

BEFORE THE FAR NORTH DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the submissions made by Bentzen Farm Limited
and Setar Thirty Six Limited.

AND

IN THE MATTER Hearing Six and Seven: Noise and Lighting.

**STATEMENT OF EVIDENCE OF PETER RAYMOND HALL (PLANNING)
ON BEHALF OF BENTZEN FARM LIMITED and SETAR THIRTYSIX
LIMITED**

7 October 2024

1.0 EXECUTIVE SUMMARY

- 1.1 I present this evidence on behalf of Bentzen Farm Limited ¹ and Setar Thirty Six Limited,² together “**the submitters**”. I prepared the submissions on behalf of the submitters.
- 1.2 The submissions from the submitters being considered in Hearing 6 and 7 relate to the Proposed Plan provisions on helicopter noise.
- 1.3 I set out in my evidence to Hearing 1 an introduction to the submitters, including a description of their landholdings with location maps and a table of the key outcomes that are sought.³
- 1.4 My evidence is on Rule-R7 Helicopter Landing Areas and the associated Standard S-4.
- 1.5 I support the general direction of the changes that have been recommended in the report of acoustics expert Peter Ibbotson from Marshall Day Acoustics in relation to helicopter noise. However, as set out in my evidence, there are various drafting errors in the appended provisions which my evidence seeks to correct to ensure that the recommendations of Mr Ibbotson are properly carried through.
- 1.6 Included here is a drafting change to more clearly include a restricted discretionary activity step for noise from helicopter landing areas, up to a certain level – that being a change which I read as recommended in the s42A report however not fully realised in the recommended drafting to the 42A provisions.

¹ Submission 167, Further Submissions 066, 376 and 578.

² Submission 168, Further Submissions 069 and 377.

³ FNPDP Hearing One- Hearing Statement of Evidence of Peter Hall

2.0 QUALIFICATIONS AND EXPERTISE

2.1 My qualifications and expertise are set out in my evidence to Hearing 1 Strategic Direction and Part 1 /General / Miscellaneous Topics, dated 13 May 2024.⁴

2.2 In addition to that statement, and of relevance to this hearing, I have advised clients and obtained resource consents for a number of helicopter landing areas on private property in the Far North in recent years. As a result, I am familiar with the Far North Operative Plan noise provisions and the application of New Zealand Standard NZS 6807:1994 in relation to helicopter noise.

3.0 CODE OF CONDUCT

3.1 I have read the Code of Conduct for Expert Witnesses issued as part of the Environment Court Practice Notes 2023. I agree to comply with the code and am satisfied the matters I address in my evidence are within my expertise. I am not aware of any material facts that I have omitted that might alter or detract from the opinions I express in my evidence.

4.0 SCOPE OF EVIDENCE

4.1 As per the directions of the Hearing Panel in Minute 1, I have summarised areas of agreement with the s42A Reports, with my evidence below focussing on remaining areas of disagreement.

4.2 In preparing this evidence, I have read the s42 Report by Kenton Baxter and the appended assessment by Peter Ibbotson from Marshall Day Acoustics.

4.3 The submission points from the submitters on this topic were the same and in summary sought as follows:

- As notified, Rule Noise-R7 only permitted helicopter landing areas where flight movements are for emergency purposes

⁴ FNPDP Hearing One- Hearing Statement of Evidence of Peter Hall.

such as medical emergencies, search and rescue or firefighting purposes. An “or” was needed to be added to the rule to link to the standards and to allow other forms of helicopter movements where they comply with the standards.

- The Standard NOISE-S4 rule does not specify the noise standard to be complied with: referring to ‘the following noise limits’, without specifying what that is (with only reference to being ‘assessed’ in accordance with NZS 6807:1994: Noise Management and Land Use Planning for Helicopter Landing Areas, rather than any noise limit contained therein or otherwise expressing a noise limit). The Standard should be deleted and replaced with an appropriate noise limit to be complied with (for example 50 dB Ldn at the notional boundary of a vulnerable activity).
- Rule Noise-R7 and Standard NOISE-S4 rule lacks specificity as to what comprises a helicopter landing area. There is a disconnect between the title of the rule which applies to “helicopter landing areas” (presumably dedicated areas for this purpose) and the content of the rule which applies to the movements and landing of helicopters. If the intent is to apply to dedicated helicopter landing areas, then a definition of that land use is warranted to give the rule specificity.

4.4 I note and agree with the conclusion from Mr Ibbotson’s report in relation to this topic⁵ that:

- a. The helicopter noise rule and associated standard in the Proposed Plan is not fit for purpose and must be revised.
- b. That “or” should be added to the rule so that only one cause (and not both) needs to be met in order to be a permitted activity.

⁵ Page 52, Review of Submissions, Marshall Day Acoustics, 20 June 2024

- c. There is a lack of specificity as to what constitutes a helicopter landing area (which is recommended to be dealt with by way of definition).
 - d. Certain exemptions should be made for permitted activities.
- 4.5 My evidence therefore firstly sets out the changes I am recommending to the provisions relating to helicopter landing areas, sets out the reasons for these changes (with reference also to Mr Ibbotson’s report) and then provides a summary s32AA assessment of those changes.

5.0 CHANGES TO HELICOPTER NOISE RULE R7 AND STANDARD S4

- 5.1 My evidence sets out the specific changes sought to the helicopter noise provisions below as recommended in the s42A Report (my changes in ~~red strikeouts~~ and underlined).
- 5.2 I propose the following changes to Rule Noise-R7 Helicopter Landing Areas, including the addition of a restricted discretionary activity step in the rule (my Noise-R7-RDIS XX):

NOISE-R7	Helicopter landing areas	
All zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1</p> <p>Flight movements are for emergency purposes such as medical emergencies, search and rescue or firefighting purposes;</p> <p>PER-2 <u>PER-1</u></p> <p>The helicopter landing site complies with standard:</p>	<p>Activity status where compliance not achieved with PER-1 or PER-2:</p> <p>Discretionary: <u>Restricted Discretionary Activity</u></p> <p>a.</p>

	<p><u>Noise generated from the operation of helicopters using the helicopter landing area complies with standard:</u></p> <p>NOISE-S4 Helicopter landing areas.</p> <p>This standard does not apply to:</p> <p>1. Emergency or rescue helicopter operation occurring to or from Bay of Islands, Rawene or Kaitaia Hospital (excludes established helicopter bases on hospital land);</p> <p>ii. Emergency or rescue helicopter landings, departures, overflights or activity during operations that occur away from the permanently established helicopter base; or</p> <p>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.</p>	
<p><u>NOISE-RDIS XX</u></p>	<p><u>Helicopter landing areas</u></p>	
<p><u>All zones</u></p>	<p><u>RDIS XX</u></p> <p><u>Noise generated from the operation of helicopters complies with the following noise limits 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 and Māori Purpose-Urban zones, or within the notional boundary in the Rural Production, Rural Lifestyle, Settlement, Horticulture, Carrington Estate, Kororareka Russell Township, Moturoa</u></p>	<p><u>Activity status where compliance not achieved with RDIS XX:</u></p> <p><u>Discretionary Activity</u></p> <p><u>Matters of discretion are restricted to:</u></p> <p>a. <u>The potential for cumulative helicopter noise levels to exceed 50 dB Ldn (7 day) at a noise sensitive activity.</u></p> <p>b. <u>Any restrictions on any weekly, monthly or annual helicopter movements proposed.</u></p>

	<p><u>Island, Kauri Cliffs, Ngawha Innovation and Enterprise Park, Quail Ridge or Māori Purpose – Rural zones:</u></p> <ol style="list-style-type: none"> <u>50 dB Ldn as measured at a noise sensitive activity, or</u> <u>The guidelines of NZS6807:1994 as measured at any other activity that is not a non-sensitive activity.</u> 	<p>c. <u>Any potential wider social or community benefits from the operation of the helicopter.</u></p> <p><u>Note: The restricted discretionary noise rule of 50 dB Ldn is the same as that recommended in NZS6807:1994 as the “limit of acceptability” for rural or residential landuse. The 40 dB Ldn permitted standard is intentionally set at a much lower level. Compliance with the permitted standard will typically have an insignificant effect on amenity.</u></p>
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5.3 I propose the following changes to Standard Noise-S4 Helicopter Landing Areas:

NOISE-S4	Helicopter landing areas	
<p>All zones</p>	<p>Noise generated from the movements and landing of helicopters shall comply with the following noise limits when measured at any point within any General Residential and Rural Residential zones, or within the notional boundary of any noise sensitive activity in the Rural Production, Rural Lifestyle, Settlement, Horticulture or Māori Purpose zones when assessed in accordance with NZS 6807:1994: Noise Management and Land Use Planning for Helicopter Landing Areas.</p> <p>Noise generated from the operation of helicopters complies with the following noise limits when assessed in accordance with NZS 6807:1994: Noise Management and Land Use Planning for Helicopter Landing Areas:</p> <ol style="list-style-type: none"> <u>40 dB Ldn when measured at any point within any General Residential, Rural Residential and Māori Purpose-Urban zones, or</u> 	<p>Matters of discretion are restricted to:</p> <p><u>Not applicable</u></p> <ol style="list-style-type: none"> the extent of non-compliance and whether the proposal complies with noise limits of 50 dB Ldn; whether there are any restrictions on the number of movements proposed; the level, duration and character of the noise; proximity and nature of nearby activities and the adverse effects they may experience from the noise; effects on character and amenity values on the surrounding environment;

	<p><u>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.</u></p> <p>2. <u>50 dB Ldn when measured within any Mixed Use Zone, or within any other zone not otherwise listed in NOISE-S4.</u></p> <p>3. <u>60 dB Ldn when measured at any point within any Light Industrial zone</u></p> <p>4. <u>70 dB Ldn within any Heavy Industrial or Horticultural Processing zone.</u></p>	<p>f. effects on health and wellbeing of people;</p> <p>g. noise mitigation measures proposed;</p> <p>h. any wider social or community benefits from the operation of helicopters; and</p> <p>i. any potential cumulative effects.</p> <p>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</p> <p>b. The potential for cumulative helicopter noise levels to exceed 50 dB Ldn (7 day) at noise sensitive activities.</p> <p>c. Any restrictions on any weekly, monthly or annual helicopter movements proposed.</p> <p>d. Any potential wider social or community benefits from the operation of the helicopter.</p> <p>Note: The restricted discretionary noise rule of 50 dB Ldn is the same as that recommended in NZS6807:1994 as the “limit of acceptability” for rural or residential landuse. The 40 dB Ldn permitted standard is intentionally set at a much lower level. Compliance with the permitted standard will typically have an insignificant effect on amenity.</p>
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6.0 EXPLANATION FOR CHANGES

Correction of Errors/Better Clarity in Drafting

- 6.1 The majority of the changes I have made above are intended to correct errors and/or provide better clarity in the rule drafting to the provisions attached to the s42A report. Namely:
- a. Delete stray reference to “PER-2” in rule R-7 now that, as per the s42A Report version, there is no longer a “PER-2” Rule.
 - b. Change reference from “*helicopter landing site*” to “*helicopter landing area*” in rule R-7 PER-1, with that term consistent with the rest of the rule and now, as recommended in the s42A Report, a defined term.
 - c. Replace the words “*The helicopter landing site complies with...*” in rule R-7 PER-1 with the requirement that “*Noise generated from the operation of helicopters using the helicopter landing area complies with....*”. This is both to ensure consistency with the wording used in the related Standard, but also to recognise that it’s not the landing area per-se that generates the noise, but the use of it by helicopters.
 - d. Consistent use of the term “*noise sensitive activity*”⁶ in the provisions, that being a defined term in the Proposed Plan, rather than “*noise sensitive activities*” or “*non-noise sensitive receivers*” as in Standard S-4 matter of discretion “a.” as attached to the s42A report.
 - e. I assume also that the 50dBA level in Standard S-4 matter of discretion a. should not apply to the Mixed Use zone, Light Industrial zone, the Heavy Industrial or the Horticultural Processing zone – those allowing the same or higher permitted

⁶ NOISE SENSITIVE ACTIVITY is defined in the Proposed Plan as “*means buildings or land that may be affected by noise and require a higher standard of amenity. These include:*

- a. *residential or living activities;*
- b. *education facilities;*
- c. *health facilities;*
- d. *community facilities; and*
- e. *visitor accommodation”.*

helicopter noise levels than 50dB Ldn already in the provisions as drafted.

Restricted Discretionary Activity Step

6.2 I understand the s42A Report to be recommending that a restricted discretionary activity step be introduced into the noise rules relating to helicopter landing areas, however that has not been properly carried through into the provisions.

6.3 In particular, I note from Standard S-4 as recommended and attached to the s42A Report that there are “matters of discretion” that are specified as being “restricted to” those set out. The first of these matters of discretion is: *“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”*.

6.4 That, to my reading, appears more as a rule step rather than a matter of discretion. It implies that where compliance with 50 dB Ldn is achieved in relation to noise sensitive activities or with the guidelines of NZS6807:1994, then that would be acceptable (subject to the other matters being satisfied). Its also sets a measurable standard which does not require discretion to determine compliance with.

6.5 My interpretation here is supported by the note which explains 50 dB Ldn as the limit of acceptability and is recommended in the s42A report to be included in this standard:

“Note: The restricted discretionary noise rule of 50 dB Ldn is the same as that recommended in NZS6807:1994 as the “limit of acceptability” for rural or residential landuse. The 40 dB Ldn permitted standard is intentionally set at a much lower level. Compliance with the permitted standard will typically have an insignificant effect on amenity”.

6.6 For this reason, I have re-drafted the rule whereby noise between 40dB Ldn and 50dB Ldn is assessed as a restricted discretionary

activity when measured at any point within any General Residential, Rural Residential and Māori Purpose-Urban zones, or within the notional boundary 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.

- 6.7 This is added above as NOISE-RDIS XX (numbering to be determined).
- 6.8 For the matters of discretion to accompany NOISE-RDIS XX, I have simply adopted those from the s42A report Standard S-4.
- 6.9 I have moved the “Note” from the Standard to the new NOISE-RDIS XX, as it usefully explains the rationale of the 50dB Ldn restricted discretionary activity level.
- 6.10 My reading of Mr Ibbotson’s report which accompanies the s42A Report is that this revised structure would accord with his intent by adopting 50dB Ldn as the upper level of discretion for helicopter noise. At Appendix A to his report, he has the following notes against the recommended revisions to Standards Noise S-4 (**emphasis** is his own):

“This NOISE standard is intended to provide for some helicopter landing areas to be used as permitted activities where they are unlikely to affect the local amenity.

*The noise limits are intentionally set at a low level. This does not mean that helicopter noise is required to comply with these limits to be reasonable and applications for helicopter activity that exceed the permitted standard may be **entirely reasonable**. For this reason, a 50 dB L noise threshold is given in the matters of discretion, along with other matters of discretion that council should consider when any helicopter application is made.*

This approach is considered to be a balanced way of managing future helicopter activity. It may permit helicopter operations to occur on large or remote sites in the Bay of Islands, or on large

farms in other areas around the Far North. It may permit helicopter activity within industrial zones. It may allow a gradual increase in general helicopter noise to occur in some areas (e.g. the Bay of Islands) due to a proliferation of permitted and discretionary helicopter operations over time.

It would constrain helicopter operation in built up areas (such as Rural Lifestyle and some Rural Production areas), and consent would probably need to be applied for in most of those situations.

Note that we have included the requirement for Section 4.3 of NZS6807:1994 to be excluded as per the requirements of the National Planning Standards. We do not like this provision and would prefer it not to be included, but understand it is a requirement. If it is not a requirement, it should be excluded from this rule”.

Definition of helicopter landing area

6.11 I support the inclusion of the definition of helicopter landing area as proposed in the s42A report. Although the wording is not the same as that sought in the submissions, the intent is to ensure that there is a clear definition of what a helicopter landing area is, that being the activity regulated by these rules.

Section 32AA evaluation

6.12 I consider that the revisions as I set out in my evidence are appropriate to achieve the objectives (noise objectives O1 and O2) in accordance with section 32AA of the RMA for the following reasons:

- a) The changes I have recommended to improve consistency and precision in the drafting ensure that the rules are more effective and efficient.
- b) By maintaining the differentiation between zones in the helicopter noise rules, the objective of ensuring noise effects that are compatible with the role, function and character of each

zone and do not compromise community health, safety and wellbeing, will be met⁷.

- c) In this respect, as noted in the proposed noise rule “note” the restricted discretionary noise rule of 50 dB Ldn is the same as that recommended in NZS6807:1994 as the “limit of acceptability” for rural or residential landuse. The 40 dB Ldn permitted standard is intentionally set at a much lower level. Compliance with the permitted standard will typically have an insignificant effect on amenity.
- d) Allowing for a restricted discretionary activity assessment for helicopter noise between 40 and 50 dB Ldn, will allow the acceptability of the proposal to be assessed in the context of its location, surrounding environment and other such activities. As is included in the recommended matters for assessment, cumulative effects and any restrictions on any weekly, monthly or annual helicopter movements proposed, allow an assessment of the effects of a particular proposal, including cumulatively in relation to other proposals, and impose appropriate conditions – as such of ensuring noise effects are compatible with the role, function and character of each zone.
- e) Beyond this restricted discretionary level of 50 dB Ldn, a full discretionary activity is warranted, whereby there is no limit on the matters of discretion – appropriately taking into account the risk that higher noise limits may have wider effects on compatibility with the role, function and character of each zone and community health, safety and wellbeing.

Peter Raymond Hall

7 October 2024

⁷ Proposed Plan Objective Noise O-1