



## **SECTION 42A REPORT**

Officer's written right of reply 6 December 2024

### **Hearing 6/7 – Noise and Light**

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#### **Appendix 1: Officer's Recommended Amendments to Noise Provisions – Option 1**

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##### **Appendix 1.3: Officer's Recommended Amendments to Definitions – Option 2**

##### **Appendix 1.4: Peter Ibbotson's Statement of Evidence**

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#### **Appendix 2: Officer's Recommended Amendments to Light Provisions**



## **1 Introduction**

### **1.1 Background**

1. My name is Kenton Baxter. I am the writer of the original Section 42A Report for Hearing 6/7 on the Proposed District Plan: Noise and Light held on 22-24 October 2024.
2. In the interests of succinctness, I do not repeat the information contained in Section 2.1 of the Section 42A report and request that the Hearings Panel ("the Panel") take this as read.

## **2 Purpose of Report**

3. The purpose of this report is primarily to respond to the evidence of the submitters and provide my right of reply to the Panel. In this Report I also seek to assist the Panel by providing responses to specific questions that the Panel directed to me during the hearing, under the relevant heading.

## **3 Consideration of evidence recieved**

4. The following submitters provided evidence and/or attended Hearing 6/7 raising issues relevant to the Noise and Light topic:
  - a. Bentzen Farm Ltd (S167) and Setar Thirty Six Ltd (S168)
  - b. KiwiRail Holdings Ltd (S416)
  - c. Northland Federated Farmers of NZ (S421)
  - d. NZ Transport Agency Waka Kotahi (S356)
  - e. Top Energy Ltd (S483)
  - f. Transpower NZ Ltd (S454)
  - g. Horticulture NZ (S159)
  - h. Waiaua Bay Farm Limited (S463)
  - i. Waipapa Pine Ltd and Adrian Broughton Trust (S342)
  - j. Northern Resue Helicopter Limited (S281)
  - k. Manulife Forest Management (NZ) (S160), Summit Forests NZ Ltd (S148) and Ltd PF Olsen Ltd (S91)
  - l. NZ Agricultural Aviation Association (S182)
5. Vision Kerikeri (S521, S527), Carbon Neutral Trust (S529) and Kapiro Conservation Trust (S442, S443)



6. A number of submitters generally support the recommendations in the Noise and Light Section 42A Report (the section 42A report) but raise specific issues. Accordingly, I have addressed only the evidence where I consider additional comment necessary and have predominantly grouped related issues from specific submitters' evidence together, where appropriate. These matters are organized under the following headings:
  - a) Issue 1 – General issues
  - b) Issue 2 – Helicopter Landing Area provisions
  - c) Issue 3 – Rail line provisions
  - d) Issue 4 – Setbacks from the State Highway provisions
  - e) Issue 5 – RPS implementation in objectives and policies
  - f) Issue 6 - Noise exemptions for generators
  - g) Issue 7 - Specific noise limits for substation sites
  - h) Issue 8 - Audible bird scaring devices permitted hours
  - i) Issue 9 - Zone noise limits interaction
  - j) Issue 10 – Agricultural Aviation
  - k) Issue 11 – Emergency Helicopter use
  - l) Issue 12 – Light
  - m) Additional Information / Questions raised by the Hearing Panel
7. In order to distinguish between the recommendations made in the s42A Report and my revised recommendations contained in Appendix 1 of this report:
  - a) Section 42A Report recommendations are shown in black text (with underline for new text and ~~strikethrough~~ for deleted text); and
  - b) Revised recommendations from this Report are shown in red text (with red underline for new text and ~~strikethrough~~ for deleted text)
8. As a result of recommendations in the Section 42A Report and this Right of Reply, a number of the provisions require renumbering [~~delete if not relevant~~]. Where I reference provisions in this report, I use the new reference number (consistent with renumbered provisions in red text in **Appendix 1**).



9. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.

### 3.1 Issue 1 – General issues

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Whole report
Evidence in chief Ms Cook Munro on behalf of Northland Federated Farmers.	The full statement of evidence
Evidence in chief Mr Tuck on behalf of Waiau Bay Farms Limited.	The full statement of evidence
Evidence in chief Ms Buckingham on behalf of Manulife Forest Management (NZ), Summit Forests NZ Ltd and Ltd PF Olsen Ltd	The full statement of evidence
Evidence in chief from Ms Heppelthwaite for KiwiRail Holdings Limited	The full statement of evidence

#### Analysis

##### General support for section 42A recommendations

10. A number of submitters broadly support the recommendations in the section 42A report and the amended Noise chapter in Appendix 1. This includes:
  - a. Ms Cook Munro on behalf of Northland Federated Farmers (**Federated Farmers**).
  - b. Mr Tuck on behalf of Waiau Bay Farms Limited.
  - c. Ms Buckingham on behalf of Manulife Forest Management (NZ), Summit Forests NZ Ltd and Ltd PF Olsen Ltd (S91)

##### Submission Point allocation

11. KiwiRail submitted that their request to modify the definition of 'noise sensitive activity' was not addressed in the noise report. This is correct, as the submission point was allocated to the 'definitions' topic. While it would be logical to address this matter under the noise topic, it remains assigned



to the 'definitions' topic. Furthermore, submission point S416.003 has four further submissions, all of which either support or support in part KiwiRail's position.

12. Given this context, it is not appropriate to make a recommendation on this definition under the noise topic. However, as a result of expert conferencing with KiwiRail I am of the opinion that hospitals should be added to the definition of 'noise sensitive activities' however given this submission point has been allocated to the definitions topic, this matter will be addressed then.

Clause 16 amendments and other amendments to the recommended provisions

13. Mr. Ibbotson has reviewed the suggested amendments and identified several improvements. These have been incorporated into the recommended provisions where they are within the scope of submissions or can be made as Clause 16 corrections.
14. This includes amending NOISE-Table 1 – Design noise level incident to group the Orongo Bay zone with the Light Industrial zone as these limits should be the same. Instead of what was originally recommended in the S.42A report which grouped the Orongo Bay zone with the Light Industrial zone which is not appropriate.

**Recommendations**

15. Retain as notified except for the recommended changes outlined in the remainder of the report.

**Section 32AA Evaluation**

16. Not required as no changes are recommended.

**3.2 Issue 2 – Helicopter Landing Area provisions**

**Overview**

<b>Relevant Document</b>	<b>Relevant Section</b>
Section 42A Report	Key Issue 12 – Helicopter Noise Provisions From Paragraph 247 - 295
Evidence in chief from Mr Hall for Bentzen Farm Limited and Setar Thirty Six Limited	The full statement of evidence

**Analysis**

17. Based on a review of the planning evidence received by Mr Hall on behalf of Bentzen Farm Limited and Setar Thirty Six Limited and matters raised during



the hearing, I consider that there are three key issues to respond to as follows:

- a. NOISE-R7 – amendments to the Helicopter landing areas rule
  - b. New suggested provision – NOISE-RDIS – Helicopter landing areas – Restricted Discretionary activity step
  - c. NOISE-S4 – amendments to Helicopter landing areas standard
18. I address each of the three matters below.

#### NOISE-R7 Helicopter landing areas

19. Mr Hall has recommended a number of amendments to this rule. I agree with the intent of the amended provisions, however in my opinion they need to be redrafted to fit the structure of the PDP and ensure they are user friendly. In my opinion some of the topographical error fixes are appropriate and some are not given the new suggested structure of the rule. Mr Hall has also suggested the wording of PER-1 is amended as follows “~~PER-2~~ PER-1 ~~The helicopter landing site complies with standard:~~ Noise generated from the operation of helicopters using the helicopter landing area complies with standard: NOISE-S4 Helicopter landing areas.” I agree with the suggested wording change for the reasons outlined by Mr Hall, the term ‘helicopter landing area’ is recommended to be a defined term so should be used in the rule. The other wording amendments will ensure consistency with the wording used in the related standard and also recognise that it’s not the landing area per-se that generates the noise, but the use of it by helicopters.
20. Mr Hall has also recommended that where compliance with the rule cannot be achieved it becomes a restricted discretionary activity. While I acknowledge and support the intent of Mr. Hall’s provision to include a restricted discretionary step, I find the format and structure is not consistent with the PDP. In my view, it may lead to the misinterpretation that any activity breaching NOISE-R7 defaults to a restricted discretionary status. This is not correct, as in certain instances where restricted discretionary limits are exceeded, the activity would instead require a discretionary consent.

#### New suggested provision – NOISE-RDIS – Helicopter landing areas – Restricted Discretionary Activity Step

21. Mr Hall has recommended an additional provision that provides a restricted discretionary step for helicopter landing areas. Mr Ibbotson and I concur this is a more appropriate way to manage helicopter landing areas. If noise levels associated with helicopter landing areas in certain zones do not exceed 50dB Ldn, this activity may be considered a restricted discretionary activity. Discretion is limited to the matters identified by Mr. Ibbotson in his initial report, which was provided to inform the s.42A report.



22. I recommend the restricted discretionary activity step is added as requested by Mr Hall, however in my opinion it is best to add the limits associated with the restricted discretionary step to NOISE-R7 as PER-2. To be a permitted helicopter landing area it must comply with PER-1 and 2. Where it cannot comply with PER-1 but can comply with PER-2 it is a restricted discretionary activity. Where the activity cannot comply with PER-1 and PER-2 it becomes a discretionary activity. In my opinion this implements the approach requested by Mr Hall in a way that fits into the existing PDP format.
23. As Mr Ibbotson outlined in his evidence in his opinion helicopter activities that exceed the restricted discretionary threshold should not generally be consented, however there may be circumstances when this is acceptable for example if the frequency of helicopter movements is low, and the benefits outweigh any of the costs. For these types of activities, the discretionary activity status enables a full assessment of matters considered relevant by the reporting officer.
24. In reviewing the suggested provisions Mr Ibbotson has identified that the Hospital zone should also be protected in terms of helicopter landing areas by including it as one of the zones subject to NOISE-R7 PER-2 that is specified as having a 50 dB  $L_{dn}$  noise limit. Mr Ibbotson has also identified an issue with the suggested wording of PER-2. His comment is as follows "There is a problem with how this was written. The [RD] rule was requiring 50 dB  $L_{dn}$  to be met for noise sensitive activities within the rural and residential type zones, but was then requiring the underlying recommendations of NZS6807 to apply to commercial and industrial *activities* that operated within those rural and residential zones. However, there was no noise rule that would apply to the actual commercial and industrial zones."
25. I agree with the matters raised by Mr Ibbotson and the suggested amendments seek to address these issues.

#### NOISE-S4 – amendments to Helicopter landing areas standard

26. Mr Hall has recommended deleting the matters of discretion from NOISE-S4 and move these to the suggested new provision (NOISE-RDIS). In my opinion this is not necessary and not consistent with the format used in the PDP. The matters of discretion should be maintained within NOISE-S4 except matter of discretion a. which is now incorporated into NOISE-R7 and is no longer necessary. This achieves the intent of Mr Hall's requested changes whilst being consistent with the PDP format and Mr Ibbotson's advice.
27. Mr Ibbotson has identified that the Hospital zone should also be protected in terms of helicopter landing areas by including it as one of the zones subject to NOISE-S4 (1) that is specified as having a 40 dB  $L_{dn}$  noise limit.



**Recommendations**

28. For the reasons above, I recommend the following amendments to NOISE-R7.

NOISE-R7	Helicopter landing areas	
All zones	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b>  <del>Flight movements are for emergency purposes such as medical emergencies, search and rescue or firefighting purposes;</del></p> <p><b>PER-2 PER-1</b>  <del>The helicopter landing site complies with standard:</del>  <u>Noise generated from the operation of helicopters using the helicopter landing area complies with standard:</u>            NOISE-S4 Helicopter landing areas.</p> <p><b>PER-2</b></p> <p><u>Noise generated from the operation of helicopters complies with the following noise limit when assessed in accordance with NZS 6807:1994: Noise Management and Land Use Planning for Helicopter Landing Areas and measured at any point within any General Residential, Rural Residential, Hospital and Māori Purpose-Urban zones, or within the notional boundary in the Rural Production, Rural Lifestyle, Settlement, Horticulture, Carrington Estate, Kororareka Russell</u></p>	<p><b>Activity status where compliance not achieved with PER-1 or PER-2: <u>Discretionary Restricted Discretionary Activity</u></b></p> <p>a. <u>the matters of discretion of any infringed standard</u></p>





Township, Moturoa Island, Kauri Cliffs, Ngawha Innovation and Enterprise Park, Quail Ridge or Māori Purpose – Rural zones:

1. 50 dB Ldn

In all other zones, noise generated shall comply with the guidelines of NZS6807:1994 for the underlying use of the zone.

**~~This standard does not apply to:~~**

- ~~i. Emergency or rescue helicopter operation occurring to or from Bay of Islands, Rawene or Kaitiāia Hospital (excludes established helicopter bases on hospital land);~~
- ~~ii. Emergency or rescue helicopter landings, departures, overflights or activity during operations that occur away from the permanently established helicopter base; or~~
- ~~iii. Cropping, top dressing, and spraying for the purpose of farming or conservation carried out in the Rural Production, Horticulture zones, or within Significant Natural Area on a seasonal, temporary, or intermittent basis for a period up to 30 days in any 12 month period.~~

**Activity status where compliance not achieved with PER-2: Discretionary**

29. For the reasons above, I recommend the following amendments to NOISE-S4.

1. ...40 dB L<sub>dn</sub> when measured at any point within any General Residential, Rural Residential, Hospital and Māori Purpose-Urban zones, or within the notional boundary of any noise sensitive activity in the Rural Production, Rural Lifestyle, Settlement, Horticulture, Carrington Estate, Kororareka Russell Township, Moturoa Island, Kauri Cliffs, Ngawha Innovation and Enterprise Park, Quail Ridge or Māori Purpose – Rural zones.
2. ...



**Matters of Discretion are restricted to:**

- a. ~~That compliance with a helicopter noise limit of 50 dB Ldn will occur at noise sensitive activities, or that compliance with the guidelines of NZS6807:1994 will be achieved at non-noise sensitive receivers Section 4.3 of NZS 6807:1994 shall not apply~~
- b. ...

**Section 32AA Evaluation**

- 30. The proposed amendment to NOISE-R7 introduces a restricted discretionary activity status for helicopter landing areas and corrects typographical errors. This aligns with the original intent of the s.42A recommended provisions, informed by Mr. Ibbotson’s recommendations.
- 31. The inclusion of a restricted discretionary activity status, along with specific assessment criteria, represents a more efficient and effective approach to managing helicopter landing areas. When noise from helicopter landing areas complies with a specified limit, a restricted discretionary activity status is more appropriate, allowing Council to focus its discretion on relevant matters only. Mr. Ibbotson’s report within the s.42A analysis notes that the noise limits for helicopter landing areas are intentionally set at a low threshold, but this does not imply that activity above these limits is inherently unreasonable. Given this evidence and Mr Ibbotson’s evidence for the ROR, it is both efficient and effective to assess helicopter landing areas that comply with the 50dB Ldn limit within certain zones as restricted discretionary activities. In cases where noise exceeds 50dB Ldn within the relevant zones, a discretionary activity status is warranted, as the greater exceedance justifies a broader assessment of potential effects. Correcting typographical errors ensures that the rule and standard reflect the original intent accurately, and no further assessment is necessary.

**3.3 Issue 3 – Rail line provisions**

**Overview**

Relevant Document	Relevant Section
Section 42A Report	Key Issue 14 – Noise Reverse Sensitivity From Paragraph 345 – 359 and Paragraph 372 - 402
Evidence in chief from Ms Heppelthwaite for KiwiRail Holdings Limited	The full statement of evidence

**Analysis**

- 32. Based on a review of the planning evidence received by Ms Heppelthwaite on behalf of KiwiRail Holdings Limited and matters raised during the hearing, I consider that there are five key issues to respond to as follows:



- a. NOISE-P2 – Amendments to refer to rail
  - b. NOISE-S5 – Amendments to refer to rail noise and vibration
  - c. Provide provisions which apply once a rail line becomes operational
  - d. Provide a rail noise and vibration Alert Overlay within 100m of the rail designation boundary
  - e. 'Operational rail line' definition
33. As requested by KiwiRail and supported by the Panel at the hearing, both KiwiRail and FNDC and their respective planning and noise experts held informal discussions following the hearing. The amended provisions (see Appendix 1.5) are the outcome of two post-hearing meetings. While these discussions do not indicate agreement from FNDC, they facilitated constructive dialogue. All parties engaged collaboratively to identify areas of agreement and refine the proposed approach. In my view, this will helpfully assist the Panel in making its decision on the relevant submission points.
34. A key challenge with KiwiRail's approach is the uncertainty surrounding if and when the railway will be operational and that this could lead to a situation where some buildings may be erected without adequate acoustic protection, or that the already substantive cost of building in the Far North District will be increased incorporating measures into housing design that may never be required. It is acknowledged that noise can impact health and may give rise to reverse sensitivity issues. It is also acknowledged KiwiRail holds a designation for the rail line, enabling operation at any time.
35. KiwiRail has indicated that the line will only become operational if it is financially viable. Given the significant investment required to restore operational capability, it is difficult to predict whether the rail line will become operational within the life of the plan, or at all. KiwiRail were unable to provide specific information on timeframes associated with making the rail line operational.
36. Given the uncertainty regarding the utilisation of the rail lines in the Far North District our primary recommendation is not to include operation rail provisions in the noise chapter but to include an alert layer similar to the relief requested by KiwiRail. This would alert property owners to effects associated with rail lines without imposing noise insulation provisions. I also suggest including the construction schedule as requested by KiwiRail as a guidance note only, so property owners could use this information to noise insulate as an option should they so choose.
37. We have also provided an alternative Option 2 (see Appendix 1.1 and 1.3) for the panels consideration which includes adopting provisions associated with an 'operational rail line' as requested by KiwiRail.



38. It should also be noted that although KiwiRail’s approach provides an alert layer for the 100m setback when the rail lines are not operational, buildings captured by the noise insulation requirements are not required to comply with these standards. This is a pragmatic approach in the absence of operational trains. However, if the rail lines become operational, existing buildings and associated activities may be subject to adverse health effects and reverse sensitivity. In my opinion although this outcome is not ideal, it is preferable to requiring noise insulation standards for an inactive rail line.
39. It is also noted that the recent Housing and Business Development Capacity Assessment (HBA) conducted by Market Economics identified that development costs in the Far North District are among the highest in the country. This significantly impacts the feasibility and affordability of housing. Accordingly, any provisions that impose additional costs, such as noise insulation requirements, must be carefully considered to ensure development costs are minimised wherever possible.
40. It is also noted that, and was agreed between the two noise experts, that the characteristics of road and rail noise differ significantly. Rail noise is heavily influenced by the frequency and size of trains. Given the uncertainty regarding the rail line’s use, it is challenging to predict potential noise effects with accuracy as noted in Mr Ibbotson’s evidence.
41. I address each of the key matters raised below.

#### NOISE-P2 – Amendments to refer to rail

42. Ms. Heppelthwaite has proposed amendments to NOISE-P2 to include reference to rail, along with other wording changes. I consider that regardless of whether the hearing panel adopts the rail provisions as suggested by KiwiRail, NOISE-P2 should address rail as requested by Ms. Heppelthwaite. This aligns with my recommendation to include advice notes relating to rail.
43. The additional wording amendments suggested by Ms. Heppelthwaite enhance the readability of the policy. However, these improvements must be integrated with the amendments proposed by Top Energy. The suggested amendment from Top Energy is evaluated below under Issue 5.

#### NOISE-S5 – Amendments to refer to rail noise and vibration

#### **Matters common to both Options 1 and 2**

44. Following expert conferencing between KiwiRail and FNDC, the initial provisions were amended to create a more agreeable framework. However, it should be noted that points of contention remain including whether specific rail provisions in NOISE-S5 are appropriate.
45. However, the overall framework is more user friendly in our opinion and can improve the approaches associated with both option 1 and 2.



46. Mr. Ibbotson has addressed the final provisions in his evidence and made a number of comments.
47. Mr. Ibbotson and I agree that removing the reference to "habitable room" in relation to noise-sensitive activities and instead referring to the table provided by KiwiRail is appropriate subject to some amendments. This approach helps clarify which activities and rooms are captured by the noise insulation provisions. However, Mr. Ibbotson has noted that "habitable room" is still referenced in other clauses of the final provisions provided by KiwiRail. In my opinion, this inconsistency is not appropriate if the reference to "habitable building" in clause 1 is deleted. Mr. Ibbotson has provided the following comment in his evidence:
- "Striking out 'habitable spaces' is understood (the table broadly refers to the specific noise-sensitive spaces in question); however, note that some spaces in the table ('libraries,' 'marae,' 'places of worship') are still very broad descriptions. It is not necessary to sound insulate bathrooms or storage areas in libraries or marae to achieve 45 dBA internally, but the rule as written might require that. The intention of the rule is that the noise-sensitive rooms within those buildings are sound insulated, not the whole building. In my view, the rule should clearly state that."
48. I agree with Mr. Ibbotson's opinion that rooms not intended for noise-sensitive activities should not be required to comply with the noise insulation standards. Our recommended amendments reflect this, and only certain rooms/buildings including Library reading areas, the main congregational areas within places of worship and the wharenui of marae are required to comply with the noise insulation provisions.
49. In terms of the matters of discretion suggested by KiwiRail, Mr. Ibbotson has provided the following comments:
- "In my view, these matters of discretion should provide a gateway for a resource consent to be obtained without veto rights from KiwiRail. This is because Council needs to be able to consider rail noise on a case-by-case basis, given the uncertainty over future rail noise levels and the inflexible nature of the rules proposed. A resource consent should be able to be obtained on its merits."
50. In my opinion, the matters of discretion suggested by KiwiRail do not grant veto rights. Matter of discretion 4 states:
- "the outcome of any consultation with KiwiRail or NZTA."
51. This is a matter to which Council's assessment is restricted. However, it does not state that a favourable outcome from consultation with NZTA or KiwiRail is a prerequisite for granting resource consent. While a positive outcome from consultation would naturally be advantageous for an application, the provisions do not mandate this as a requirement. Therefore, in my opinion,



these matters of discretion are appropriate should Option 1 or 2 be used, although Option 1 does not include reference to rail or KiwiRail.

52. Clause 2(a) refers to habitable rooms for a residential activity. Mr. Ibbotson has noted:

"There is a line in Table 1 for 'Sleeping spaces' and one for 'All other habitable rooms. I assume this clause is intended to apply to sleeping spaces also. It would be preferable for the words to encompass both, so there is no potential confusion."

53. I agree with Mr. Ibbotson, and I recommend that the wording of clause 2(a) be amended to clarify that it applies to both sleeping spaces and all other habitable rooms.

54. Clause 2(a)(v) relates to the required noise level from an internal cooling/heating system. Mr. Ibbotson has commented:

"This is an improvement, allowing the measurement to be made when the heat pump is hopefully 'maintaining the set point temperature' in the room. I still think it is likely an unnecessarily prescriptive clause that is unnecessarily overreaching into the design of people's dwellings, though I recognise that NZTA want people to choose thermal solutions that they will actually use (and not avoid using because they are too noisy). The clause is probably more likely to allow for high-wall heat pumps to be used, which I think is pragmatic."

55. In my opinion, the suggested clause is suitable and more cost-effective than requiring specific systems or measuring noise levels before the room has been cooled. Mr. Ibbotson has further suggested:

56. "Why not also allow residential dwellings to have their ventilation and air-conditioning design determined by a suitably qualified person? Perhaps as an alternative."

57. I agree with this suggestion and recommend adding an additional clause to enable this as an alternative option.

58. In relation to clause 6, Mr. Ibbotson has commented:

"Although this is a non-prescriptive clause, I still consider it has merit in pragmatic mechanical design solutions. If this clause is used, it should not be a separate clause; rather, it should be considered as a substitute for 5(v)."

59. I recommend that the hearing panel consider whether clause 6 should be retained or integrated as a substitute for clause 5(v).



### Option 1

60. As noted above, I primarily do not support the approach to add noise insulation provisions to NOISE-S5 in relation to rail. However, if the panel decides to adopt this approach, please see the below comments in relation to Option 2.
61. Our primary recommendation (Option 1) includes Schedule Z as a guidance note. While this option does not include specific rail provisions, the inclusion of the construction schedule provides a useful resource for developers undertaking development within the alert layer. Schedule Z offers guidance for achieving cost-effective noise insulation, should developers choose to implement such measures.

### Option 2

62. Ms Heppelthwaite considers that NOISE-S5 should be amended to include provisions for a 100m setback from an operational rail line.
63. KiwiRail have suggested the assumption of 70 LAeq(1h) for rail noise at a distance of 12m from the track. Mr. Ibbotson has made the following comment on this:

"potentially a conservative approach to noise level and does not leave any discretion to the acoustic engineer (unless a resource consent is sought, of course). The noise level assumed (70 dB LAeq(1h) @ 12m) allows for a fairly high level of daytime and nighttime rail noise, even in a situation where there could actually be few trains operating per week (and where there could be no trains at night). The rule is essentially protecting the train line on the basis that, at some point in the future, the line may carry regular freight trains over the day and nighttime. Whether that is appropriate or whether some other 'shared risk' approach should be provided is a decision for the panel. I am of the view that the rules proposed may result in higher than necessary levels of sound insulation being put in place (especially in bedrooms); however, I cannot be sure of this due to the uncertain nature of future rail in Northland."

64. Given Mr. Ibbotson's position, I recommend that clause (A)(ii) is amended to include an alternative option as follows (unless otherwise determined by a suitably qualified and experienced person). In my view this addresses Mr Ibbotson's concern and enables applicants to undertake noise assessment of the rail line to determine the noise level rather than having to comply with the assumed noise level which is not based on use of the inactive rail line.
65. In relation to clause b of the provisions suggested by KiwiRail, Mr. Chiles has made the following comment:

"In other plans, this provision often includes an option for highways such as 'all parts of the formed carriageway of the state highway.'"



66. Mr. Ibbotson provided the following comment in response:
- "Agree that this could be useful for road, though a 3.8m high barrier above a road would likely only occur in very specific situations (large cuts or large buildings between). Note that the lack of discretion in rule (ii) above would not allow the acoustic consultant to allow for any noise barrier effects that might exist adjacent to a rail line (unless they met the specification of (B), which would often not occur). Even if the rail line was well screened by an effective high noise barrier/bund, the acoustic consultant would need to ignore it completely and just use a noise level of 70 dB LAeq(1h) at 12m in the design. This could lead to unnecessarily onerous sound insulation outcomes, where they might not actually be required."
67. Although the noise experts have suggested this additional clause. In my opinion this is not appropriate given I am not recommended increasing the 40m setback from State Highways.
68. Mr. Ibbotson also identified issues with section referencing. In our recommended provisions, we have sought to address these issues and clarify the numbering and wording of the provisions.
69. In relation to clause 1(c), Mr. Ibbotson provided the following comment:
- "The 'deemed to comply' constructions in Schedule Z are likely to represent what would actually be used, as other constructions (as determined by an acoustic engineer) may need to be heavier and more expensive to achieve the required internal noise levels, especially closer to the rail line. The 'deemed to comply' constructions are potentially the least conservative options based on the required external design noise level and the required internal design criteria. In my view, the main issue with the Schedule Z construction is likely to be the requirement to use a resilient rail on the walls of dwellings with lightweight façades (lightweight cladding is what most relocatable dwellings would use and may be used in many on-site builds). The additional plasterboard layers will add cost also. Schedule Z does not mention the floor of a raised dwelling."
70. I do not recommend any changes to Schedule Z but Mr Ibbotson's comment on the associated costs and/or difficulties of complying with this schedule should be noted.
71. In relation to the maximum internal railway noise level for sleeping spaces, currently set at 35 dB LAeq(1h), Mr. Ibbotson has commented:
- "I am of the view that the constructions required to meet this are quite onerous/heavy, potentially heavier than the Schedule Z 'deemed to comply' constructions out to 100m."
72. Based on Mr Ibbotson's advice, in my opinion, the maximum internal railway noise level for sleeping spaces should be increased to 40 dB LAeq(1h).





73. The two-stage approach suggested by the submitter, discussed in more detail below, proposes that these rules would not apply until the rail line becomes operational. However, an overlay would be shown on the planning maps to inform landowners that these restrictions could be triggered in the future.

Provide provisions which apply once a rail line becomes operational

74. Ms Heppelthwaite considers that rail line provisions will only apply when a rail line becomes operation. This will ensure unnecessary costs of noise and vibration mitigation measures are avoided unless they are absolutely necessary. Should the hearing panel decide to adopt noise insulation standards for rail the approach suggested by KiwiRail is more appropriate than requiring noise insulation within the specified setback from rail lines when they are not operational. However, in our opinion Option 1 which includes an alert layer without associated noise provisions is a more appropriate approach given the uncertainty surrounding the use of the railway in the Far North District.

Provide a rail noise and vibration Alert Overlay within 100m of the rail designation boundary

75. Ms Heppelthwaite considers that applying a rail noise and vibration Alert Overlay within 100m of rail designation boundary means that landowners will be alerted to these provisions and approach, so that when they seek to develop land within this area, they can make an informed decision about any mitigation noise and vibration mitigation measures even when the lines are not operational. I agree with this approach for the reasons outlined by Ms Heppelthwaite, this also applies to both option 1 and 2.
76. I agree with Mr. Ibbotson's comment in his evidence that the setback from the rail line and State Highway should be mapped to ensure that current and future property owners are alerted to the presence of an overlay and the associated noise insulation provisions.

Add a new definition of 'operational rail line'

77. Ms Heppelthwaite considers that a new definition of 'operational rail line' should be added to the PDP and used to implement the 2-stage approach to managing rail lines in the Far North District this. The addition of this definition would only be necessary should the panel decide to adopt option 2.
78. The definition of Operational Rail Line including Mr Ibbotson's and my amendments after expert conferencing was concluded is as follows *'means a rail line (or part thereof) that has regular scheduled passenger or freight services. This does not include maintenance activities or occasional tourist activities (eg. steam train excursions).'*



*The rail line will then be deemed operational from the date notified by KiwiRail Holdings Limited and accepted by FNDC.'*

79. Mr Ibbotson has made the following additional comment on this definition which is the reasoning behind the additional wording I have added:

"Although KiwiRail will not intend this, the clause would allow KiwiRail to notify Council of a date well in advance of the rail line actually becoming operational (cynically, this could be the day after the Plan becomes operative....). There is no requirement for KiwiRail to provide objective evidence that the rail line will actually operate from a specific date. The above change requires KiwiRail to show FNDC that trains will start running from a specific date and for FNDC to accept that."

80. In my opinion, the additional wording is required for the reasons outlined.

### **Recommendations**

81. For the reasons above, I recommend the following amendments to the noise overview.

82. A Rail Alert Overlay has been applied which identifies the noise and vibration-sensitive area within 100 metres each side of the railway designation boundary as properties within this area may experience future rail noise and vibration effects. No specific district plan provisions apply in relation to noise and vibration controls as a result of this Rail Alert Area. The Rail Alert Overlay informs property owners of the potential noise and vibration effects associated with the rail line should it become operative, while allowing property owners the discretion to determine an appropriate response. Schedule 'Z' is included for guidance purposes only. This construction schedule provides a framework for designing, constructing, and maintaining a single-storey framed residential building with habitable rooms to achieve noise insulation from rail noise.

83. For the reasons above, I recommend the following amendments to NOISE-P2.

Ensure noise sensitive activities proposing to locate within the Mixed Use Zone, Light Industrial Zone, an Air Noise Boundary; or on land near state highways or railways; ~~and in close proximity of regionally significant infrastructure within these areas~~ are located, designed, constructed and operated in a way which will minimise adverse noise on community health, safety and wellbeing by having regard to:

- a. Any reverse sensitivity risks to existing noise generating activities and the level of noise that will be received within any noise sensitive building;
- b. the primary purpose and the frequency of use of the activity; and the ability to design and construct buildings accommodating noise sensitive activities with sound insulation and/or other mitigation



measures to ensure the level of noise received within the building is minimised particularly at night.

84. For the reasons above, I recommend the following amendments to NOISE-S5.
85. For the reasons above, I recommend adding Schedule 'Z' as a guidance note as follows:

NOISE-S5		Noise insulation standards for all noise sensitive activities	
<p><b>All zones within 40m of a State Highway that exceed an average of 15,000 daily one-way vehicle movements</b></p>	<p>1. Any <del>habitable room in a</del> new building used for a noise sensitive activity, or an alteration to an existing building that changes its use to a noise sensitive activity, must be designed, constructed, and maintained to achieve <del>a maximum internal noise limits set out in Table 1</del> <u>by: of 40dB LAeq(24h);</u></p> <p>2. <del>Compliance with (1) above shall be achieved based on an existing noise level with a 2-3 decibel addition allowing for future traffic increases and design uncertainty;</del></p> <p style="padding-left: 20px;">a. <del>Compliance with (1) above shall be achieved if, prior to the construction of any building containing a habitable room, an acoustic design certificate from a suitably qualified acoustic engineer is provided to the Council stating the design will achieve compliance with this standard, or the certificate shows that the noise at all exterior façades of that part of the building is no more than 15 dB above the relevant noise limits in Table 1. design noise level as determined in accordance with (2) above is less than 55 dB LAeq(24h) for road.</del></p> <p><u>When providing the acoustic design certificate the following applies:</u></p>	<p><b>Matters of discretion are restricted to:</b></p> <p><del>a. effects in the ability of existing or permitted activities to operate or establish without undue constraint;</del></p> <p><del>b. any legal instruments proposed;</del></p> <p><del>c. mitigation of noise achieved through other means;</del></p> <p><del>d. any topographical or other site constraints;</del></p> <p><del>e. any alternative solutions proposed by a suitably qualified acoustic engineer to achieve appropriate amenity for present and future residents of the site;</del></p> <p><del>f. any existing noise generating activities and the level of noise that will be received within any noise sensitive building;</del></p> <p><del>g. the primary purpose and the frequency of use of the activity; and</del></p> <p><del>h. the ability to design and construct buildings accommodating noise sensitive activities with sound insulation and/or other mitigation measures to ensure the</del></p>	

(i) For roads, the acoustic design certificate shall be achieved based on an existing traffic noise level with a 3 dB addition allowing for future traffic increases and design uncertainty;

Table 1: Internal noise limits for state highway noise

<u>Building type</u>	<u>Occupancy/ activity</u>	<u>Maximum internal state highway noise level</u> <u>L<sub>Aeq</sub>(24h)</u>
<u>Residential</u>	<u>Sleeping spaces</u>	<u>40 dB</u>
	<u>All other habitable rooms</u>	<u>40 dB</u>
<u>Education</u>	<u>Lecture rooms/ theatres, music studios, assembly halls</u>	<u>35 dB</u>
	<u>Teaching areas, conference rooms, drama studios, sleeping areas</u>	<u>40 dB</u>
	<u>Library reading areas</u>	<u>45 dB</u>
<u>Health</u>	<u>Overnight medical care, wards</u>	<u>40 dB</u>
	<u>Clinics, consulting rooms, theatres, nurses' stations</u>	<u>45 dB</u>
<u>Cultural</u>	<u>Main congregational areas within places of worship and</u>	<u>35 dB</u>

~~level of noise received within the building is minimised particularly at night.~~

- a. The extent of noncompliance with the noise and vibration standards.
- b. Effects on the health and wellbeing of people.
- c. The reverse sensitivity effects on the road network, including the extent to which the activity will unduly constrain the ongoing operation, maintenance and upgrade of the road network.
- d. The outcome of any consultation with NZTA.

	<p style="text-align: center;"><u>the whareniui of marae</u></p> <p>3. <del>The building shall be designed, constructed, and maintained in accordance with the design certificate. The design certificate shall also state the required HVAC design noise levels that are to be included in the ventilation design as well as any relevant assumptions; or</del></p> <p>4. <del>Where design external noise levels in (2) above are greater than 55 dB LAeq(24h). Compliance with this clause shall be achieved if, prior to construction of any habitable room, a ventilation and HVAC design certificate is provided by a suitably qualified practitioner.</del></p> <p>2. <u>If windows must be closed to achieve internal noise limits Where design external noise levels in (1A 2) above are greater than 55 dB LAeq(24 h) the specified spaces in Table 1 habitable rooms of the noise sensitive activity must be designed, constructed and maintained with cooling and mechanical ventilation system(s) that achieves the following requirements:</u></p> <ul style="list-style-type: none"> <li>i. <del>Provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and</del></li> <li>ii. <del>provides cooling that is controllable by the occupant and can maintain the inside temperature to below 25°C</del></li> </ul> <p>(a) <u>Achieves the following requirements for habitable rooms, including sleeping spaces within a residential activity:</u></p> <ul style="list-style-type: none"> <li>i. <u>provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and</u></li> </ul>	
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	<ul style="list-style-type: none"> <li>ii. <u>is adjustable by the occupant to control the ventilation rate in increments up to a high air flow setting that provides at least 1 air changes per hour; and</u></li> <li>iii. <u>provides relief for equivalent volumes of spill air;</u></li> <li>iv. <u>provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and</u></li> <li>v. <u>does not generate more than 35 dB LAeq(30s) when measured 1 metre away from any grille or diffuser. The noise level must be measured after the system has cooled the room to the temperatures in (2)(a)(iv) or after a period of 30 minutes from the commencement of cooling (whichever is the lesser).</u></li> </ul> <p><u>OR</u></p> <p>(b) <u>As determined by a suitably qualified and experienced person.</u></p> <p><u>AND</u></p> <p>(c) <u>For other spaces, is as determined by a suitably qualified and experienced person.</u></p> <p><del>5. Noise levels from ducted ventilation and cooling systems must be designed to within the design sound level range of NZS2107:2016 when measured as a time and space average over the room beyond 1 metre from any diffuser or outlet. If split system air conditioning systems are used, an HVAC design certificate must confirm these are of good quality, suitable for noise sensitive</del></p>	
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	<u>applications, and include a “low noise” or “quiet” operation mode.<sup>1</sup></u>	
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**Guidance note - Schedule 'Z' Construction schedule for indoor noise control**

<u>Elements</u>	<u>Minimum construction for noise control in addition to the requirements of the New Zealand Building Code</u>	
<u>External walls</u>	<u>Wall cavity infill of fibrous insulation, batts, or similar (minimum density of 9 kg/m<sup>3</sup>)</u>	
	<u>Cladding and internal wall lining complying with either Options A, B, or C below:</u>	
	<u>Option A - Light cladding: timber weatherboard or sheet materials with surface mass between 8 kg/m<sup>2</sup> and 30 kg/m<sup>2</sup> of wall cladding</u>	<u>Internal lining minimum 17 kg/m<sup>2</sup> plasterboard such as two layers of 10 mm thick high-density plasterboard, on resilient/isolating mountings</u>
	<u>Option B - Medium cladding: surface mass between 30 kg/m<sup>2</sup> and 80 kg/m<sup>2</sup> of wall cladding</u>	<u>Internal lining of minimum 17 kg/m<sup>2</sup> plasterboard such as two layers of 10 mm thick high-density plasterboard.</u>
	<u>Option C - Heavy cladding: surface mass between 80 kg/m<sup>2</sup> and 220 kg/m<sup>2</sup> of wall cladding</u>	<u>No requirements additional to the New Zealand Building Code</u>
<u>Roof/ceiling</u>	<u>Ceiling cavity infill of fibrous insulation, batts, or similar (minimum density of 7 kg/m<sup>3</sup>)</u>	
	<u>Ceiling penetrations, such as for recessed lighting or ventilation, shall not allow additional noise break-in</u>	
	<u>Roof type and internal ceiling lining complying with either Options A, B, or C below:</u>	
	<u>Option A - Skillion roof with light cladding: surface mass up to 20 kg/m<sup>2</sup> of roof cladding</u>	<u>Internal lining of minimum 25 kg/m<sup>2</sup> plasterboard, such as two layers of 13 mm thick high-density plasterboard</u>
	<u>Option B - Pitched roof with light cladding: surface</u>	<u>Internal lining of minimum 17 kg/m<sup>2</sup> plasterboard, such as two layers of 10</u>

<sup>1</sup> S516.075



	<u>mass up to 20 kg/m<sup>2</sup> of roof cladding</u>	<u>mm thick high-density plasterboard</u>
	<u>Option C - Roof with heavy cladding: surface mass between 20 kg/m<sup>2</sup> and 60 kg/m<sup>2</sup> of roof cladding</u>	<u>No requirements additional to the New Zealand Building Code</u>
<u>Glazed areas</u>	<u>Aluminum frames with full compression seals on opening panes</u>	
	<u>Glazed areas must be less than 35% of each room floor area</u>	
	<u>Either, double-glazing with:</u>	
	<ul style="list-style-type: none"> <li>• <u>a laminated pane of glass at least 6 mm thick; and</u></li> <li>• <u>a cavity between the two panes of glass at least 12 mm deep; and</u></li> <li>• <u>a second pane of glass at least 4 mm thick</u></li> </ul>	
	<u>Or, any other glazing with a minimum performance of Rw 33 dB</u>	
<u>Exterior doors</u>	<u>Exterior door with line-of-sight, to any part of the state highway road surface or any point 3.8 m above railway tracks</u>	<u>Solid core exterior door, minimum surface mass 24 kg/m<sup>2</sup>, with edge and threshold compression seals; or other doorset with a minimum performance of Rw 30 dB</u>
	<u>Exterior door shielded by the building so there is no line-of-sight to any parts of the state highway road surface or any points 3.8 meters above railway tracks</u>	<u>Exterior door with edge and threshold compression seals</u>

### Section 32AA Evaluation

86. The addition of a 100m alert overlay from the rail line ensures that property owners and developers are aware of potential noise and vibration issues associated with proximity to the rail corridor. This approach strikes a balance between enabling informed decision-making and avoiding unnecessary regulatory burdens, as it does not impose specific rules. The efficiency and effectiveness of this amendment are high, as it promotes awareness without constraining development unnecessarily. The costs are minimal, primarily relating to the mapping and communication of the overlay.





87. The inclusion of a construction schedule as a guidance note provides clarity and certainty for both developers and the public regarding the management of construction noise and vibration. This amendment enhances the usability of the plan by offering practical guidance while avoiding overly prescriptive requirements. It is a minor change that does not alter the intent or outcomes of the plan provisions but supports better implementation. The benefits include improved compliance while not prescribing any specific provisions which will not increase development cost.
88. Deleting references to "habitable rooms" in NOISE-S5 and introducing a table specifying internal noise levels for particular rooms and activities improves clarity and precision. This approach reduces ambiguity and aligns provisions with best practice acoustic standards. By specifying thresholds, it ensures more consistent application and assessment of noise effects. The benefits outweigh costs associated with the update as it improves overall clarity of the provisions.
89. The updated assessment criteria, including specific consideration of noncompliance, health and wellbeing effects, reverse sensitivity impacts, and consultation outcomes, provide a robust framework for evaluating noise and vibration effects. These changes ensure a balanced approach that accounts for the interests of all stakeholders, including infrastructure providers and the community. Similarly, the updated ventilation standards support indoor acoustic quality, improving health outcomes while maintaining some flexibility for developers. Both amendments are considered efficient and effective, with benefits to health and infrastructure resilience outweighing compliance costs.
90. This suite of amendments enhances the clarity, effectiveness, and usability of the plan while maintaining its overarching intent to manage noise and vibration effects.

### 3.4 Issue 4 – Setbacks from the State Highway provisions

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 14 – Noise Reverse Sensitivity From Paragraph 371 - 402
Evidence in chief from Mr Hawkins for NZ Transport Agency Waka Kotahi	The full statement of evidence



## Analysis

91. Based on a review of the planning evidence received by Mr Hawkins on behalf of NZ Transport Agency Waka Kotahi and matters raised during the hearing, I consider that there are five key issues to respond to as follows:
92. NOISE-S5 – Replace the fixed 40m noise contour with a modelled Road Noise Corridor Boundary overlay within 100m of the road designation boundary effects corridor
  - a. Amendments to the 'Noise Sensitive Activity' definition
  - b. NOISE-S5 – Widen the standard to cater for the different dynamics of receiving activities by referencing a table provided by NZTA's standard S32 analysis including qualify that the design level cited is an external standard.
  - c. NOISE-S5 – Replace reference to ventilation with the example provision from the NZTA S.32 analysis.
  - d. NOISE-S5 – Delete certain matters of discretion. The 40dB standard is a bottom line for protection of health and it is not appropriate to add factors to open this up for litigation.
93. I address each of the these matters below.

### NOISE-S5 – Replace the fixed 40m noise contour

94. Mr Hawkins has requested that the fixed 40m noise contour in the PDP be replaced with a modelled Road Noise Corridor Boundary overlay within 100m of the road designation boundary.
95. Following the Hearing, NZTA provided FNDC and Mr Ibbotson with shape files for the modelled Road Noise Corridor Boundary. This allowed FNDC and Mr Ibbotson to review the proposed layer.
96. Mr Ibbotson commented on NZTA's modelling in his evidence. He is generally satisfied with the modelling approach and has no notable concerns regarding its accuracy, although he has not undertaken a detailed review.
97. Mr Ibbotson has also discussed with NZTA the effects of the Mangamuka Gorge closure on the modelling. Despite the significant disruption to this section of road over the past five years, Mr Ibbotson considers the data used to be a reasonable representation of potential road use.
98. In my opinion, there are limitations to using the modelled Road Noise Corridor Boundary in the PDP. NZTA confirmed at the Hearing that the modelling would not be updated frequently. This is a concern for FNDC, as various factors—such as speed limit changes, road surface alterations, and road realignments—could impact the models accuracy. If NZTA does not



intend to update the modelling, FNDC would need to bear the cost of maintaining its accuracy, which is undesirable.

99. Although not in scope in my opinion, a simplified method could achieve comparable outcomes. For instance, a setback distance based on speed limits and traffic volumes, informed by general analysis of road noise levels, could be used. While this method would involve assumptions and may be less precise than NZTA's modelling, it would be cheaper and more manageable for FNDC to update, avoiding the need for complex and costly modelling.
100. As a result of the limitations identified with NZTA's modelling in regard to its use in planning, I recommend retaining the fixed 40m noise contour as notified.

#### Noise sensitive activities definition

101. Mr Hawkins has suggested amendments to the 'noise sensitive activities' definition. The suggested definition is as follows: Means any residential activity including visitor, student or retirement accommodation, educational activity including in any childcare facility, healthcare activity and any congregations within places of worship/marae. Excludes those rooms used solely for the purposes of an entrance, passageway, toilet, bathroom, laundry, garage or storeroom.
102. Whilst I do not consider it necessary to amend the definition of 'Noise Sensitive Activities,' as the changes proposed are unnecessary for the reasons outlined in the s.42A report. The additional activities suggested in the revised definition are already encompassed by the notified version. For example, "student or retirement accommodation" is captured within "residential or living activities," and "childcare facility" falls under "education activity." Similarly, gatherings at places of worship or marae are included within "community facilities."
103. The suggested definition also introduces exclusions for specific rooms, which, in my opinion, is not appropriate. The definition should apply to the activity as a whole, not individual rooms. The use of the table in NOISE-S5 provided by KiwiRail and NZTA includes reference to "habitable rooms" in the context of noise-sensitive activities. In Mr. Ibbotson's and my opinion, this is a more suitable approach and adequately addresses the relevant spaces without including this in the 'noise sensitive activities' definition.
104. While I do not believe the changes to the definition are required, we accept NZTA's request to apply a table with different internal noise criteria for various activities as outlined in relation to KiwiRail's submission in Issue 3. This is now a largely standard approach in other districts following appeals. Mr Ibbotson has commented in his evidence the table imposes a more stringent design standard for spaces such as lecture rooms and marae, which will increase construction costs. ("libraries", "marae", "places of worship") are still very broad descriptions. It is not necessary to sound



insulate bathrooms or storage areas in libraries or marae to achieve 45 dBA internally, but the rule as written may require that. I have suggested some amendments to the table to address these issues. However, if the table is adopted, it may address NZTA’s concerns regarding the definition of Noise Sensitive Activities.

NOISE-S5 – Widen the standard to cater for the different dynamics of receiving activities by referencing a table provided by NZTA’s standard S32 analysis including qualify that the design level cited is an external standard

105. Mr Hawkins has recommended including additional provisions within NOISE-S5 to cater for the different dynamics of receiving activities by referencing a table provided by NZTA’s standard S32 analysis. The suggested table recommended to be referred to in the standard is as follows:

**Table 1**

Occupancy/activity	Maximum road noise level <sup>Note 1</sup> L <sub>Aeq(24h)</sub>
<i>Building type: Residential</i>	
Sleeping spaces	40 dB
All other habitable rooms	40 dB
<i>Building type: Education</i>	
Lecture rooms/theatres, music studios, assembly halls	35 dB
Teaching areas, conference rooms, drama studios, sleeping areas	40 dB
Libraries	45 dB
<i>Building type: Health</i>	
Overnight medical care, wards	40 dB
Clinics, consulting rooms, theatres, nurses’ stations	45 dB
<i>Building type: Cultural</i>	
Places of worship, marae	35 B

**Note 1:** The design road noise is to be based on measured or predicted external noise levels plus 3 dB.

106. A similar table was also requested by KiwiRail to include in NOISE-S5. This is addressed in Issue 3, Mr Ibbotson has provided the following comment in his evidence:

“If the relief granted was provided in principle, the road traffic noise and rail noise standard NOISE-S5 requires careful drafting to ensure it is well



integrated and that suitable criteria are applied to each source. During the right-of-reply period I have met with KiwiRail to discuss proposed sound insulation rule changes, and Ms Hepplethwaite and Dr Chiles have provided input and updates on these rules. My comments on these rules are appended to my evidence in Appendix B. While the KiwiRail submission rules have been improved by this process and the NZTA requirements are now better integrated, I am still of the view that further mediation between FNDC, KiwiRail and NZTA would be necessary to resolve some outstanding matters.”

107. In my opinion the suggested provisions for NOISE-S5 provide a balance between minimising the health effects of traffic noise on people located near State Highways and also seeking to minimise the additional costs imposed on development within these setback areas.

NOISE-S5 – Replace reference to ventilation with the example provision from the NZTA S.32 analysis.

108. Mr Hawkins has recommended that reference to the ventilation standards is updated to reflect the example provision from NZTA S.32 analysis which is as follows:



is proposed, it is to be:

- (iv) Designed, constructed and maintained to achieve indoor design noise levels not exceeding the maximum values in Table 1; and
- (v) If windows must be closed to achieve the design noise levels in (1)(a)(i), the building is designed, constructed and maintained with a mechanical ventilation system that:
  - a. For habitable rooms for a residential activity, achieves the following requirements:
    - i. Provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code; and
    - ii. is adjustable by the occupant to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour; and
    - iii. provides relief for equivalent volumes of spill air; and
    - iv. provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and
    - v. does not generate more than 35 dB  $L_{Aeq(30s)}$  when measured 1 metre away from any grille or diffuser.
  - b. For other spaces, is as determined by a suitably qualified and experienced person.

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- c. A report is submitted by a suitably qualified and experienced person to the council demonstrating compliance with clauses (1)(a)(i) and (ii) above (as relevant) prior to the construction or alteration of any building containing an activity sensitive to noise.

109. Mr Ibbotson has provided comment on this approach in his evidence for the ROR. His comment is as follows:

“Without better information, I remain somewhat uncomfortable about the implications and necessity of NZTA’s proposed mechanical ventilation specification, specifically the requirement for six air-changes per hour (this is now recommended to be reduced to 1 airchange per hour as per the KiwiRail submission). I agree that if a dwelling requires sound insulation, then a suitable, effective (and ideally simple) air-conditioning and mechanical ventilation system will need to be provided. It is important however that the system is not over specified or cost prohibitive, and that it is specified appropriately for the Far North conditions. The matter is complex and potentially requires the expertise of an expert mechanical services engineer. The changes to the rule sought by KiwiRail through our recent discussions has improved the situation from my perspective, though have not resolved all my concerns.”

110. In my opinion, the ventilation standards requested by NZTA are too prescriptive and would increase cost of building beyond what is necessary or appropriate to noise insulate specified buildings. The suggested



provisions as a result of expert conferencing with KiwiRail are more appropriate and less costly.

NOISE-S5 – Delete certain matters of discretion. The 40dB standard is a bottom line for protection of health and it is not appropriate to add factors to open this up for litigation.

111. This has been addressed in relation to Issue 3. Which relates to the KiwiRail submission. In our opinion the matters of discretion decided on as a result of expert conferencing are more appropriate for the reasons outlined above.

**Recommendations**

112. Recommendations are outlined above in relation to Issue 3.

**Section 32AA Evaluation**

113. S.32AA evaluation is outlined above in relation to Issue 3.

**3.5 Issue 5 – RPS implementation in objectives and policies**

**Overview**

Relevant Document	Relevant Section
Section 42A Report	Key Issue 8 – Noise Exemptions From Paragraph 147 - 177
Evidence in chief from Mr Badham for Top Energy Ltd	The full statement of evidence

**Analysis**

114. Based on a review of the planning evidence received by Mr Badham on behalf of Top Energy Ltd and matters raised during the hearing, I consider that there are two key issues to respond to as follows:

- a. NOISE-O2 – Regional Policy Statement implementation within the objectives and policies in relation to noise-generating activities
- b. NOISE-P2 – Regional Policy Statement implementation within the objectives and policies in relation to noise-generating activities

115. I address this matter below.

NOISE-O2 – Regional Policy Statement implementation within the objectives and policies in relation to noise-generating activities

116. In Mr Badham’s opinion, the RPS has not been given effect to by this objective. Mr Badham has suggested the following amendments to the objective to give effect to the RPS: *‘New noise sensitive activities are*



*designed and/or located to minimise conflict with, and avoid reverse sensitivity effects on, existing lawfully established noise generating activities, and to protect community health and wellbeing.'*

117. Given the evidence provided pre-hearing and at the hearing by Mr Badham and Top Energy, we agree with the intent of the suggested amendments. However, in my opinion, it is more appropriate to separate the suggested wording into a new objective that specifically relates to avoiding reverse sensitivity effects on existing lawfully established 'noise generating activities', which is defined as "means high levels of noise generated from activities that are nationally significant or regionally significant infrastructure." In my opinion, this reflects the specific policies of the RPS referenced by Mr Badham. RPS Policy 5.1.1 states:

*'Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:*

*...e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;'*

118. In my opinion, the wording of this policy by using the word 'should' instead of 'must' means it is not as prescriptive in terms of more general activities. Therefore, the originally recommended policy NOISE-O2 is appropriate as follows:

"New noise sensitive activities are designed and/or located to minimise conflict and reverse sensitivity effects and to protect community health and wellbeing."

119. In relation to the other RPS policy referenced by Mr Badham, Policy 5.1.3 states:

*"Avoid the adverse effects, including reverse sensitivity effects, of new subdivision, use and development, particularly residential development on the following:*

*c) The operation, maintenance or upgrading of existing or planned regionally significant infrastructure; and'*

120. In my opinion, this policy should be reflected in the noise objectives, as it provides a more prescriptive approach. A new objective is warranted that directly addresses the relief sought, focusing specifically on the defined 'noise-generating activities', which includes nationally or regionally significant infrastructure, rather than covering a wider range of activities.

121. I consider that this approach aligns with the specific policies of the Regional Policy Statement referenced by Mr. Badham. I do not believe it is necessary to include the term "lawfully established," as any activity not legally established would be unlawful and therefore not provided for under the PDP. However, should the commissioners determine that this additional wording





is required, I am of the view that it would not introduce any significant issues.

NOISE-P2 – Regional Policy Statement implementation within the objectives and policies in relation to noise-generating activities

122. In Mr Badham’s opinion the RPS has not been given effect to by NOISE-P2. Mr Badham has suggested the following amendments to the policy to give effect to the RPS.

‘Ensure noise sensitive activities proposing to be located within the Mixed Use, Light Industrial, on land near state highways and Air Noise Boundary and in close proximity of regionally significant infrastructure in these areas are located, designed, constructed and operated in a way which will minimise adverse noise on community health, safety and wellbeing by having regard to:

- a. Any existing lawfully established noise generating activities and the level of noise that will be received within any noise sensitive building;
- b. The need to avoid any reverse sensitivity effects on lawfully established noise generating activities;
- c. The primary purpose and the frequency of use of the activity; and
- d. The ability to design and construct buildings accommodating noise sensitive activities with sound insulation and/or other mitigation measures to ensure the level of noise received within the building is minimised particularly at night.’

123. For the reasons outlined above I agree with the intent of the amendments suggested by Mr Badham. However, in my opinion the policy as drafted does not provide the relief sought by Top Energy. The policy relates to specific areas including Mixed Use, Light Industrial, on land near state highways and Air Noise Boundary. By including the requested clause ‘The need to avoid any reverse sensitivity effects on lawfully established noise generating activities;’ in my opinion this would only relate to the specified areas which is not the intent.

124. A new policy could be recommended; however it is essentially the same as the recommended objective. In my opinion the recommended objective provides sufficient relief for Top Energy. I have also recommended amending clause (a) of NOISE-P2 as follows:

‘...are located, designed, constructed and operated in a way which will minimise adverse noise on community health, safety and wellbeing by having regard to:



- a. **reverse sensitivity risks to any** existing noise generating activities and the level of noise that will be received within any noise sensitive building;”
125. In my opinion, this approach would enable the Council to consider the potential effects of reverse sensitivity on established noise-generating activities in a manner consistent with the intent of the policy. The policy seeks to ensure that noise-sensitive activities within the specified areas are located, designed, constructed, and operated to minimize adverse noise impacts on community health, safety, and well-being.
126. For the reasons outlined above I do not think it is necessary to specify the noise generating activities are 'lawfully established'.
127. In suggesting the additional objective NOISE-OX, it is no longer necessary to include the original recommendations to NOISE-P2 suggested as part of the S.42A report. These recommendations were to address the matters raised by Top Energy, however the original suggested relief did not do that. Therefore, in my opinion, as a result of agreeing to Top Energy suggested relief at an objective level the initial changes to NOISE-P2 are no longer necessary.

### Recommendations

128. For the reasons above, I recommend the following new objective NOISE-OX  
*Reverse sensitivity effects on existing noise generating activities are avoided.*
129. For the reasons above, I recommend the following amendments to NOISE-P2, these are also outlined in Issue 3.  
Ensure noise sensitive activities proposing to locate within the Mixed Use Zone, Light Industrial Zone, an Air Noise Boundary; **or** on land near state highways **or** railways; ~~and in close proximity of regionally significant infrastructure within these areas~~ are located, designed, constructed and operated in a way which will minimise adverse noise on community health, safety and wellbeing by having regard to:
  - a. **Any reverse sensitivity risks to** existing noise generating activities and the level of noise that will be received within any noise sensitive building;
  - b. the primary purpose and the frequency of use of the activity; and
  - c. the ability to design and construct buildings accommodating noise sensitive activities with sound insulation and/or other mitigation measures to ensure the level of noise received within the building is minimised particularly at night.

### Section 32AA Evaluation

130. The proposed amendments to the PDP involve introducing a new objective and amending NOISE-P2, these additions focus on avoiding reverse



sensitivity effects on existing noise-generating activities. These changes aim to align the PDP with the RPS, which requires district plans to manage reverse sensitivity impacts and more specifically avoid reverse sensitivity effects in relation to regionally significant infrastructure.

- 131. The new objective and amendment to NOISE-P2 reinforces this focus by clearly stating the need to avoid reverse sensitivity effects. By including these amendments, the PDP explicitly directs new noise-sensitive activities to consider the presence and impact of existing noise-generating activities, promoting compatibility.
- 132. This amendment improves the PDP’s effectiveness and efficiency. The amendments offer a balanced approach that allows noise-sensitive developments while protecting established activities, ensuring sustainable land use that respects both new and existing developments. This alignment with the RPS is required as the PDP must give effect to the RPS.

### 3.6 Issue 6 – Noise exemptions for generators

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 8 – Noise Exemptions From Paragraph 147 - 177
Evidence in chief from Mr Badham for Top Energy Ltd	The full statement of evidence

#### Analysis

133. Based on a review of the planning evidence received by Mr Badham on behalf of Top Energy Ltd and matters raised during the hearing, I consider that there are one key issues to respond to as follows:

- a. Exemption note 8 – remove time limit

134. I address this matter below.

#### Exemption note 8 – remove time limit

135. In Mr Badham’s opinion exemption note 8 should not be restricted in terms of a time limit as this is not appropriate in terms of the operation of generators and mobile equipment for emergency purposes, testing and maintenance, and the ongoing supply of electricity during planned maintenance on the electricity network. The requested amendments sought by Mr Badham are as follows:



`the use of generators and mobile equipment (including vehicles) where they are operated by emergency services or lifeline utilities as defined in the Civil Defence Emergency Management Act 2002 for:

d. emergency purposes; including

e. testing and maintenance; or

f. the ongoing supply of electricity during planned maintenance on the electricity network.

~~not exceeding 48 hours in duration, where they are operated by emergency services or lifeline utilities; provided that the use of generators for testing and maintenance purposes is limited to a cumulative time of 12 hours per year;~~

136. Based on the evidence provided by Mr Badham and other experts on behalf of Top Energy, I agree with the amendments to Note 8 to remove the time limit on these activities.

137. The evidence provided by the submitter confirms that this type of activity will only be conducted where necessary, due to the costs associated with running generators. Imposing a specific time limit is also difficult to monitor and enforce, and requiring a resource consent to exceed this time limit is inefficient and it is unlikely to improve outcomes while creating additional administrative costs for Top Energy, other emergency services, or lifeline utilities.

138. Mr Ibbotson has provided evidence in agreement with this approach.

### **Recommendations**

139. For the reasons above, I recommend the following amendments to Note 8:

*`the use of generators and mobile equipment (including vehicles) where they are operated by emergency services or lifeline utilities as defined in the Civil Defence Emergency Management Act 2002 for:*

*d. emergency purposes; including*

*e. testing and maintenance; or*

*f. the ongoing supply of electricity during planned maintenance on the electricity network.*

*~~not exceeding 48 hours in duration, where they are operated by emergency services or lifeline utilities; provided that the use of generators for testing and maintenance purposes is limited to a cumulative time of 12 hours per year;~~*



**Section 32AA Evaluation**

- 140. The proposed amendment to Note 8 in the PDP removes specific time limits on generator use by emergency services and lifeline utilities, replacing them with a provision that allows for operation as needed for emergency response, routine testing, and planned maintenance of the electricity network. This change enhances the PDP’s support for critical infrastructure, ensuring operational flexibility in maintaining public safety and continuity of essential services.
- 141. The evidence from Top Energy indicates that generator use will remain limited by cost considerations, meaning that additional time restrictions would be inefficient and difficult to enforce. Removing these restrictions reduces the need for unnecessary resource consents, saving administrative costs for utilities such as Top Energy, emergency services, and the Council. This amendment is more effective and efficient, clarifying the PDP’s intent and reducing regulatory burden while ensuring essential services can operate reliably in both emergency and maintenance scenarios.
- 142. Overall, the amendment better aligns the PDP with regional resilience goals, supporting infrastructure stability and community wellbeing.

**3.7 Issue 7 - Specific noise limits for substation sites**

**Overview**

Relevant Document	Relevant Section
Section 42A Report	Key Issue 16 – Maximum Noise Levels From Paragraph 454 - 480
Evidence in chief from Ms Dines and Mr Hunt for Transpower NZ Ltd	The full statement of evidence

**Analysis**

- 143. Based on a review of the planning evidence received by Ms Dines and noise evidence received by Mr Hunt on behalf of Transpower NZ Ltd and matters raised during the hearing, I consider that there are two key issues to respond to as follows:
  - a. NOISE-S1 – Add specific noise limits for sites used for substation activities
  - b. Omission of nighttime noise in NOISE-S1
- 144. I address these matters below.

NOISE-S1 – Add specific noise limits for sites used for substation activities

- 145. Ms Dines and Mr Hunt have suggested that provisions should be included within NOISE-S1 that relates to substation sites, as substations would be



unable to meet the noise limits as drafted in the s.42A recommended version of NOISE-S1.

146. Mr Ibbotson has provided comment on these matters in his expert evidence. He is somewhat undecided on his recommendation however he has provided expert assessment on both options in his evidence. Mr. Ibbotson's evidence adequately explains the issue. In his opinion, the matter is finely balanced, and he does not make a specific recommendation to the panel. However, I am comfortable accepting the general intent of the relief requested by Transpower and have incorporated these amendments with some changes into the recommended provisions.
147. I have recommended adding a specification that the site used for substation activities must be owned and operated by a requiring authority. In my opinion, it is important to limit this clause to requiring authorities to ensure it cannot be applied by any party operating a substation site. Mr. Ibbotson supports this approach.

Omission of nighttime noise in NOISE-S1

148. Mr Hunt has correctly identified that nighttime noise levels in NOISE-S1(f) that relates to certain zones was unintentionally omitted. This is an error and the correct nighttime noise levels have been added into the recommended provisions for NOISE-S1 in Appendix 1.
149. I have also recommended a number of other amendments to NOISE-S1 to improve clarity and consistency across the provisions as recommended by Mr Ibbotson.

**Recommendations**

150. For the reasons above, I recommend the following amendments to NOISE-S1:

<b>NOISE-S1</b>	<b><u>Maximum noise levels – zone specific-General noise rules applying to noise emitted from all zones and overlays (unless provided for by a specific standard elsewhere)</u></b>
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<u>Receiving zone</u>	<u>Noise rule</u>	<b>Matters of discretion if compliance not achieved:</b>
<b>General Residential zone</b>	<p><del>Noise generated by any activity shall not exceed the following noise limits at any point within any other site in the General Residential, Kororāreka Russell Township zone or Rural Residential zone:</del></p> <p><u>a) Noise generated in all zones, other than the zones and sites in b) and c) below:</u></p>	<p>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible</p>



<p><b>Māori</b></p> <p><b>Purpose -</b></p> <p><b>Urban</b></p> <p><b>Rural Residential zone</b></p> <p><b>Kororāreka Russell Township zone</b></p> <p><b>Hospital zone</b></p> <p><b>Quail Ridge</b></p> <p><b>Natural Open Space</b></p>	<p><u>1. Noise shall not exceed the following rating noise levels at any point within the received property boundary:</u></p> <p>a. 7.00am to 10.00pm (daytime): 50 dB LAeq (±15min);</p> <p>b. 10.00pm to 7.00am (night-time): 40 dB LAeq (±15min); and 70 dB LAFmax</p> <p>c. <del>10.00 pm to 7.00 am</del>.</p> <p><u>b) Noise generated in Mixed Use, Light Industrial, Horticultural Processing facilities, Ngawha Innovation and Enterprise Park or Orongo Bay zones, or from non-aircraft operation activity within an Airport Zone:</u></p> <p><u>1. Noise shall not exceed the following rating noise levels at any point within the receiving property boundary:</u></p> <p>a. 7.00am to 10.00pm (daytime): 55 dB LAeq</p> <p>b. 10.00pm to 7.00am (night-time): 40 dB LAeq and 75 dB LAFmax</p> <p><u>c) Noise generated in the Hospital or Heavy Industrial zones or Mineral Extraction Overlays or within any site used for substation activities which is owned and operated by a requiring authority within any zone:</u></p> <p><u>1. Noise shall not exceed the following rating noise levels at any point within the receiving property boundary:</u></p> <p>a. 7.00am to 10.00pm (daytime): 55 dB LAeq</p> <p>b. 10.00pm to 7.00am (night-time): <del>40 dB</del> 465 dBb LAeq and 75 dBb LAFmax</p>	<p>with the surrounding activities;</p> <p>b. type, scale and location of the activity in relation to any noise sensitive activities;</p> <p>c. hours of operation and duration of activity;</p> <p>d. the temporary or permanent nature of any adverse effects;</p> <p>e. the ability to internalise and/or minimise any conflict with adjacent activities; and</p> <p>f. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation).</p>
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<u>Receiving zone</u>	<u>Noise rule</u>	<b>Matters of discretion if compliance not achieved:</b>
<b>Rural Production zone</b>	Noise generated by any activity shall not exceed the following limits within the notional boundary of any noise sensitive activity in the Rural Production, Rural Lifestyle or Māori Purpose zones:	
<b>Rural Lifestyle zone</b>	d) <u>Noise generated in all zones, other than the zones and sites in e), f) and g) below:</u>	
<b>Māori Purpose - Rural zone</b>	1. <u>Noise shall not exceed the following rating noise levels within the notional boundary of any noise sensitive activity within the receiving property:</u>	a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;
<b>Horticulture zone</b>	a. 7.00am to 10.00pm	b. type, scale and location of the activity in relation to any noise sensitive activities;
<b>Moturoa Island zone</b>	(daytime): 55 dB LAeq (15min)‡	c. hours of operation and duration of activity;
<b>Kauri Cliffs zone</b>	b. 10.00pm to 7.00 am (night-time) 40 dB LAeq (15-min)‡ and 70 dB LAFmax	d. the temporary or permanent nature of any adverse effects;
<b>Ngawha Innovation and Enterprise Park zone</b>	c. 10.00 pm to 7.00 am –.	e. the ability to internalise and/or minimise any conflict with adjacent activities;
<b>Settlement</b>	e) <u>Noise generated in Mixed Use, Light Industrial, Horticultural Processing Facilities, Ngawha Innovation and Enterprise Park or Orongo Bay Zones, or from non-aircraft operation activity within an Airport zone:</u>	f. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and
	1. <u>Noise shall not exceed the following rating noise levels within the notional boundary of any noise sensitive activity within the receiving property:</u>	g. <del>any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation).</del>
	a. 7.00am to 10.00pm (daytime): 55 dB LAeq	
	b. 10.00pm to 7.00am (night-time): 40 dB LAeq and 75 dB LAFmax	
	f) <u>Noise generated in the Hospital or Heavy Industrial zones or in Mineral Extraction Overlays:</u>	





<p><u>1.</u> Noise shall not exceed the following rating noise levels within the notional boundary of any noise sensitive activity within the receiving property:</p> <p>a. 7.00am to 10.00pm (daytime): 55 dB <math>L_{Aeq}</math> and 75 dB <math>L_{AFmax}</math></p> <p>b. 10.00pm to 7.00am (night-time): 45 dB <math>L_{Aeq}</math> and 75 dB <math>L_{AFmax}</math></p> <p>g) Noise generated within any site used for substation activities which is owned and operated by a requiring authority within any zone:</p> <p>1. Noise shall not exceed the following rating noise levels within the notional boundary of any noise sensitive activity within the receiving property:</p> <p>a. 7.00am to 10.00pm (daytime): 55 dB <math>L_{Aeq}</math></p> <p>b. 10.00pm to 7.00am (night-time): 45dB <math>L_{Aeq}</math> and 75 dB <math>L_{AFmax}</math></p>	
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<p><b><u>Receiving zone</u></b></p> <p><b><u>Settlement zone</u></b></p> <p><b><u>Rural Residential</u></b></p> <p><b><u>Carrington Estate zone</u></b></p>	<p><b><u>Noise rule</u></b></p> <p><u>g, h)</u> Noise generated in all zones, other than the zones <b>and sites</b> in <b>hi)</b> and <b>ij)</b> below:</p> <p>Noise generated by any activity shall not exceed the following limits within the notional boundary of any noise sensitive activity in the Settlement zones:</p> <p><u>1.</u> Noise shall not exceed the following rating noise levels within the notional boundary of any noise sensitive activity within the receiving property:</p>	<p><b>Matters of discretion if compliance not achieved:</b></p> <p>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p> <p>b. type, scale and location of the activity in relation to any noise sensitive activities;</p> <p>c. hours of operation and duration of activity;</p>
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	<p>a. 7.00am to 10.00pm (daytime): 50 dB LAeq (±15min)‡</p> <p>b. 10.00pm to 7.00am (night-time): 40 dB LAeq (±15 min)‡ and 70 dB LAFmax</p> <p>c. 10.00 pm to 7.00 am –.</p> <p>hi) <u>Noise generated in Mixed Use, Light Industrial, Horticultural Processing Facilities, Ngawha Innovation and Enterprise Park or Orongo Bay zones, or from non-aircraft operation activity within an Airport zone:</u></p> <p>1. <u>Noise shall not exceed the following rating noise levels within the notional boundary of any noise sensitive activity within the receiving property:</u></p> <p>a. <u>7.00am to 10.00pm (daytime): 55 dB LAeq</u></p> <p>b. <u>10.00pm to 7.00am (night-time): 40 dB LAeq and 75 dB LAFmax</u></p> <p>ij) <u>Noise generated in the Hospital or Heavy Industrial zones or in Mineral Extraction Overlays or within any site used for substation activities which is owned and operated by a requiring authority within any zone:</u></p> <p>1. <u>Noise shall not exceed the following rating noise levels within the notional boundary of any noise sensitive activity within the receiving property:</u></p> <p>a. <u>7.00am to 10.00pm (daytime): 55 dB LAeq</u></p> <p>b. <u>10.00pm to 7.00am (night-time): 45 dB LAeq and 75 dB LAFmax</u></p>	<p>d. the temporary or permanent nature of any adverse effects;</p> <p>e. the ability to internalise and/or minimise any conflict with adjacent activities;</p> <p>f. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and</p>
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<b><u>Receiving zone</u></b>	<b><u>Noise rule</u></b>	<b>Matters of discretion if compliance not achieved:</b>
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<p><b>Natural Open Space zone</b></p> <p><b>Open Space zone</b></p> <p><b>Sport and Active Recreation zone</b></p> <p><b>Natural Open Space</b></p>	<p><u>jk) Noise generated in all zones, except Heavy and Light Industrial, Horticultural Processing and Orongo Bay zones:</u></p> <p><u>1. Noise shall not exceed the following rating noise levels at any point within the receiving property boundary:</u></p> <p><u>a. Open Space and Sport and Active Recreation:</u></p> <p><u>i. All times: 55dB LAeq</u></p> <p><u>b. Natural Open Space:</u></p> <p><u>i. 7.00 am to 10.00 pm (daytime): 55 dB LAeq</u></p> <p><u>ii. 10.00 pm to 7.00 am (night-time): 45 dB LAeq</u></p> <p>Noise generated by any activity shall not exceed the following noise limits at any point within any other site in the Natural Open Space, Open Space, and Sport and Active Recreation zones:</p> <p>-</p> <p>a. 7.00 am to 10.00 pm 50 dB LAeq (15min);</p> <p>b. 10.00 pm to 7.00 am 40 dB LAeq (15 min); and</p> <p>c. 10.00 pm to 7.00 am 70 dB LAFmax;</p>	<p>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p> <p>b. type, scale and location of the activity in relation to any noise sensitive activities; to outdoor activities within the zone;</p> <p>c. hours of operation and duration of activity;</p> <p>d. the temporary or permanent nature of any adverse effects;</p> <p>e. the ability to internalise and/or minimise any conflict with adjacent activities;</p> <p>f. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and</p> <p>g. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation);</p>
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<p><b>Receiving zone</b></p> <p><b>Mixed Use zone</b></p>	<p><u>Noise rule</u></p> <p><u>k) Noise generated in all zones:</u></p> <p><u>1. Noise shall not exceed the following rating noise levels at any</u></p>	<p><b>Matters of discretion if compliance not achieved:</b></p> <p>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any</p>
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	<p style="text-align: center;"><u>point with the receiving property boundary:</u></p> <p>Noise generated by any activity shall not exceed the following limits at any point within another site in the zone:</p> <p><b>Sunday to Thursday</b></p> <ol style="list-style-type: none"> <li>a. 7.00am to 10.00pm (<u>daytime</u>): 60 dB LAeq (15min)‡</li> <li>b. 10.00pm to 7.00am (<u>night-time</u>): 55 dB LAeq (15 min)‡ and 80 dB LAFmax</li> <li>c. <del>10.00 pm to 7.00 am</del>.</li> </ol> <p><b>Friday and Saturday</b></p> <ol style="list-style-type: none"> <li>a. 7.00am to midnight (<u>daytime</u>): 60 dB LAeq (15min)‡</li> <li>b. midnight to 7.00am: - 55 dB LAeq (15 min)‡ and 80 dB LAFmax</li> <li>c. <del>midnight to 7.00 am</del>.</li> </ol> <p>2. Noise generated by any activity shall not exceed the following limits at any point within the boundary of any sites in the General Residential zone, or notional boundary of any noise sensitive activity within the Rural Production, Rural Lifestyle, Rural Residential, Horticulture, or Māori Purpose zones:-</p> <ol style="list-style-type: none"> <li>a. <del>7.00am to 10.00pm</del> 55 dB L(15min)‡</li> <li>b. <del>10.00pm to 7.00am</del> 40 dB L(15min)‡ and</li> <li>c. <del>10.00pm to 7.00am</del> 75 dB LAFmax.</li> </ol>	<p>changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p> <ol style="list-style-type: none"> <li>b. any existing noise generating activities and the level of noise that will be received within any noise sensitive building;</li> <li>c. the primary purpose and the frequency of use of the activity;</li> <li>d. the ability to design and construct buildings accommodating noise sensitive activities with sound insulation and/or other mitigation measures to ensure the level of noise received within the building is minimised particularly at night;</li> <li>e. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and</li> <li>f. the effects on any existing noise sensitive activities</li> </ol>
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<p><b><u>Receiving zone</u></b></p> <p><b>Light Industrial zone</b></p> <p><b><u>Orongo Bay</u></b></p>	<p>1. Noise generated by any activity shall not exceed the following limits at any point within another site in the zone:—</p> <p><b>1m) Noise generated in all zones:</b></p> <p><b><u>1. Noise shall not exceed the following rating noise levels at any point with the receiving property boundary:</u></b></p> <ol style="list-style-type: none"> <li>a. 7.00am to 10.00pm (<u>daytime</u>): 65 dB LAeq (15min)‡</li> </ol>	<p><b>Matters of discretion if compliance not achieved:</b></p> <ol style="list-style-type: none"> <li>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</li> </ol>
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	<p>b. 10.00pm to 7.00am (night-time): 60 dB LAeq (15 min); and 80 dB LAFmax</p> <p>c. 10.00 pm to 7.00 am.</p> <p>2. Noise generated by any activity shall not exceed the following limits at any point within the boundary of any sites in the General Residential zone, or the notional boundary of any noise sensitive activity within the Rural Production, Rural Lifestyle, Rural Residential, Horticulture, or Māori Purpose zones:</p> <p>a. 7.00 am to 10.00 pm — 55 dB LAeq (15min);</p> <p>b. 10.00 pm to 7.00 am — 40 dB LAeq (15 min); and 10.00 pm to 7.00 am — 75 dB LAFmax.</p>	<p>b. type, scale and location of the activity in relation to any noise sensitive activities;</p> <p>c. hours of operation and duration of activity;</p> <p>d. the temporary or permanent nature of any adverse effects;</p> <p>e. the ability to internalise and/or minimise any conflict with adjacent activities;</p> <p>f. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and</p> <p>g. the effects on any existing noise sensitive activities.</p>
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<p><b>Receiving zone</b></p> <p><b>Heavy Industrial zone</b></p> <p><b>Horticulture Processing zone</b></p>	<p><b>Noise rule</b></p> <p><del>mn</del>) Noise generated in all zones:</p> <p><u>1. Noise shall not exceed the following rating noise level at any point within the receiving property boundary:</u></p> <p><u>a. All times: 75 dB LAeq</u></p> <p>Noise generated by any activity shall not exceed the following limits at any point within another site in the zone:</p> <p>a. All times — 75 dB LAeq (15min)</p> <p>2. Noise generated by any activity shall not exceed the following limits at any point within the boundary of any sites in the General Residential zone, or the notional boundary of any noise sensitive activity within the Rural Production, Rural Lifestyle, Rural Residential, Settlement, Horticulture, or Māori Purpose zones:</p>	<p><b>Matters of discretion if compliance not achieved:</b></p> <p>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p> <p>b. type, scale and location of the activity in relation to any noise sensitive activities;</p> <p>c. hours of operation and duration of activity;</p> <p>d. the temporary or permanent nature of any adverse effects;</p> <p>e. the ability to internalise and/or minimise any conflict with adjacent activities;</p>
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	<p>a. 7.00 am to 10.00 pm – 55 dB  <math>L_{Aeq}(15min)</math>;          b. 10.00 pm to 7.00 am – 40 dB  <math>L_{Aeq}(15min)</math>; and          c. 10.00 pm to 7.00 am – 75 dB  <math>L_{AFmax}</math>.</p>	<p>f. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and          g. the effects on any existing noise sensitive activities.</p>
<p><b>Mineral extraction overlay</b></p>	<p>1. Mineral extraction activities shall not exceed the following limits when measured at any point within the boundary of any site in the General Residential zone, or within the notional boundary of any noise sensitive activity within the Rural Production, Rural Lifestyle, Rural Residential, Settlement, Horticulture, or Māori Purpose zones:          a. 7.00 am to 10.00 pm – 55 dB  <math>L_{Aeq}(15min)</math>;          b. 10.00 pm to 7.00 am – 40 dB  <math>L_{Aeq}(15min)</math>; and          c. 10.00 pm to 7.00 am – 75 dB  <math>L_{AFmax}</math>.</p>	<p><b>Matters of discretion if compliance not achieved:</b></p> <ul style="list-style-type: none"> <li>-</li> <li>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</li> <li>b. type, scale and location of the activity in relation to any noise sensitive activities;</li> <li>c. hours of operation and duration of activity;</li> <li>d. the temporary or permanent nature of any adverse effects;</li> <li>e. the ability to internalise and/or minimise any conflict with adjacent activities;</li> <li>f. the effects on any existing noise sensitive activities; and</li> <li>g. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation).</li> </ul>
<p><b>Orongo Bay zone</b></p>	<p>1. Noise generated by any activity shall not exceed the following limits at any point within another site in the Orongo Bay zone:</p>	<p><b>Matters of discretion if compliance not achieved:</b></p> <ul style="list-style-type: none"> <li>-</li> <li>a. ambient noise levels and any special character noise from</li> </ul>



	<p>a. 7.00 am to 10.00 pm – 65 dB  <math>L_{Aeq(15min)}</math>;          b. 10.00 pm to 7.00 am – 60 dB  <math>L_{Aeq(15min)}</math>; and          c. 10.00 pm to 7.00 am – 80 dB  <math>L_{AFmax}</math>.</p> <p>2. Noise generated by any activity shall not exceed the following limits at any point within the boundary of any sites in the Orongo Bay zone, or the notional boundary of any noise sensitive activity within any other zone:</p> <p>a. 7.00 am to 10.00 pm – 55 dB  <math>L_{Aeq(15min)}</math>;          b. 10.00 pm to 7.00 am – 40 dB  <math>L_{Aeq(15min)}</math>; and          c. 10.00 pm to 7.00 am – 75 dB  <math>L_{AFmax}</math>.</p>	<p>any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p> <p>b. type, scale and location of the activity in relation to any noise sensitive activities;</p> <p>c. hours of operation and duration of activity;</p> <p>d. the temporary or permanent nature of any adverse effects;</p> <p>e. the ability to internalise and/or minimise any conflict with adjacent activities;</p> <p>f. the effects on any existing noise sensitive activities; and</p> <p>g. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation).</p>
<p><b><u>Airport zone Applies to aircraft operation and engine testing within the Airport zone</u></b></p>	<p><u>Within the Airport zone:</u></p> <p>1. Aircraft operation associated with the Airport zone is excluded from compliance with the <b>Noise NOISE-S1</b> zone standards, provided it complies with the following rules:</p> <p>2. The maximum <del>n</del>-Noise generated from aircraft operations at the Bay of Islands Airport, Kaitaia Airport and Kaikohe Airport over any 90 continuous days, measured in accordance with NZS 6805:1992 Airport Noise Management and Land Use Planning, shall not exceed:</p> <p>a. 55 dB <math>L_{dn}</math> at or beyond the outer control boundary shown on the planning maps; and</p>	<p><b>Matters of discretion if compliance not achieved:</b></p> <p>a. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p> <p>b. any existing noise generating activities and the level of noise that will be received within any noise sensitive building;</p> <p>c. the primary purpose and the frequency of use of the activity;</p> <p>d. the ability to design and construct buildings</p>



	<p>b. 65 dB L<sub>dn</sub> at or beyond the air noise boundary shown on the planning maps.</p> <p>3. The maximum <del>n</del> Noise levels from aircraft engine testing measured in accordance with NZS 6801:2008 Acoustics - Measurements of Environmental Sound and assessed in accordance with NZS 6802:2008 Acoustics - Environmental Noise at any point within the boundary of a receiving environment site within General Residential, Rural Production, Rural Lifestyle, or Rural Residential zones shall not exceed: notional boundary of a noise sensitive activity on another site shall not exceed:</p> <p>a. <del>on any day</del> 7.00am to 10.00pm exceed 55 dB LAeq (9 <del>15 min</del>hour); and</p> <p>b. <del>on any day</del> 10.00pm to 7.00am: am not exceed 45dB LAeq (9 hours) and 75 dB LA<sub>max</sub>, with the exception that on any 12 nights between hours of 10.00pm to 7.00am in any calendar year, the maximum noise levels from aircraft engine testing shall not exceed 50 dB LAeq (9 hour) and 75 dB LA<sub>max</sub>.</p>	<p><del>accommodating noise sensitive activities with sound insulation and/or other mitigation measures to ensure the level of noise received within the building is minimised particularly at night; and</del></p> <p>e. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation);</p> <p>f. <u>All potential aircraft noise matters</u></p>
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### Section 32AA Evaluation

151. The proposed amendment to include a specific nighttime noise level of 45 dB LAeq for substation sites which are owned and operated by a requiring authority addresses a practical issue where substations cannot meet the 40 dB LAeq standard. Substations are critical infrastructure that operate continuously, and the adjustment ensures the noise provisions accommodate their operational requirements without imposing standards that are more restrictive than the operative district plan and other district plans around the country. This amendment balances infrastructure needs with the protection of nighttime amenity values, promoting efficiency and effectiveness.
152. Additionally, the inclusion of nighttime noise limits for certain zones, which were unintentionally omitted in the notified provisions, rectifies a gap in the





PDP. Noise limits are essential for managing environmental effects and providing clarity and certainty for plan users. Their omission created ambiguity and potential inconsistencies in the application of noise standards. By incorporating these limits, the amendment ensures the plan is robust and aligns with the overall noise management framework.

- 153. Both changes enhance the usability and functionality of the plan. The specific 45 dB LAeq standard for substations avoids unnecessary compliance costs while maintaining a reasonable level of protection for neighbouring properties. Similarly, addressing the omitted noise limits ensures that all zones are appropriately covered, reducing the risk of unintended consequences. The amendments are cost-effective, as they largely align with existing operational realities.
- 154. These updates improve the overall efficiency and effectiveness of NOISE-S1.

### 3.8 Issue 8 - Audible bird scaring devices permitted hours

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 10 – Primary Production related Noise Restrictions From Paragraph 204 - 232
Evidence in chief from Ms Cameron for Horticulture New Zealand	The full statement of evidence

#### Analysis

- 155. Based on a review of the industry statement received by Ms Cameron on behalf of Horticulture New Zealand, I consider that there is one key issue to respond to as follows:
  - a. NOISE-R8 – Permit audible bird scaring devices to operate half an hour before and after sunrise and sunset
- 156. I address this matter below.

#### NOISE-R8 – Permit audible bird scaring devices to operate half an hour before and after sunrise and sunset

- 157. Ms Cameron has tabled evidence to support the submitters request to increase the time of day that an audible bird scaring device is permitted to be used. In the S.42A report I recommended enabling this activity from sunrise to sunset. The submitter has requested this is extended from half an hour before sunrise to half an hour after sunset as this is a time that birds are active in feeding on produce. In my opinion and supported by Mr



Ibbotson, given this is the only evidence received on this topic this justifies a change in my recommendation to support the submitters request.

**Recommendations**

- 158. For the reasons above, I recommend the following amendments to NOISE-R8:

Audible Bbird scaring devices must only be used ~~between from half an hour before sunrise and until half an hour after sunset~~ 7.00am and 7.00pm on any calendar year;

Reference to PER-3 is also deleted as a consequential amendment because PER-3 was recommended to be deleted in the S.42A report.

~~Activity status where compliance not achieved with PER-3: Non-complying~~

**Section 32AA Evaluation**

- 159. The proposed amendment to the operational hours for audible bird scaring devices from "sunset to sunrise" to "half an hour before sunrise to half an hour after sunset" aims to better protect crops during critical times when birds are very active. By extending the allowable usage period to include the half-hour before and after sunrise and sunset, this change targets the specific times birds are known to forage more actively, particularly at dawn and dusk. This adjustment provides greater precision in managing bird activity around crops while limiting potential noise impacts during non-essential hours.
- 160. The efficiency of this approach lies in balancing effective crop protection with noise control for nearby residents, ensuring the devices are used only during key times for deterrence. The amended wording provides clearer, more enforceable operational guidelines, minimizing ambiguity while aligning with the purpose of reducing bird impacts on crops without excessive noise disturbances during early morning and late evening hours. This change is a minor adjustment that enhances clarity and effectiveness, with minimal additional costs or adverse effects.
- 161. The consequential amendment to delete reference to PER-3 is also required to ensure consistency within NOISE-R8.

**3.9 Issue 9 - Zone noise limits interaction**

**Overview**

Relevant Document	Relevant Section
Section 42A Report	Key Issue 16 – Maximum Noise Levels From Paragraph 446 - 480



Relevant Document	Relevant Section
Evidence in chief from Mr Mcphee for Waipapa Pine Ltd and Adrian Broughton Trust	The full statement of evidence

### Analysis

162. Based on a review of the planning evidence received by Mr Mcphee on behalf of Waipapa Pine Ltd and Adrian Broughton Trust, I consider that there is one key issue to respond to as follows:

a. NOISE-S1 – Interrelationship between zone noise limits in the Heavy Industrial zone and Open Space zones.

b. Inconsistencies in the S42A report

163. I address these matters below.

164. I have also provided some further comment on scope associated with the recommended amendments to NOISE-S1 and Waipapa Pines original submission for the Panel to consider.

#### Scope – NOISE-S1 Amendments

165. It is important for the panel to consider additional comments regarding the scope of the NOISE-S1 rewrite.

166. As notified, NOISE-S1 in the PDP included noise limits for activities generating noise within the Open Space Zones but did not include noise limits for noise received in the Open Space Zones from activities in adjacent zones.

167. The recommended change in approach, made in response to submission S516.072, proposes to include the Open Space Zone and Sport and Active Recreation Zone in the receiving noise limits for NOISE-S1. This is a new approach with district-wide implications.

168. Although Waipapa Pine (S342) was not a further submitter on S516.072, which provides scope for the NOISE-S1 rewrite, its submission is broad in nature. The submission opposes the noise provisions in their entirety and seeks relief as follows:

“The submitters believe that the provisions associated with the Heavy Industrial Zone require careful consideration and attention... A balance needs to be struck between enabling heavy industrial activities to operate effectively and efficiently within the Zone, while ensuring that the potential effects do not exceed limits set under the PDP and within the s16 RMA 1991 requirements... The submitter opposes the noise provisions until their own



expert can consider the rules in the context of their operations and underlying resource consenting requirements, and potential for growth.”

169. My recommendation as outlined below, based on evidence provided by Waipapa Pine Ltd and Adrian Broughton Trust, is to retain the limits for receiving noise levels in Open Space Zones but exclude the Heavy Industrial, Light Industrial, Horticultural Processing, and Orongo Bay Zones from compliance with these noise limits. This approach fits within the scope of the relief sought by S516.072 and partially addresses the concerns raised by S342.
170. While it could be argued that fairness issues may arise because the relief sought by S516.072 did not explicitly include a rewrite of NOISE-S1, this risk is considered low. The benefits of addressing the gaps in NOISE-S1, where noise emissions between zones are not currently controlled, outweigh these risks. Not addressing the identified gaps would fail to achieve the noise objectives of the PDP.
171. Nonetheless, the panel should be aware that accepting these recommendations is not without risk. While the recommendations aim to provide a balanced and effective solution, the panel should consider these implications when making its decision.

NOISE-S1 – Interrelationship between zone noise limits in the Heavy Industrial zone and Open Space zones.

172. Mr Mcphee has tabled evidence on behalf of the submitter, identifying issues with the interrelationship between the noise limits of the Heavy Industrial zone and the Open Space and Sport and Active Recreation Zone zones. In my opinion and confirmed by Mr Ibbotson this is a valid concern, and I recommend NOISE-S1 is amended to rectify this issue. I agree with Mr Ibbotson’s evidence that the best way to address this issue is to keep the noise limit provisions that relate to the Open Space zones, but exclude Heavy and Light Industrial, Horticultural Processing and Orongo Bay zones from compliance with those noise limits.
173. Mr Ibbotson has provided information in his evidence that Open Space zoned land that are adjacent to heavy or light industry do not have the same level of amenity expectations as open space zoned land within town centres. While it would be ideal for parks and outdoor areas near industrial sites to have low noise levels, this is unlikely to be practical and is not likely to be expected by the public.
174. There are relatively few industrial areas across the District. Some of these are proximate to Open Space, Natural Open Space and Sport and Recreation Areas and may be unreasonably constrained by them without providing significant community benefit. The majority of Open Space type zones are well removed from industry and will not receive high noise levels.



175. I have also received advice from the FNDC reserves planner that exempting the Heavy and Light Industrial, Horticultural Processing, and Orongo Bay zones from compliance with the noise limits associated with the open space zones is not appropriate. The planner highlights that open space zones, including sports fields and esplanade reserves, differ significantly from residential, educational, and health activities, where people are generally within buildings. They emphasize that open spaces are still used by people without hearing protection and that noisier activities should be set back from boundaries or shielded by buildings where possible.
176. On balance I would recommend the option as outlined by Mr Ibbotson, being an expert in the field of noise. However, the panel can make this decision based on the information provided.
177. As a result of the suggested changes, the Natural Open Space receiving zone is now included in the same section as the Open Space and Sport and Active Recreation zones. Mr. Ibbotson has agreed that this is appropriate but has recommended that it may be suitable to include provisions for night-time noise protection within the Natural Open Space zone.
178. I support this approach for the reasons outlined by Mr. Ibbotson. While there are limited scenarios where night-time noise protection may be critical, the inclusion of such provisions is appropriate. For most situations, land use adjoining a Natural Open Space zone will already be constrained by existing noise limits applicable to adjacent zones, such as Residential zones. Alternatively, in some cases, no night-time noise limits would apply, as is typical for rural activities such as harvesting, spraying, farming operations, or forestry activities within the Rural Production zone.
179. There may occasionally be instances where a site adjacent to a Natural Open Space zone engages in night-time activities that could potentially affect the natural character of bush or wetland areas. Such effects are more likely to impact fauna rather than people. To address these potential impacts and protect ecological values, I have included a night-time noise limit specific to the Natural Open Space zone.

#### Inconsistencies in the S42A report

180. Mr Mcphee has identified a number of typographical errors in relation to NOISE-S1. Including the omission of the Quail Ridge zone and incorrect noise limit both of which are recommended to be amended. The omission of the nighttime noise limit was also identified by Transpower and is recommended to be amended as outlined in Issue 7.

#### **Recommendations**

181. For the reasons above, I recommend the following amendments to NOISE-S1:



**Receiving zone**

**General Residential zone**

**Māori Purpose - Urban**

**Rural Residential zone**

**Kororāreka  
Russell Township zone-**

**Hospital zone-**

**Quail Ridge**

**Natural Open Space**

<p><b><u>Receiving zone</u></b></p>	<p><b><u>Noise rule</u></b></p>	<p><b>Matters of discretion if compliance not achieved:</b></p>
<p><b>Natural Open Space zone</b></p>	<p><u>jk) Noise generated in all zones, except Heavy and Light Industrial, Horticultural Processing and Orongo Bay zones:</u></p>	<p>h. ambient noise levels and any special character noise from any existing activities, the nature and character of any changes to the sound received at any receiving site and the degree to which such sounds are compatible with the surrounding activities;</p>
<p><b>Open Space zone</b></p>	<p><u>2. Noise shall not exceed the following rating noise levels at any point within the receiving property boundary:</u></p>	<p>i. type, scale and location of the activity in relation to any noise-sensitive activities; to outdoor activities within the zone;</p>
<p><b>Sport and Active Recreation zone</b></p>	<p><u>c. Open Space and Sport and Active Recreation:</u> <u>i. All times: 55dB LAeq</u></p>	<p>j. hours of operation and duration of activity;</p>
<p><b><u>Natural Open Space</u></b></p>	<p><u>d. Natural Open Space:</u> <u>i. 7.00 am to 10.00 pm (daytime): 55 dB LAeq</u> <u>ii. 10.00 pm to 7.00 am (night-time): 45 dB LAeq</u></p>	<p>k. the temporary or permanent nature of any adverse effects;</p>
<p></p>	<p>Noise generated by any activity shall not exceed the following noise limits at any point within any other site in the Natural Open Space, Open Space, and Sport and Active Recreation zones: -</p>	<p>l. the ability to internalise and/or minimise any conflict with adjacent activities; m. any mitigation proposed, in accordance with the best practicable option approach</p>



	<p>d. <del>7.00 am to 10.00 pm</del> 50 dB <math>L_{Aeq}</math> (<del>±15 min</del>)<sup>7</sup></p> <p>e. <del>10.00 pm to 7.00 am</del> 40 dB <math>L_{Aeq}</math> (<del>±15 min</del>)<sup>7</sup>; and</p> <p>f. <del>10.00 pm to 7.00 am</del> 70 dB <math>L_{AFmax}</math></p>	<p>(e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation); and</p> <p><del>n. any mitigation proposed, in accordance with the best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the timing of operation).</del></p>
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### Section 32AA Evaluation

182. The recommendation to retain noise limit provisions for Open Space Zones while excluding the Heavy and Light Industrial, Horticultural Processing, and Orongo Bay Zones from compliance with these limits is both efficient and effective in balancing amenity expectations with practical land use constraints. Mr. Ibbotson’s evidence highlights that Open Space zoned land adjacent to industrial activities does not carry the same amenity expectations as similar land within town centres. While low noise levels in parks near industrial areas may be ideal, this is neither practical nor likely to align with public expectations.
183. This amendment avoids placing unreasonable constraints on industrial activities that are essential for economic development. Across the District, there are relatively few industrial areas, some of which are proximate to Open Space, Natural Open Space, and Sport and Recreation Zones. Imposing stringent noise standards on these industrial areas would risk undue limitations on their operations without delivering significant benefits to the community, as the majority of Open Space type zones are distant from industrial areas and therefore unlikely to experience high noise levels.
184. By targeting the application of noise limits to areas where they are most relevant and effective, the proposed change ensures a proportionate approach that supports the amenity values of Open Space Zones without unnecessarily hindering industrial activities.
185. Other identified topographical errors and accidental omissions have also been corrected to ensure the provisions are both effective and efficient.

### 3.10 Issue 10 – Agricultural Aviation



**Overview**

Relevant Document	Relevant Section
Section 42A Report	Key Issue 11 – Agricultural Aviation From Paragraph 233 - 246
Evidence in chief from Tony Michelle on behalf of the New Zealand Agricultural Aviation Association	The full statement of evidence

**Analysis**

186. Based on a review of the evidence received by Tony Michelle on behalf of New Zealand Agricultural Aviation Association, I consider that there are four key issues to respond to as follows:
- a. Add a new objective – ‘Lawfully established and permitted noise-generating activities can continue to function and operate.’
  - b. New definition of ‘agricultural aviation activities’
  - c. Add a new rule in the noise chapter that permits agricultural aviation activities subject to certain time limits and other restrictions
  - d. Amend NOISE-S4 to state NZS6807:1994 does not apply to agricultural aviation activities
187. I have conferred with the Temporary Activities portfolio holder and in our opinion, it was more appropriate to address the matters raised by the submitter in this report to avoid duplication. These matters are addressed below.

Add a new objective

188. The submitter has requested the following objective is added to the noise chapter. ‘Lawfully established and permitted noise-generating activities can continue to function and operate.’ Mr Michelle, pointed out that existing use rights do not apply if the activity is discontinued for a continuous period of 12 months or more. In relation to agricultural aviation this would not cover it as there are often periods of 12 months or more between when this activity is conducted on any given property. I accept this point however in my opinion this additional objective is not necessary.
189. The recommended provisions accommodate agricultural aviation as a permitted activity subject to certain restrictions such as a time limit and certain zones. In my opinion given there is a specific rule that permits this





activity, an objective that states lawfully established and permitted noise-generating activities can continue to operate and function is not necessary.

New definition of 'agricultural aviation activities'

190. Mr Michelle supports the definition of 'agricultural aviation activities' as recommended in the s.42A.

Add a new rule in the noise chapter that permits agricultural aviation activities subject to certain time limits and other restrictions

191. Mr. Michelle has requested the addition of a new rule in the noise chapter to permit agricultural aviation, subject to specific limitations, including restricted zones and timeframes. In my view, this additional rule is unnecessary because we have already recommended a provision is included in the temporary activities chapter that permits agricultural aviation with relevant limitations. Furthermore, an exemption has been proposed in the noise chapter, specifying that if agricultural aviation activities comply with the temporary activities rule, they are not subject to the noise chapter provisions. In my opinion, this approach meets the submitter's requested relief, even though it differs in format. The intended outcome, however, remains the same.

Amend NOISE-S4 to state NZS6807:1994 does not apply to agricultural aviation activities

192. As outlined above, the recommended exemption for the noise chapter in relation to agricultural aviation activities that can comply with the recommended temporary activity rule means that NZS6807:1994 would not apply to agricultural aviation activities if they can meet the permitted threshold. If the agricultural aviation activity is not permitted under the temporary activities rule, then it would become subject to the noise provisions including NOISE-S4 which relates to the use of helicopter landing areas and includes reference to NZS6807:1994. If it did not relate to the use of a helicopter, it would be captured by the NOISE-R3 – Noise from temporary activity and the related standard NOISE-S2 – Temporary activities standards.
193. In my opinion this is appropriate as anything above the limits specified in the permitted activity for agricultural aviation should be regulated in terms of noise. As this level of agricultural aviation may not be anticipated or expected by people living in the rural environment.

**Recommendations**

194. For the reasons above, I do not recommend any further amendments.

**Section 32AA Evaluation**

195. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.



### 3.11 Issue 11 – Emergency Helicopter use

#### Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 8 – Noise Exemptions From Paragraph 147 - 177
Evidence in chief from Northern Rescue Helicopter Ltd	The full statement of evidence

#### Analysis

196. Based on a review of the evidence received by Northern Rescue Helicopter Ltd, I consider that there is one key issue to respond to as follows:
- a. Amendments to the definition of 'emergency helicopter'

197. I address these matters below.

#### Amendments to the definition of 'emergency helicopter operation'

198. The submitter has provided a definition of 'emergency helicopter operation' as follows '*includes*
- *helicopters that are in operation for emergency purposes such as medical emergencies, search and rescue, firefighting;*
  - *other helicopter operations such as landings, departures, hover, overflights, taxiing, lifting, ground operations, training, or relocations; and*
  - *any other activity necessary for emergency purposes and training for emergency purpose'*
199. In my opinion, although this definition was not specifically requested within this submitter's original submission or any other original submission, it is nonetheless within scope. The submitter's original submission (S281) raised concerns that the rules for emergency helicopter operations were confusing and warranted review. The relief sought was to allow emergency rescue helicopters to operate without constraints and to be exempt from noise rules. In my opinion, this provides sufficient scope to consider the proposed definition for 'emergency helicopter operation'.
200. The suggested definition is mostly consistent with a definition for 'emergency helicopter' which was recommended by Marshall Day in the report that helped to inform the S.42A. This was not included in the original



S.42A recommendations as it was not identified there was sufficient scope at that stage.

201. In my opinion, the inclusion of the definition of 'emergency helicopter operation' in the PDP would be beneficial, as it provides clarity on the types of activities associated with emergency operations, including training and other operational activities that are essential for emergency services to remain prepared.

### Recommendations

202. The recommended additional definition is as follows:

***'emergency helicopter operation - includes***

- *helicopters that are in operation for emergency purposes such as medical emergencies, search and rescue, firefighting;*
- *other helicopter operations such as landings, departures, hover, overflights, taxiing, lifting, ground operations, training, or relocations; and*
- *any other activity necessary for emergency purposes and training for emergency purpose'*

### Section 32AA Evaluation

203. The addition of a specific definition for "emergency helicopter operation" is intended to clarify which helicopter activities are exempt from noise provisions due to their critical nature. By explicitly listing activities like medical emergencies, search and rescue, firefighting, and other necessary operations (including related training), this definition provides clear guidance on what constitutes emergency operations. It ensures that essential helicopter activities, often unpredictable and life-saving, are not hindered by noise regulations that might otherwise restrict their use.
204. This amendment promotes clarity and efficiency by defining the full scope of exempt activities, thereby reducing interpretive ambiguity. The definition also supports community understanding, as it distinguishes between necessary emergency activities and regular helicopter operations. The result is a more effective regulatory framework that balances community noise concerns with the need for unfettered emergency response capabilities.

### 3.12 Issue 12 – Light



**Overview**

Relevant Document	Relevant Section
Section 42A Report	Key Issue 1-5 From paragraph 48-119
Evidence in chief Vision Kerikeri, Carbon Neutral Trust (S529) and Kapiro Conservation Trust (S442, S443)	The full statement of evidence

**Analysis**

205. Based on a review of the evidence received from Vision Kerikeri, Carbon Neutral Trust and Kapiro Conservation Trust, I consider that there is three key issue to respond to as follows:
- a. Link used for reference to the Migratory Species – Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds
  - b. LIGHT-R1 – Additional clause to ensure lighting design considered a number of matters such as energy efficiency, wildlife and night skies
  - c. PDP Light Chapter – Should contain energy efficiency principals and require consideration of energy efficient design.

206. I address these matters below.

[Link used for reference to the Convention on Migratory Species – Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds](#)

207. The submitter has requested that an updated link is used in relation to the Migratory Species – Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds. The link suggested by the submitters is to an updated document called the CMS International Light Pollution Guidelines for Migratory Species (CMS ILPGMS) which was published in February 2024.
208. In the CMS ILPGMS it outlines that this document adapts Australia’s 2020 *National Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds* to an international context under the Convention on the Conservation of Migratory Species of Wild Animals (CMS). The CMS Conference of the Parties endorsed these guidelines in 2020 to help countries assess and manage light pollution impacts on wildlife. COP13 also tasked the CMS Secretariat with developing additional guidelines on light pollution’s effects on other species, specifically migratory landbirds and bats, for COP14. In collaboration with Australia, the Secretariat reviewed and refined the original guidelines to align better with international contexts, preserving technical content while making examples more universally



applicable. These updated guidelines result from this collaborative adaptation.

209. Given this document is still an 'in-session document' it has not been finalised or formally adopted and is still subject to change. Therefore, in my opinion it is not appropriate to include reference to this document in the PDP and the reference to the *Convention on Migratory Species – Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds* should be maintained.
210. An error with the current link to this document was identified and has been resolved with an updated link.

LIGHT-R1 – Additional clause to ensure lighting design considers a number of matters such as energy efficiency, wildlife and night skies

211. The submitter has requested an additional clause is added to LIGHT-R1 as follows: '*PER-3: The lighting design has considered the following matters:*
- *Energy efficient design;*
  - *Guidelines on wildlife specified in the Overview Note;*
  - *Guidelines on night skies specified in the Overview Note.'*
212. LIGHT-R1 addresses the emission of artificial light. PER-1 specifies that artificial light emitted from a site must comply with AS/NZS 4282:2019 – *Control of the Obtrusive Effects of Outdoor Lighting* to qualify as a permitted activity. PER-2 requires that artificial lighting must also comply with LIGHT-S1, which specifies the maximum allowable level of light spill.
213. The submitters' rationale behind adding an additional PER to this rule is outlined in their evidence. In summary it is to minimize the effects of outdoor lighting on nocturnal wildlife and reduce night sky pollution in a way that is energy efficient.
214. The submitters have highlighted that guidelines for responsible lighting serve similar purposes in terms of wildlife protection and dark sky preservation. They emphasize that such guidelines are straightforward and cost-effective to implement, citing an example from the Hutt City Council, which offers best practice lighting guidelines.
215. Upon review of the Hutt City Council's district plan and draft district plan, I note that the specific example referenced by the submitter does not appear within either of these documents. However, it appears that the Council commissioned a report, *Cardno - Effects of Artificial Light on Urban Wildlife within the Lower Hutt District*, which reviews the literature on the effects of artificial lighting on wildlife. This report was used to inform the draft district plan, providing best practice guidelines as referenced by the submitter.



216. In my opinion, adding this additional clause to LIGHT-R1 is not appropriate. LIGHT-R1 is a rule, and therefore, in my view, the term "considered" is not appropriate, as it lacks sufficient prescriptiveness and is too broad to be effectively monitored. This provision would apply to every individual light, which, given the extensive number of lights in the district, would be challenging to monitor and enforce. It would also require a significant educational effort for the community, as most people would not associate small-scale outdoor lighting with the need to comply with the PDP.
217. In my opinion the original recommendation within the s42A report to reference the Convention on Migratory Species – Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds within the overview section as best practice is more appropriate than adding an additional PER to the rule. This provides suitable guidance for installing and assessing lighting in areas where it could affect the natural behaviour of indigenous fauna. Additionally, referencing the effects of light on the night sky within the overview section is also more appropriate than adding a specific PER to LIGHT-R1 as requested by the submitter.
218. Specific consideration of references to energy-efficient design is outlined below.

PDP Light Chapter – Should contain energy efficiency principals and require consideration of energy efficient design.

219. The submitters request that energy efficiency provisions be included in all relevant parts of the PDP, including the chapter on lighting. To support this, they reference RMA s7(ba) and RMA s74(2). They also refer to the RPS, specifically the regional development guidelines (Appendix 2), to emphasize the importance of sustainable design.
220. RMA s7(ba) states:
- 'In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*
- ... the efficiency of the end use of energy:'*
221. RMA s74(2) specifies that when preparing or changing a district plan a territorial authority must have regard to a number of documents and legislation including the RPS. Notably, the PDP already includes a chapter on renewable electricity generation, which addresses renewable energy generation activities, and mentions the efficient use of energy.
222. The relevant RPS section states:
- 'Part A) Regional form and development guidelines - New subdivision, use, and development should:*



...(p) *Adopt, where appropriate, sustainable design technologies such as the incorporation of energy-efficient (including passive solar) design, low-energy street lighting, rain gardens, renewable energy technologies, rainwater storage, and greywater recycling techniques; and'*

223. In my opinion, this RPS guideline is discretionary, as indicated by the phrase 'adopt where appropriate' in clause (p). This wording suggests that while energy efficiency is encouraged, it is not mandated. Therefore, the PDP does not need to prescribe these technologies, though they are desirable in the many situations. In my view, specific energy efficiency requirements within the lighting chapter of the PDP are not required.
224. The submitters have also provided evidence regarding energy efficiency standards in road lighting design manuals, including the adoption of LEDs for all new and replacement streetlights. They reference the Northland Transportation Alliance Design Manual and the Auckland Transport Street Lighting guidelines.
225. Given this additional evidence, I consider that no amendments to the PDP lighting chapter are warranted. The Northland Transportation Alliance Design Manual, which FNDC currently follows for street lighting, already sets this standard, thus no PDP amendments are needed.
226. The submitters propose that the PDP lighting chapter should include provisions such as:
- *Energy efficiency: The installation must be designed for economic use of energy.*
  - *All new lighting designs or replacement luminaires must be LED and selected from Auckland Transport's current approved list of LEDs.*
227. The submitters state that warm LEDs cost the same as cool LEDs, and LEDs in general are significantly more energy efficient than traditional bulbs, leading to cost savings. In my opinion, although LEDs are a more economical choice due to their efficiency, making this a specific requirement within the PDP could lead to difficulties in enforcement and significant monitoring demands. As previously mentioned, FNDC follow the Northland Transportation Alliance Design Manual which could address some of the submitter's concerns.
228. The submitters also reference the energy efficiency provisions within the ODP and express concern over a perceived lack of such provisions in the PDP. The references to energy efficiency are limited to the subdivision chapter of the ODP.
229. In my view, any further reference to energy efficiency within the PDP would be more appropriately located in the renewable electricity generation chapter or the subdivision chapter rather than the lighting chapter. This



approach will be further considered in the s42A report for these topics and in the associated hearings.

### Recommendations

230. Retain as notified except for updating the hyperlink to the *Convention on Migratory Species – Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds* document.

Overview

231. ~~[https://www.cms.int/sites/default/files/publication/cms\\_light\\_pollution\\_guidelines\\_SLedits\\_DS\\_sep\\_complete.pdf](https://www.cms.int/sites/default/files/publication/cms_light_pollution_guidelines_SLedits_DS_sep_complete.pdf)~~  
~~[https://www.cms.int/sites/default/files/document/cms\\_cop13\\_res.13.5\\_annex\\_e.pdf](https://www.cms.int/sites/default/files/document/cms_cop13_res.13.5_annex_e.pdf)~~

### Section 32AA Evaluation

232. The change relates to an updated link to the same document *Convention on Migratory Species – Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds, and Migratory Shorebirds*. This is a minor topographical error change, and no further evaluation is considered necessary.

### Additional Information / Questions raised by the Hearing Panel

233. At the conclusion of the hearing members of the panel raised the following questions:
234. **Clarify how rural noise is exempt from the noise provisions such as a cow mooing?**
235. In my opinion these types of sounds are exempt from the noise chapter by the following exemption notes
- a. Exemption note 5 – *'agriculture, horticulture and pastoral farming activities undertaken for a limited duration, including using agricultural vehicles, machinery or equipment used on a seasonal or intermittent basis, forestry planting and forestry harvesting5 in the Rural Production, Horticulture and Horticulture Processing zones;'*
  - b. Exemption note 11 – *'impulsive sounds (such as hammering and bangs) and dog barking noise which are poorly assessed by reference to NZS 6802:2008: Acoustics Environmental Noise;'*
236. **Noise sensitive activities – in relation to Marae. Does it include Marae and if so which buildings/rooms are included? For example is a Whare Kai included?**
237. The recommendation outlined in this ROR for NOISE-S5 (Noise Insulation Standards for All Noise Sensitive Activities) includes reference to a table specifying internal noise limits for various building types and their





associated occupancy/activity. Marae are included in this table; however, it is recommended that the standards should apply only to the wharenuī in relation to the setback from the State Highway.

238. Regarding other noise insulation provisions for the Mixed Use, Light Industrial, and Orongo Bay zones, along with the Outer Noise Control boundary, which reference noise-sensitive activities with habitable rooms, it is my opinion that there are unlikely to be many, if any, marae within these areas. Nonetheless, if a marae were located within these zones, it would fall under the definition of 'noise sensitive activity,' which includes 'community facilities.'
239. 'Community facilities' are defined as:
- "Land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare, or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility."*
240. A 'habitable room' is defined as:
- "Any room used for the purposes of teaching or used as a living room, dining room, sitting room, bedroom, office, or other room specified in the Plan to be a similarly occupied room."*
241. In the context of a marae, this definition would encompass buildings such as the wharenuī and whare kai, as these are used for habitable purposes. However, it would exclude buildings used solely for storage or other non-habitable purposes.
242. **Any other submissions on the setback from the State Highway noise insulation provisions?**
243. The Paihia Properties Holdings Corporate Trustee Limited and UP Management Ltd (S344.026) opposes NOISE-S5 and requests to delete it because the requirement to attenuate 40m from the State Highway is onerous, given the nature of the use of the road. PPHCTL are concerned that the MUZ and State Highway setback noise attenuation rules have different standards.
244. **Information about relocated buildings and how/if they can comply with noise insulation standards?**
245. Mr. Ibbotson has provided several examples of relocated dwellings being moved into areas where noise insulation is required in his evidence. He also outlined the associated improvements necessary for these dwellings to meet the noise insulation standards. In most cases, some form of noise insulation was needed, which increased costs, including the expense of engaging an acoustic engineer to assess the noise levels.



246. **Implications if the rail line becomes operational but subsequently ceases operation within the life of the plan.**
247. KiwiRail has provided comments on this scenario. Given the investment required to make the rail lines operational, it is highly unlikely that they would become non-operational again within the life of the plan. In their opinion, this scenario does not need to be considered due to its low likelihood of occurring.