

**Before the Hearings Panel
At Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Wellington City District Plan

Between **Various**

Submitters

And **Wellington City Council**

Respondent

**Hearing Stream 5 (Noise) Reporting Officer Right of Reply of
Mark Ashby on behalf of Wellington City Council**

Date: 5 September 2023

INTRODUCTION:

1 My full name is Mark Ashby. I am employed as a Consultant Planner for Wellington City Council.

2 Including advice from consultant noise experts Malcolm Hunt and Sean Syman, I have prepared this reply on behalf of the Wellington City Council (**Council**) in respect of matters raised through Hearing Stream 5 relating to the Noise Chapter (Noise).

3 I have read the evidence and tabled statements provided by submitters relevant to the [Hearing Stream 5 Noise Section 42A Report](#).

4 Specifically, this statement of evidence relates to the matters in the Section 42A Report.

5 I am authorised to provide this evidence on behalf of the Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

6 Section 1.2 of the [Noise Section 42A report](#) sets out the qualifications and experience of myself, Malcolm Hunt and Sean Syman.

7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. Mr Hunt and Mr Syman make the same affirmation in contributing to the right of reply.

SCOPE OF REPLY

8 This reply follows the Noise Chapter aspects of Hearing Stream 5 held between 1 and 7 August 2023. [Minute 33](#): Directions Following Hearing Stream 5 released by the Panel on 14 August 2023 requested that Section 42A report authors submit a written Right of Reply as a formal response to matters raised during the course of the hearing. The

Minute requires this response to be submitted by 28 August 2023. However, due to other circumstances, the Panel provided leave for this report to be submitted by Tuesday 5 September.

9 This reply includes:

- Responses to specific matters and questions posed by the Panel [in Minute 33](#).
- Matters remaining in contention.
- Changes to recommendations in s42A report as identified in Appendix 2.

10 Appendix 1 has a list of materials provided by submitters including expert evidence, legal submissions, submitter statements etc. This information is all available on the Hearing Stream 5 webpage.

11 Appendix 2 has recommended amendments to the Proposed District Plan (PDP) provisions including definitions, mapping and the Noise Chapter, with updated recommendations differentiated from those made in Appendix A of the s42A report.

12 Appendix 3 has an updated table of recommended responses to submissions and further submissions, with updated recommendations differentiated from those made in Appendix B of the [Noise s42A report](#).

Answers to questions posed by the Panel

Agricultural Aviation

13 At paragraph 2(xxvi) of [Minute 33](#) the Panel requested “Further advice on the preferred approach to exempting agricultural aviation activities”.

14 My understanding is that this question arises from evidence presented by the NZ Agricultural Aviation (see Submitter speaking notes - NZ Agricultural Aviation Association in Appendix 1). The submitter

characterised the issue as being that the Noise Chapter does “not clearly and adequately provide for use of agricultural aviation aircraft undertaking activities in the General Rural Zone, Natural Open Space Zone and Open Space Zone”¹.

15 I understand that NZAA has sought a definition of Agricultural Aviation Activity² – although this is a matter not being directly addressed by this hearing stream. I agree that the inclusion of this definition would be useful if paired with other provisions of the district plan (such as a permitted activity rule). NZAA expressed a preference for a specific rule, in association with the definition. In questioning, Commissioner Daysh suggested the use of a specific exemption and the submitter agreed with that approach.

16 The issue I see with a carte blanche exemption is that it would authorise aircraft operation without limits as to frequency or hours operation. As noted in the section 42A report, there is a NZ Standard for noise management in relation to helicopter landing areas (NZS6807:1994), but there is no similar standard for fixed wing aircraft. Outside of the General Rural Zone, noise and other effects associated with aviation activities in open space and reserve areas are a valid concern for the public – and for the Council with respect to complaints that may arise.

17 As additional background, if the Panel requires it, the Quality Planning Website includes a Guidance Note on agricultural aviation. Part of that Note addresses [Managing Land Use and Sensitivities to It's Use](#).

18 The Guidance Note does not suggest exemption as an option in providing for agricultural aviation. However, it does suggest providing for it as a permitted activity. In some respects, this is similar to an

¹ Paragraph 2.1, Tony Michelle, Executive Officer NZ Agricultural Aviation Association

² Paragraph 2.3, Tony Michelle, Executive Officer NZ Agricultural Aviation Association

exemption, but a permitted activity generally has the advantage of being subject to relevant standards. NZAA note that NOISE-R1 (the general 'catch all' rule) would permit fixed wing operations but the noise limits in APP4 are unlikely to be met – triggering the need for resource consent. I agree that would be the case.

19 In the absence of applicable standards for fixed wing operations, another approach would be to require compliance with a relevant code of practice. I understand that the AIRCARE programme (via Aviation NZ) includes a noise abatement code of practice ([NOISE Abatement CoP Edition 1](#)). Linking permitted activity status to certification under AIRCARE would help to provide some certainty that the s16 RMA general duty to avoid unreasonable noise is met.

20 My recommendations are to therefore:

- Accept the definition of Agricultural Aviation sought by NZAA.
- Add noise from Agricultural Aviation as a permitted activity in the Noise chapter, subject to compliance with the AIRCARE Code of Practice in relation to Noise Abatement.

21 In Appendix 2 attached to this Right of Reply, I have drafted amendments to the definitions section, and to NOISE-R4, to reflect my recommendations.

Matters remaining in contention

NOISE-R3

22 In his hearing statement, Mr Matheson for Kāinga Ora notes that “a Hearing Panel cannot use the IPI process to restrict the development potential of land beyond that existing in the Operative District Plan”. In speaking to that statement, Mr Matheson went further by stating that the PDP – within the Outer Air Noise Overlay – seeks to be more restrictive than the Operative District Plan (ODP).

23 To clarify, the revised version of NOISE-R3 (provided in my supplementary evidence) does not seek to be more restrictive than the

ODP. As set out in the summary table below, with regard to dwellings, the PDP is actually slightly more permissive within the Outer Air Noise Overlay than the ODP.

Table 1 - ODP versus PDP Dwelling Control

	Operative District Plan					Proposed District Plan			
	Within the ANB		Beyond the ANB			Inner Airnoise		Outer Airnoise	
	<i>Rule</i>	<i>Dwellings</i>	<i>Rule</i>	<i>Dwellings</i>		<i>Rule</i>	<i>Dwellings</i>	<i>Rule</i>	<i>Dwellings</i>
Permitted	5.1.7	1	5.1.7	2	Permitted	R3.1	1	R3.2	3
RDA ³	5.3.10B	2	5.3.7	3+	RDA	R3.3a	2	R3.3b	4+
Discretionary	5.4.4	3+			Discretionary	R3.4	3+		

24 Note that, there is no equivalent of the Outer Air Noise Overlay in the ODP. The ODP “beyond the ANB” rules and dwelling limits shown in Table 1 apply to all land zoned Outer Residential, beyond the ANB (air noise boundary).

25 Also note that the revised version of NOISE-R3 provided in my supplementary (rebuttal) evidence uses the summary terms⁴ High Noise Area and Moderate Noise Area. With respect to the Air Noise Overlays, these respectively equate to the Inner and Outer Overlays.

26 In permitting up to 3 dwellings within Moderate Noise Areas (e.g., Outer Airnoise Overlay), the approach taken in the PDP is consistent with the Medium Density Residential Standards.

27 For Wellington International Airport Limited (WIAL), Ms O’Sullivan’s planning evidence calls for new noise sensitive activities to be ‘avoided’ in zones where such activities are not reasonably anticipated. Ms O’Sullivan therefore seeks that all noise sensitive activities within the General Industrial, Open Space, Airport and Mixed Use Zones should be classed as non-complying. She considers that this approach is “not so

³ Restricted discretionary activity

⁴ See the addition of new definitions as set out in my supplementary (rebuttal) evidence

far removed from what is already required by the respective zone provisions” – as most noise sensitive activities require discretionary consent⁵. Ms O’Sullivan goes on to note that visitor accommodation may be a reasonable exception to the remedy sought, given its transient nature.⁶

28 My own assessment of ODP rules is that both dwellings and noise sensitive activities are, as stated by Ms O’Sullivan, Discretionary in the ODP Business 2 Zone. This is equivalent to the General Industrial Zone under the PDP, which occurs within both the Inner and Outer Noise Overlays.

29 However, noise sensitive activities and dwellings are permitted activities in the Centres Zone of the ODP. Within the PDP airnoise overlays, this is equivalent to a very small area of Neighbourhood Centre Zone within the Inner overlay, and somewhat more within the Outer overlay.

30 In addition, the ODP treats noise sensitive activities and dwellings in the Business 1 Zone as restricted discretionary. Under the PDP, Business 1 is equivalent to the Mixed Use Zone, which affects some land within the Inner and Outer Air Noise Overlays. Table 2 below summarises the relevant rules and activity categories.

⁵ Paras 5.48, 5.56(c), 5.62, EIC Kirsty O’Sullivan for WIAL

⁶ Para 5.62

Table 2 - ODP Non-Residential Zone Controls

Operative District Plan (Non-Residential Zones)								
Within the ANB					Beyond the ANB			
	<i>Rule</i>	<i>NSA</i> ⁷	<i>Rule</i>	<i>Dwellings</i>	<i>Rule</i>	<i>NSA</i>	<i>Rule</i>	<i>Dwellings</i>
Permitted	7.1.1	Centres	7.1.1	Centres	7.1.1 34.1.1	Centres Business 1	7.1.1	Centres
RDA ⁸			34.3.6	Business 1			34.3.6	Business 1
Discretionary	34.4.1 34.4.7	Business 2 Business 1 & 2	34.4.8	Business 2			34.4.8	Business 2

31 I agree with Ms O’Sullivan that, from a PDP Noise chapter perspective, the management of noise sensitive activities and dwellings in non-residential zones needs to be addressed. In my opinion, the outcomes should be no more restrictive than under the ODP, except within the Inner Air Noise Overlay – where the Council has identified noise as a qualifying matter.

32 In response to the matters outlined above, I have made amendments to NOISE-R3 in Appendix A (attached to this Right of Reply) in **green text**. Note that amendments to NOISE-R3 in the Right of Reply arise from matters raised by WIAL in evidence at the hearing regarding clarity needed in the rule. In the section 42A report (Appendix B), the need for clarity with respect to this rule was “Accepted in part” in relation to all relevant submission points. The recommended amendments in the Right of Reply are consistent with ‘accepting in part’ the submission points, so no change is necessary to specific rows of Appendix B attached to this Right of Reply.

Alternative Acoustic Insulation Standards

33 Acoustic insulation standards NOISE-S4 and NOISE-S5, and the related ventilation standard for insulated rooms (NOISE-S6) were opposed by

⁷ Noise sensitive activity

⁸ Restricted discretionary activity

Wellington International Airport Limited (WIAL) for reasons set out within their submission and within the evidence of WIAL's noise expert Mr Humpheson.

- 34 The alternative approach preferred by WIAL is to apply an 'airport specific' acoustic insulation performance standard (NOISE-S16) and an alternative ventilation standard (NOISE-S17) which would apply to any new or altered habitable rooms located within the Inner Airnoise Overlay which would apply under the same circumstances as NOISE-S4, NOISE-S5 and NOISE-S6.
- 35 The advice from Council's noise experts was to reject the proposed airport-specific acoustic insulation and ventilation standards NOISE-S16 and NOISE-S17 because they considered NOISE-S4, NOISE-S5 and NOISE-S6 (as amended by the S.42A officers report) offered a preferred approach in terms of building occupants being better protected from adverse effects of aircraft noise experienced within the Air Noise Overlays.
- 36 The Council's experts considered NOISE-S4, NOISE-S5 and NOISE-S6 (as amended by the S.42A officers report) would be practical to implement, more efficient in terms of providing an alternative compliance pathway (via compliance with minimum construction schedules), and compliance with the acoustic insulation standard could be measured and checked via field testing (if necessary) using international standards designed for this purpose.
- 37 The merits, or otherwise, of the PDP NOISE-S4, NOISE-S5 and NOISE-S6 preferred approach (as amended by the S.42A report recommendations) versus WIAL's preferred acoustic insulation and ventilation standards, will be informed by the outcome of expert mediation scheduled for 6 September, so are not responded to further within this right of reply.
- 38 However, a modification of WIAL's recommended NOISE-S16 acoustic insulation standard was outlined within the supplementary evidence of WIAL's planning witness Ms O'Sullivan and was discussed within the

rebuttal evidence of WIAL's noise expert Mr Humpheson. This change occurred after Council's noise expert Mr Hunt presented his [evidence in chief](#), and [rebuttal evidence](#), and is therefore commented on below.

39 During the hearing Mr Humpheson introduced an amendment to WIAL's proposed airport-specific acoustic insulation standard NOISE-S16. This change was included within Ms O'Sullivan's supplementary evidence in the form of a tracked changes version of the Noise Chapter. The change involved adding a new standard "S16.2(a)" which introduced a new 'compliance pathway' in addition to the earlier WIAL proposed requirement (S16.1) for habitable rooms to be designed, constructed, and maintained to achieve an internal noise level of Ldn 40dB.

40 WIAL's proposed NOISE-S16.2(a) sets out that compliance with an "indoor Ldn 40 dB" requirement of S16.1 can be demonstrated by a certificate submitted by a suitably qualified acoustic engineer stating the design proposed will comply with PDP Noise Chapter Table I *"Minimum construction requirements necessary to achieve a moderate external sound insulation level of $DnT,w + Ctr > 30$ dB"*.

41 While the addition of a compliance pathway is supported in principle, standard S16.2(a) requested to be included in the Noise chapter is not supported by Council's noise advisors for the following reasons:

- a) It does not replace PDP NOISE-S16.1 meaning the problems and shortcomings of the "indoor Ldn 40 dB" outlined in the evidence of Mr Hunt for Council are not avoided and will remain. The existing approach of NOISE-S4 is preferred in noise effects, as it ensures indoor aircraft noise exposure levels will be much lower – between Ldn 30 dB to 32 dB⁹; and

⁹ Table 2, page 31 of [Submitter evidence - D Humpheson for Wellington International Airport \(406 & FS36\)](#)

b) The recent changes to WIAL's proposed S16, as outlined by WIAL's experts, do not specify any form of acoustic insulation standard for new or altered habitable rooms located in the Outer Air Noise Overlay (outdoor Ldn levels 64 to 60 dB). Apart from requiring conformance with ventilation requirements of WIAL's proposed S17, the airport company's approach does not require any specific acoustic treatment of the structure of habitable rooms within the Outer Noise Overlay. Mr Hunt considers that this will introduce uncertain acoustic outcomes for occupants of new or altered habitable rooms located within the Outer overlay area.

42 The Council considers that the addition of a 'compliance pathway', based on achieving minimum acoustic construction for habitable rooms, signals an acknowledgement from WIAL of the benefits of using the 'construction schedule' approach. The construction schedule has, for some time, been a key feature of the acoustic insulation standards applying within the ODP for non-aircraft noise, and it remains a key feature (and is enhanced) within NOISE-S4 and NOISE-S5 recommended for the PDP by Council's experts.

43 The acoustic insulation standards specified within NOISE-S4 and NOISE-S5 remain the preferred approach by Council, as these standards will result in lower indoor aircraft sound exposure levels commensurate with international standards for indoor noise exposure. The World Health Organisation (WHO) report¹⁰ referred to within the evidence in chief of Mr Humpheson¹¹ (and also referenced by Guardians of the Bays) provides unequivocal evidence that a reduction in indoor aircraft noise exposure reduces the percentage of persons experiencing sleep

¹⁰ World Health Organisation, *Environmental Noise Guidelines for the European Region*, 2018.

¹¹ Page 10 of [Submitter evidence - D Humpheson for Wellington International Airport \(406 & FS36\)](#)

disturbance and other adverse effects of aircraft noise experienced indoors.

- 44 Considerable emphasis has been placed by WIAL's planning witnesses in supplementary evidence, and within submissions by BARNZ, on the desire for acoustic insulation standards of the PDP to be consistent with district plan acoustic insulation standards applying within noise-affected areas around other New Zealand airports. I consider that this is not necessarily a matter the Council needs to consider when undertaking a Schedule 1 district plan process. Instead, I consider that greater emphasis should perhaps be placed on consistency with acoustic insulation standards specified within the PDP for protecting sensitive indoor spaces within other 'High Noise Areas' (NOISE-P3) and Moderate Noise Areas (NOISE-P4).
- 45 In the opinion of Mr Hunt, which I accept, the benefits of stipulating acoustic insulation for new or altered habitable rooms using NOISE-S4 and NOISE-S5 within the Inner and Outer Air Noise Overlays will deliver benefits to key users of the Plan such as architects, engineers, and planners. The standards will also deliver benefits in terms of the Council assessment of expert acoustic reports, and in consent application processing.

Comment On Suggested Acoustic Insulation Enhancements

- 46 The discussion below refers to the *indoor dBA* versus *DnTw* methods of prescribing acoustic insulation standards, specified within the PDP for protecting sensitive indoor spaces within High Noise and Moderate Noise Areas (NOISE-P3 and NOISE-P4).
- 47 Kāinga Ora's noise expert Mr Styles presented noise evidence which, on balance, preferred the *DnTw* method¹² for specifying acoustic insulation. However, upon questioning, Mr Styles also offered support

¹² Based on external to internal noise reduction using methods set out within ISO 717-1:2020 *Acoustics — Rating of sound insulation in buildings and of building elements — Part 1: Airborne sound insulation*.

for the *indoor dBA* method for specifying acoustic insulation preferred by some submitters (WIAL and KiwiRail in particular).

48 In his response to questions from the Panel Mr Styles stated he could support insulation standards based on *indoor dBA* if two specific items were included in the insulation standards NOISE-S4 and NOISE-S5 to address his concerns. The two additional items suggested by Mr Styles are summarised as follows:

- a) Acoustic insulation standards should include contour maps to depict, in some detail, outdoor noise levels that would aid in the calculation of acoustic insulation necessary to achieve indoor design levels. He stated that if aircraft noise contours and road traffic noise could be depicted in contour maps at 1 dB bands, *indoor dBA* type insulation standards would be improved as this would reduce uncertainty regarding outdoor levels needed for calculating reductions necessary to achieve the *indoor dBA* standard; and
- b) Including reference sound spectrum (sound levels within each frequency band) within *indoor dBA* type insulation standards would be helpful to reduce uncertainty, and differences between experts, when calculating reductions necessary to achieve indoor design sound levels.

49 While of some merit, the Council's acoustic advisors consider Mr Style's suggestions are insufficient to address major deficiencies inherent within standards for acoustic insulation based on achieving stated *indoor dBA* limits. Mr Hunt considers that the key shortcomings not addressed by Mr Styles in his response to questions from the Panel are:

- a) Bespoke acoustic calculations and reports are necessary when producing a compliance certificate that confirms certain prescribed building claddings, glazing etc. will achieve compliance with a stated *indoor dBA* design standard. As each report is specific to the room/building under consideration,

compliance pathways based on a 'minimum construction schedule' are not possible when insulation standards are based on an *indoor dBA* design standard;

- b) Mr Style's suggested improvements do nothing to address the need for compliance with district plan acoustic insulation standards to be field tested (if necessary) using established international standards and measurement techniques. The Council's experts consider it very difficult, if not impossible, to check conformance with an *indoor dBA* method via field measurement.

50 Mr Style's suggestions to enhance the *indoor dBA* insulation standards do not address one of the key problems within this method. That is, there is no assurance in using the *indoor dBA* method that outdoor low frequency noise will be adequately reduced when experienced indoors. This contrasts with the *DnTw* method which, by definition, includes a special spectrum adaption term (referred to as the "Ctr" spectrum adaption term) which acts to effectively control low frequency sound from outdoor sources when experienced within insulated habitable rooms. The result is that insulated habitable rooms meeting a specified *DnTw* performance standard are more acoustically comfortable and thereby well suited for noise sensitive uses due to avoidance of potential discomfort or annoyance associated with low frequency sounds originating from outdoor sources.

Military Mobile Noise Sources

51 The Council and New Zealand Defence Force (NZDF) are in general agreement on the technical noise matters following the hearing, with only a few outlying matters.

52 Regarding Temporary Military Training Activity (TMTA) mobile source noise, at the hearing Mr Humpheson, appearing for NZDF, stated that on reflection the noise limits proposed for TMTA of between 14 and 31 days duration in his statement of evidence should apply for mobile

sources for all TMTA durations. The Council’s noise expert Mr Syman agrees with Mr Humpheson and has prepared a mark up of the required changes to Mr Humpheson’s submitted Table 1 for *Mobile Noise limits for activities sensitive to noise* presented below as Table 3.

53 As these changes for Temporary Military Training Activity noise relate to the Temporary Activities chapter, they are not shown in Appendix 2 attached to this Right of Reply.

Table 3 - Mobile Noise limits for activities sensitive to noise

Time of Week	Time Period	TMTA of less than 14 days duration		TMTA of between 14 and 31 days duration mobile noise limits	
		L_{Aeq(15min)}	L_{Amax}	L _{Aeq(15min)}	L _{Amax}
Weekdays	6:30am – 7:30am	65	75	55	75
	7:30am – 6:00pm	80	95	70	85
	6:00pm – 8:00pm	75	90	65	80
	8:00pm – 6:30am	45	75	45	75
Saturdays	6:30am – 7:30am	45	75	45	75
	7:30am – 6:00pm	80	95	70	85
	6:00pm – 8:00pm	45	75	45	75
	8:00pm – 6:30am	45	75	45	75
Sundays and Public Holidays	6:30am – 7:30am	45	75	45	75
	7:30am – 6:00pm	55	85	55	85
	6:00pm – 8:00pm	45	75	45	75
	8:00pm – 6:30am	45	75	45	75

54 In the hearing Mr Humpheson responded to a question from the Panel regarding a potential error in Mr Humpheson’s submitted Table 2 – *Mobile noise levels for noise affecting any other activity*, stating that there is no error, and this table should remain as submitted. Mr Syman disagrees with Mr Humpheson, as Table 2 within Mr Humpheson’s statement of evidence has higher (less restrictive) noise limits for TMTA activities of between 14 and 31 days duration than durations of less than 14 days. Mr Syman considers the reverse should be the case; higher duration activities should have more restrictive noise limits. Mr Syman has presented his recommended changes to Mr Humpheson’s

Table 2 (presented below as Table 4), as per paragraph 16 of his supplementary expert evidence.

55 As these changes relate to the Temporary Activities chapter, they are not shown in Appendix 2 attached to this Right of Reply.

Table 4 - Mobile Noise limits for noise affecting any other activity

Time Period	Temporary Military Training Activities	
	< 14 days duration L _{Aeq(15min)}	14 to 31 days duration L _{Aeq(15min)}
7:30am – 6:00pm	75 80	80 75
6:00pm – 7:30pm	80 85	85 80

56 The Panel had questions regarding why marked up changes to APP6 were not provided in Mr Syman’s evidence. Technical responses for TMTA related to noise were provided within his evidence, however matters that are not technical in nature will be addressed in Hearing Stream 7 for Temporary Activities, as provisions relating to TMTA sit within the Temporary Activities chapter.

57 Mr Syman agrees with NZDF that the Council should format TMTA noise limits as they appear within APP6, currently presented as Table 26 – APP6. As discussed in the hearing, Mr Syman considers this should be completed following Hearing Stream 7 for Temporary Activities.

Waka Kotahi & KiwiRail

58 Mr Brown, appearing for KiwiRail, suggested to the Panel that further reporting to assist vibration controls could be completed if the Panel requested it, as was proposed in the S42A report¹³. Mr Syman, who has provided the Council’s railway related advice, agrees that such a report would be of value and could be completed if requested by the Panel.

¹³ Via a report requested under RMA 41C(4)

59 Ms Heppelthwaite, appearing for KiwiRail, stated that the rail advisory overlay presented in my supplementary (rebuttal) evidence is acceptable to KiwiRail. In the absence of further investigation and reporting on rail vibration, Mr Syman also agrees that an advisory overlay is acceptable. A definition of Rail Vibration Advisory Overlay was a recommended change in my supplementary (rebuttal) evidence to the hearing. The overlay would be defined on the planning maps, depicted as “a distance of 60m beyond the railway designation boundary”.

60 In the hearing Mr Brown noted that passenger and freight rail will continue to grow with government investment, that KiwiRail is planning for that growth, and that the vibration effects on adjoining neighbours will only increase. Mr Brown implied there would therefore be an increasing need for noise sensitive receivers to mitigate vibration effects but made no suggestion that KiwiRail should mitigate or control vibration emission from rail activity. In Mr Syman’s opinion (which I support), KiwiRail should be expected to take best practicable options to mitigate vibration emission at or near source where possible as their activity increases – although it is not clear how this could be achieved under the district plan or planning legislation.

61 Dr Chiles, appearing for KiwiRail, suggested in the hearing that the Council’s position is that implementation of vibration criteria is too difficult, and therefore should not be attempted. Mr Syman and I disagree with this characterisation, as that is not the Council’s position.

62 While we agree that vibration is an effect needing to be managed, we consider the vibration standard submitted by KiwiRail is an inequitable approach. KiwiRail’s proposed requirements for mitigation would fall solely on the vibration sensitive receiver, with no restriction or control of vibration emissions at source from the operation of the rail line. The costs of the vibration isolation that would be imposed on vibration sensitive receivers by KiwiRail’s proposed standard have also not been quantified. Evidence of the actual and likely vibration effects on

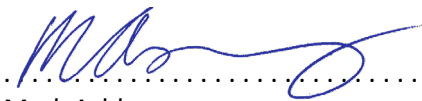
sensitive activities from the Wellington Rail network has not been provided. Mr Syman's position opposing KiwiRail's submitted vibration standard has not changed, and I support him in that position.

63 Matters regarding NOISE-S4 and NOISE-S5 were raised during the hearing by both Waka Kotahi and KiwiRail. These matters will be addressed in expert conferencing as directed by the Panel (conferencing is scheduled to occur on September 6, after the date of this right of reply).

S32aa Evaluation

64 In my opinion, none of the changes recommended in this Right of Reply have a fundamental impact on the existing policy framework of the Noise Chapter. I consider that the analysis and discussion in the Right of Reply is sufficient to demonstrate that the changes are reasonably necessary, are efficient and effective, and are appropriate means to achieve the purpose of the Act.

Date: 5/8/2023


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Mark Ashby

Appendix 1 – List of materials provided by Hearing Stream 5 Noise Chapter submitters

Submitter Materials Relevant to Noise Chapter

Submitter evidence

- [Submitter evidence - C O'Brien for Board of Airline Representatives NZ](#)
- [Submitter evidence - C Heppelthwaite for KiwiRail \(408 & FS72\) & Waka Kotahi \(370 & FS103\)](#)
- [Submitter evidence - S Chiles for KiwiRail \(408 & FS72\) & Waka Kotahi \(370 & FS103\)](#)
- [Submitter evidence - B Ligget for Kāinga Ora - Noise \(391 & FS81\)](#)
- [Submitter evidence - M Brown for KiwiRail \(408 & FS72\)](#)
- [Submitter evidence - J Styles for Kāinga Ora \(391 & FS81\)](#)
- [Submitter evidence - M Lindenberg for Kāinga Ora \(391 & FS81\)](#)
- [Submitter evidence - Collated Chapter amendments - Kāinga Ora \(391 & FS81\)](#)
- [Submitter evidence - D Humpheson for NZ Defence Force \(423 & FS104\)](#)
- [Submitter evidence - R Davies for NZ Defence Force \(423 & FS104\)](#)
- [Submitter evidence - J Carter for Stride \(470 & FS107\) & Investore \(405\)](#)
- [Submitter evidence and appendices - J Lester for Wellington International Airport \(406 & FS36\)](#)
- [Submitter evidence and appendices - K O'Sullivan for Wellington International Airport \(406 & FS36\)](#)
- [Submitter evidence - D Humpheson for Wellington International Airport \(406 & FS36\)](#)
- [Submitter evidence - J Kyle for Wellington International Airport \(406 & FS36\)](#)
- [Supplementary evidence - K O'Sullivan for WIAL \(406 & FS36\) - Table 1 Airport Comparison](#)
- [Supplementary evidence - K O'Sullivan for WIAL \(406 & FS36\) - Table 2 Planning witness differences](#)
- [Supplementary evidence - K O'Sullivan for WIAL \(406 & FS36\) - Tracked changes for Noise Chapter](#)
- [Supplementary evidence - C Heppelthwaite for KiwiRail \(408 & FS72\) & Waka Kotahi \(370 & FS103\)](#)

Submitter statements

- [Submitter tabled statement - Fuel companies \(372\)](#)
- [Submitter tabled statement - Horokiwi Quarries \(271 & FS28\)](#)
- [Submitter tabled statement - Woolworths NZ \(359\)](#)
- [Submitter tabled statement - Ministry of Education \(400\)](#)

Submitter presentations

- [Submitter speaking notes - Guardians of the Bays \(452 & FS44\)](#)
- [Submitter presentation - Guardians of the Bays \(452 & FS44\) & Yvonne Weeber \(340\)](#)
- [Submitter speaking notes - NZ Agricultural Aviation Association \(40\)](#)
- [Submitter speaking notes - Strathmore Park Residents Association \(371 & FS112\)](#)
- [Submitter speaking notes - Yvonne Weeber \(340\)](#)
- [Submitter speaking notes - B Matheson for Kāinga Ora \(391 & FS81\)](#)
- [Submitter speaking notes - M Lindenberg for Kāinga Ora \(391 & FS81\)](#)
- [Submitter speaking notes - D Humpheson for Wellington International Airport \(306 & FS36\)](#)
- [Submitter speaking notes - J Lester for Wellington International Airport \(306 & FS36\)](#)
- [Submitter speaking notes - K O'Sullivan for Wellington International Airport \(306 & FS36\)](#)
- [Submitter speaking notes - G Chappell for Board of Airline Representatives NZ \(FS139\)](#)
- [Submitter speaking notes - J Carter for Stride \(470 & FS107\) and Investore \(405\)](#)

Rebuttal

- [Rebuttal evidence - L Jimmieson for Kāinga Ora \(391 & FS81\)](#)
- [Rebuttal evidence - M Lindenberg for Kāinga Ora \(391 & FS81\)](#)
- [Rebuttal evidence - C Heppelthwaite for KiwiRail \(408 & FS72\) and Waka Kotahi \(370 & FS103\)](#)
- [Rebuttal evidence - D Humpheson for Wellington International Airport \(406 & FS36\)](#)
- [Rebuttal evidence - K O'Sullivan for Wellington International Airport \(406 & FS36\)](#)

Legal submissions

- [Submitter legal submissions - Board of Airline Representatives NZ \(FS139\)](#)
- [Submitter legal submissions - Kāinga Ora \(391 & FS81\) - Noise](#)
- [Submitter legal submissions - Stride \(470 & FS107\) & Investore \(405\)](#)
- [Submitter legal submissions - Wellington International Airport \(306 & FS36\)](#)
- [Submitter legal submissions - KiwiRail \(408 & FS72\)](#)

Appendix 2 – Recommended amendments to PDP Noise provisions

In order to distinguish between the recommendations made in the s42A report, the recommendations in my supplementary (rebuttal) evidence and the recommendations that arise from this report:

- s42A recommendations are shown in red text (with underline and ~~strike out~~ as appropriate); and
- Supplementary (rebuttal) recommendations are shown in blue text (with underline and ~~strike-out~~ as appropriate)
- Recommendations from this right of reply report in response to evidence are shown in green text (with underline and ~~strike-out~~ as appropriate).

Appendix 3 – Recommended responses to submissions and further submissions (Appendix B of S42A Report)

In order to distinguish between the recommended responses in the s42A report and the recommended responses that arise from this report:

- Recommendations on submissions from this right of reply report in response to evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

New Zealand Agricultural Aviation Association	40.5	General District wide Matters / Noise / General NOISE	Amend	The NOISE chapter has no provisions for the intermittent use of aircraft for agricultural aviation activities.	Seeks that the NOISE chapter includes provisions for the intermittent use of aircraft for agricultural aviation activities as permitted activity.	REJECT submission point. Already adequately covered by agricultural machinery exemptions, and general provision for helicopters. <u>ACCEPT submission point</u>	Yes
New Zealand Agricultural Aviation Association	40.6	General District wide Matters / Noise / New NOISE	Amend	Considers that the PDP should provide for the intermittent use of rural airstrips and helicopter landing areas by agricultural aircraft for the purposes of agricultural aviation including primary production and conservation purposes as a permitted activity.	Add a new rule NOISE-R14 (General Rural Zone, Open Space Zone and Natural Open Space Zone) as follows: <u>General Rural Zone, Open Space Zone and Natural Open Space Zone</u> <u>Activity Status: Permitted:</u> <u>Agricultural aviation noise for the purposes of agricultural aviation activities for primary production and conservation purposes.</u>	REJECT submission point. There is no RMA purpose served by providing in any specific way for noise from intermittent use of rural airstrips and helicopter landing areas by agricultural aircraft for the purposes of agricultural aviation including primary production and conservation purposes <u>ACCEPT in part. Add agricultural aviation as a permitted activity under NOISE-R4, subject to compliance with noise abatement code of practice and AIRCARE certification. Also add definition of agricultural aviation.</u>	Yes
New Zealand Agricultural Aviation Association	40.7	General District wide Matters / Noise / NOISE-R4	Amend	Considers that the PDP should provide for the intermittent use of helicopter landing areas by agricultural aircraft for the purposes of agricultural aviation including primary production purposes and conservation purposes as a permitted activity.	Amend NOISE-R4.2 (Helicopter landing noise) as follows: ... 2. a. Compliance with the recommended limits and noise management provisions as set out in NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas is achieved; <u>or</u> <u>b. The activity is for the purposes of agricultural aviation activities for primary production and conservation purposes.</u>	REJECT submission point: Insufficient evidence is provided as to (a) why primacy for agricultural aviation activities primary production and conservation purposes compared to aviation activities undertaken for other purposes, and (b) why the proposed word "or" is inserted meaning the normal noise compliance pathway via NZS6807:1994 would not be taken. This means noise from agricultural aviation activities would not be measured and assessed using the most appropriate NZ Standard which is a requirement for district plans of the National Planning Standards. <u>ACCEPT submission point</u>	Yes

Note that amendments to NOISE-R3 in the Right of Reply arise from matters raised by WIAL in the hearing regarding clarity needed in the rule. In the section 42A report (Appendix B), the need for clarity with respect to this rule was “Accepted in part” in relation to all relevant submission points. The recommended amendments in the Right of Reply are consistent with ‘accepting in part’ the submission points, so no change is necessary to specific rows of Appendix B.