

**BEFORE THE INDEPENDENT HEARINGS PANEL
OF HUTT CITY COUNCIL**

UNDER the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER of the Proposed Hutt City District Plan ("**Proposed
Plan**")

**STATEMENT OF EVIDENCE OF DAVID GIBSON ON BEHALF OF
TE KĀREAREA LIMITED & ROSCO ICE CREAM LTD
(HEARING STREAM SEVEN - NOISE)**

PLANNING

29 SEPTEMBER 2026

1. EXECUTIVE SUMMARY

- 1.1 This statement of evidence is prepared on behalf of Te Kārearea Limited ("**TKL**") and Rosco Ice Cream Ltd ("**Rosco**") Submitter #447. The submission addressed the definitions of "noise" and "vibration" and also rule NOISE-R5 (Activities that result in vibration).
- 1.2 TKL / Rosco also made further submissions opposing the original submissions lodged by the Manor Park and Haywards Residents Community Incorporated Society ("**Association**").
- 1.3 I have relied on the evidence of Mr Micky Yang (Acoustic Consultant) in reaching my recommendations.
- 1.4 In summary, my evidence is that:
- (a) Rule NOISE-R5 should be separated into two separate rules: one rule to address operational vibration from permanent activities; and a second rule for construction related activities. Construction vibration is temporary in nature, and the Proposed Plan already recognises this distinction for noise emissions by permitting higher construction noise levels under NOISE-R2. Without this separation, most construction activities would fail to meet the qualitative permitted activity standard in NOISE-R5.1(a), resulting in unintended consenting requirements across the district; and
 - (b) I agree with the Section 42A Report on Light, Noise and Temporary Activities prepared by Mr Stephen Davis, dated 15 September 2026 ("**Section 42A Report**") that the relief sought by the Association should be rejected.¹ The Association's proposed "discernible" vibration test is a very low and subjective threshold that is not linked to adverse effects and would be difficult to administer consistently, particularly given ambient vibration from transport corridors. Measuring vibration at the generating site boundary, rather than the receiving site, is also inappropriate as it does not reflect where effects are actually experienced.

¹ Section 42A Report at [141]-[144].

2. INTRODUCTION

2.1 My full name is Alexander David Gibson, and I am a Technical Director with the firm of Spencer Holmes Limited. I hold a Bachelor of Surveying from the University of New South Wales, and I am an Associate member of the New Zealand Planning Institute as well as a Professional Associate of Survey and Spatial New Zealand. I have worked in the resource management planning field for thirty years.

Code of conduct

2.2 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the Hearing Commissioners. Except where I state that I am relying on the evidence of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from my evidence.

3. SCOPE OF EVIDENCE

3.1 My statement of evidence will:

- (a) address NOISE-R5 (Activities that result in vibration);
- (b) respond to the relief sought by the Association in relation to noise and vibration matters;
- (c) briefly address the Section 42A Report as it relates to noise and vibration matters; and
- (d) set out my conclusions and recommendations in relation to the noise and vibration provisions of the Proposed Plan.

4. AMENDMENTS SOUGHT TO NOISE-R5

4.1 TKL's submission opposed NOISE-R5 (Activities that result in vibration) and sought an amendment to clarify that temporary activities and construction activities are not subject to NOISE-R5.1(a).²

² TKL's submission, submission point 447.12d.

- 4.2 Rule NOISE-R5 is the only rule that specifically addresses the effects of vibration from activities. This single rule approach contrasts from the other noise rules that address the effects of noise emissions. That is, in respect of noise emissions there are specific rules for:
- (a) general noise emissions (NOISE-R1);
 - (b) noise from construction activities (NOISE-R2);
 - (c) noise from temporary activities (NOISE-R3); and
 - (d) noise from major events (NOISE-R4).
- 4.3 The noise emission standards that apply to each of these rules differ to recognise that noise from construction works, temporary activities, or major events is of short duration and occurs during certain periods of a day. These types of activities do not create permanent or long-lasting noise effects and accordingly have higher daytime noise limits.
- 4.4 Mr Yang's evidence is that construction vibration typically involves higher short-term vibration levels rather than ongoing activity, but vibration during construction is temporary.³ He notes that the Proposed Plan already recognises this distinction for noise, NOISE-R2 permits higher construction noise levels because they are temporary. In his opinion, the same concept should apply to vibration generated by construction.⁴
- 4.5 I also consider that a similar approach is required to address vibration effects from construction works and temporary activities separately from general vibration effects. In this respect, I adopt the evidence of Mr Yang, who recommends that NOISE-R5 be split into two separate rules: one for day-to-day vibration generating activities (operational vibration), and a second for temporary and construction activities.⁵
- 4.6 I note that the Section 42A Report recommends that the definition of "temporary activity" should exclude construction activities. Accordingly, construction works and temporary activities would require separate rules.⁶

³ Statement of Evidence of Micky Yang (Noise and Vibration) Hearing Stream Seven dated 29 September 2026 at [4.4].

⁴ Statement of Evidence of Micky Yang (Noise and Vibration) Hearing Stream Seven dated 29 September 2026 at [4.4].

⁵ Statement of Evidence of Micky Yang (Noise and Vibration) Hearing Stream Seven dated 29 September 2026 at [4.2].

⁶ Section 42A Report at [404].

4.7 As currently written, proposed rule NOISE-R5.1 sets two permitted standards for all activities creating vibration. These standards manage vibration effects very differently: one generally addresses a person's exposure to vibration, and the other addresses a building's exposure to vibration.

4.8 NOISE-R5.1(a) as notified sets a qualitative standard for vibration affecting a person, where a subjective assessment is required:

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

4.9 For construction works and temporary activities, the qualitative standard NOISE-R5.1(a) essentially requires all vibration effects to be contained within the site of the activity, at any time of the day or night, so that the amenity and well-being of a person at any other site is not compromised.

4.10 Such a restrictive and subjective vibration standard would make the majority of construction works (including demolition, earthworks, foundation piling works and final surfacing works) unviable, particularly in, or near, a residential area, as a permitted activity.

4.11 NOISE-R5.1(b) sets a standard procedure using international standard DIN 4150-3 for managing vibration effects on adjacent buildings:

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

4.12 This standard is widely used in district plans across the country to manage vibration effects on adjacent structures to avoid damage. However, it is not particularly relevant to managing vibration effects on a person.

4.13 I note that the Wellington City Council and Porirua City Council district plans do not specifically address vibration effects on people. My understanding is that both these councils rely on sections 16 and 17 of the RMA to ensure that noise and vibration effects are not unreasonable.

- 4.14 Mr Yang has reviewed proposed rule NOISE-R5 and recommends a separate rule for construction activities with alternative wording of the qualitative standard (shown in red underline):⁷

The activity is managed in such a way that construction vibration effects do not unreasonably compromise amenity values within any other site.

- 4.15 This alternative wording is consistent with section 16(1) of the RMA, as it focuses on amenity values as a qualitative assessment but incorporates an "unreasonable" threshold for the vibration effects before a resource consent is required.
- 4.16 As construction activities are of short duration the potential impact at the receiving site should be restricted to the areas of the site that are occupied at the time of the construction activity, and not applied to all parts of the site generally, particularly if areas of the receiving site are not actively utilised.
- 4.17 While the relief sought by TKL / Rosco was that the qualitative standard NOISE-R5.1(a) should not apply to construction type activities, I support the alternative proposed by Mr Yang.
- 4.18 Accordingly, I recommend the following two rules to replace NOISE-R5 (with my further amendments shown in red underline):

NOISE-R5 – Activities that result in vibration except construction activities

1. Activity status: Permitted

Where:

- a. *The activity is managed in such a way that ground vibration effects are contained as far as practical within the boundary of the site and do not compromise public health or safety, or well-being and amenity values within occupied areas of any other site, and*
- b. *The activity is managed to avoid damage to buildings, by ensuring vibration levels received at any building except for any building located on the same site do not exceed vibration guideline values set out in Tables 1 and 3 of DIN 4150-3:1999-02 Structural vibration – Part 3: Effects of vibration on structures.*

⁷

Statement of Evidence of Micky Yang (Noise and Vibration) Hearing Stream Seven dated 29 September 2026 at [4.9].

2. **Activity status:** *Restricted discretionary*

Where:

- a. *Compliance is not achieved with NOISE-R5.1.*

Matters of discretion are restricted to:

1. *Any positive effects of the activity that cannot be achieved while meeting NOISE-R5.1.*
2. *Effects of the vibration on people's health, safety, and wellbeing.*
3. *The planned purposes, characters, and amenity values of the relevant zones and precincts of the areas that would be subject to ground vibration effects and effect of vibration on these values.*

NOISE-RX – Construction activities that result in vibration

1. Activity status: Permitted

Where:

- a. *The activity is managed in such a way that construction vibration effects do not unreasonably compromise amenity values within occupied areas of any other site, and*
- b. *The activity is managed to avoid cosmetic damage to buildings, by ensuring construction vibration levels received at any building except for any building located on the same site do not exceed vibration guideline values set out in Tables 1 and 3 of DIN 4150-3:2016-12 Vibration in buildings – Part 3: Effects on structures.*

2. Activity status: Restricted discretionary

Where:

- a. *Compliance is not achieved with NOISE-RX.1b.*

Matters of discretion are restricted to:

1. *Any positive effects of the activity that cannot be achieved while meeting NOISE-RX.*
2. *The timing, duration, frequency, and intensity of the vibration*

3. The practicability of complying with the permitted vibration standard

5. **RESPONSE TO RELIEF SOUGHT BY THE ASSOCIATION**

Noise and vibration emitted from the use of heavy vehicles

- 5.1 The Association's submission sought amendments to NOISE-R1, NOISE-R2 and NOISE-R5 in the Proposed Plan's Noise chapter to ensure noise and vibration emitted from heavy vehicles and machinery is monitored at the site boundary, with Hutt City Council being able to require the results of monitoring at its discretion.⁸
- 5.2 I disagree with the relief sought by the Association that noise or vibration should be measured at the boundary of the site generating it. The proposed rule NOISE-R2 directs that construction noise is measured 1 metre from the building at the receiving site (refer NOISE-APP2). This approach is consistent with clause 8.4.4 of NZS 6802:2008, which provides that the measurement location should be at any point within the area desired to be protected.⁹
- 5.3 I support the measurement approach specified in NOISE-APP2 for construction activities, which should also apply to the measurement of vibration under rule NOISE-R5. This approach recognises the short-term nature of construction noise and vibration effects and ensures that compliance is assessed in relation to the actual occupation of the receiving site, not at a theoretical or immaterial boundary location. Ms Angela Goodwin's evidence for WM supports the same approach, noting that assessing compliance at the boundary of the generating site would impose a lower limit on sites separated from receivers by non-sensitive land (such as the rail corridor between 30 Benmore Crescent and Mary Huse Grove), leading to inconsistent outcomes between sites with similar effects on sensitive receivers.¹⁰

⁸ Association submission point 377.10(a).

⁹ Statement of Evidence of Micky Yang (Noise and Vibration) Hearing Stream Seven dated 29 September 2026 at [5.3].

¹⁰ Statement of Evidence of Angela Goodwin (Planning) Hearing Stream Seven dated 29 September 2026 at [4.1] - [4.8].

Discernible vibration

- 5.4 The Association's submission also sought amendments to NOISE-R1, NOISE-R2, and NOISE-R5 in the Proposed Plan's Noise Chapter that:¹¹
- (a) require vibration to not be discernible on any residential land outside the subject development; and
 - (b) identify a "discretionary" activity status for vibration which is discernible outside the subject development site.
- 5.5 TKL / Rosco opposed this relief.¹²
- 5.6 I disagree with the relief sought by the Association that vibration effects should not be discernible within a residential property. The "discernible" test is a very low threshold and therefore inappropriate for construction activities in particular. As I have mentioned above, the noise and vibration effect to be controlled should be a realistic effect at the occupied area of a site, rather than a theoretical effect at a boundary. This is particularly so for construction activities given their non-permanent nature.
- 5.7 I also agree with the Section 42A Report in respect of the Association's submission that non-compliance with the rule should be a fully discretionary activity.¹³ Mr Yang also agrees with the Section 42A Report on this point.¹⁴ That is, the rule is about a specific type of effect and therefore, Council's discretion to consider effects under the rule should be restricted to the noise and vibration effects that the rule is designed to manage. I also agree with Ms Goodwin's evidence as to why the standard would have negative unintended consequences.¹⁵

6. SECTION 42A REPORT

- 6.1 I have read the Section 42A Report in respect of the definitions of noise and vibration, and also in respect of rule NOISE-R5 (activities that result in vibration) as well as the evidence of Mr Hunt for the Council.

¹¹ Association submission point 377.10(b) and (c).

¹² TKL / Rosco's further submission points F40.8 and F40.9.

¹³ Section 42A Report at [142].

¹⁴ Statement of Evidence of Micky Yang (Noise and Vibration) Hearing Stream Seven dated 29 September 2026 at [5.4], referring to Section 42A Report at [143].

¹⁵ Statement of Evidence of Angela Goodwin (Planning) Hearing Stream Seven dated 29 September 2026 at [4.12].

- 6.2 While the Section 42A Report recommends rejecting the submissions of TKL / Rosco, I consider that rule NOISE-R5 requires amendments as indicated by Mr Yang and as outlined in my evidence above.
- 6.3 I do agree with the Section 42A Report that the submissions by the Association should be rejected in respect of:
- (a) Monitoring noise and vibration at the subject site boundary;
 - (b) Applying a "discernible" test to the measurement of noise and vibration, and that the activity classification would be a restricted discretionary activity where the "discernible" test is not complied with and a resource consent is required.

7. CONCLUSION

- 7.1 My recommendations to the Panel are that:
- (a) Rule NOISE-R5 (vibration) is amended to become two separate rules as outlined above. That is, a rule for operational vibration generated by activities; and a second rule for vibration generated from construction related activities.
 - (b) That the relief sought by the Association is rejected.
- 7.2 I consider that the proposed amendments to rule NOISE-R5 would better reflect the objectives and policies of the Proposed Plan, particularly policies NOISE-P1 and NOISE-P2, to enable and manage activities that may generate noise and vibration while avoiding unreasonable effects on amenity values.
- 7.3 In my opinion, the relief sought by the Association would result in noise and vibration standards that are difficult to comply with, difficult to monitor or establish compliance, which would result in an inefficient district plan.

David Gibson
29 September 2026