) the defence of New Zealand, and of any area for the defence of which New Zealand is responsible under any Act;

(b) the protection of the interests of New Zealand, whether in New Zealand or elsewhere;

(c) the contribution of forces under collective security treaties, agreements, or arrangements;

(d) the contribution of forces to, or for any of the purposes of, the United Nations, or in association with other organisations or States and in accordance with the principles of the Charter of the United Nations;

(e) the provision of assistance to the civil power either in New Zealand or elsewhere in time of emergency;

(f) the provision of any public service.

- (406) As I discuss in relation to the definition of *temporary activity*, above, this definition is required for the consequential change I recommend to that definition and so I recommend accepting this relief.

6 Conclusion

- (407) This report has provided an assessment of submissions received in relation to Hearing Stream 7 for Light, Noise, Temporary Activities, related definitions, and the related map layer of the Highway and Railway Noise Overlay.
- (408) Sections 3, 4, and 5 assess and provide recommendations on the decisions requested in submissions. I consider that the submissions on the Light, Noise and Temporary Activities parts of the PDP should be accepted, accepted in part, or rejected, as set out in my recommendations of this report and in Appendix 2.
- (409) I recommend that provisions be amended as set out in Appendix 1 for the reasons set out in this report.

6.1 Section 32AA Evaluations

Temporary Military Training Activities – Noise

- (410) The changes I recommend to noise standards for Temporary Military Training Activities are modest but just at the level a basic section 32AA assessment is required.
- (411) In my view, the recommended approach is a more efficient and effective way of achieving the objectives as:
- The standards as notified would not be practical to apply to weapons and explosives noises, as that noise does not fall within the scope of the relevant New Zealand Standards, while the recommended standards can be applied in some circumstances without acoustic evaluation, and
 - The lower limits on other noise requested by the submitter will only apply to the submitter, and so presumably they believe they can comply with them, while providing greater amenity to residents.

Other issues

- (412) Changes to the Temporary Activities provisions for Hazardous Substances risk are subject to ongoing conferencing coming out of Hearing Stream 2,

and I recommend the Section 32AA Evaluation for those provisions be conducted along with the evaluation for Hazardous Substances in general, once the Joint Witness Statement is published.

- (413) The only other changes recommended in the report are minor corrections and minor changes, or changes that are largely administrative in nature and are to improve the readability and the implementation of the plan. I have not made individual section 32AA assessments as I consider that the section 32 evaluation made by the Council continues to apply.

7 Appendices

Appendix 1: Recommended amendments to the Proposed District Plan

Appendix 2: Recommended decisions on submissions on Light, Noise, and Temporary Activities

Appendix 3: Noise and acoustic evidence of Malcolm Hunt

