

**BEFORE A PANEL OF INDEPENDENT HEARING COMMISSIONERS
AT WELLINGTON**

**I MUA NGĀ KAIKŌMIHANA WHAKAWĀ MOTUHEKE
O TE WHANGANUI-A-TARA**

**IN THE MATTER
AND
IN THE MATTER**

of the Resource Management Act 1991

**of the hearing of submissions on Te Mahere -
Rohei Tūtohua the Wellington City Proposed
District Plan**

HEARING TOPIC:

Stream 5 – Noise

**SUMMARY STATEMENT OF MATTHEW ARMIN LINDENBERG
ON BEHALF OF KĀINGA ORA – HOMES AND COMMUNITIES**

(PLANNING)

04 AUGUST 2023

Instructing solicitor:

C E Kirman
Special Counsel
Kāinga Ora - Homes and Communities
PO Box 14594
Central Auckland 1051
E: claire.kirman@kaingaora.govt.nz

Counsel instructed:

B J Matheson
Richmond Chambers
PO Box 1008
Shortland Street
Auckland 1140
E: matheson@richmondchambers.co.nz

1. SUMMARY STATEMENT

- 1.1 I confirm I have reviewed the supplementary statements and rebuttal evidence filed to date, and I have also listened to the discussion and questions during day one of the hearing between the IHP and the Council team.
- 1.2 Having heard the discussion during day one of the hearing in relation to matters of intensification, and upon then reviewing my proposed amendments to provisions which were attached to both my EIC and rebuttal evidence – I thought it could be helpful to clarify my position in relation to the Inner Air Noise Overlay for WIAL.
- 1.3 The purpose of this summary statement is to provide improved clarity as to my position in relation to Rule NOISE-R3, the intent of the amendments I have recommended to the rule, and specifically the management of noise sensitive activities as they relate to the Inner Air Noise Overlay, the Outer Air Noise Overlay as well as the state highway and rail corridors.

Rule NOISE-R3 – Inner Air Noise Overlay

- 1.4 My EIC / rebuttal amendments proposed a suite of strikethrough deletions which I consider need to be corrected – specifically in relation to references to the Inner Air Noise Overlay within the structure of Rule NOISE-R3 (as initially structured, through the Council's s42a report and associated evidence).
- 1.5 My intention was to delete density references within Rule NOISE-R3 which related to the Courtenay Place Noise Area, the state highway and rail corridor 'default distances', as well as the reference within NOISE-R3.2 re "for up to three residential units on a site" within the Outer Air Noise Overlay as well as a range of zones.
- 1.6 My intention was to NOT delete or oppose the framework proposed by the Council in relation to the Inner Air Noise Overlay. The Council have proposed a framework within the Inner Air Noise Overlay which enables one residential unit as Permitted, two residential units as Restricted Discretionary and three+ residential units as a Discretionary Activity. This is an approach I support – so with regard to the rule framework for the Inner Air Noise Overlay, my position is generally aligned with that of the Council. My intention was to not seek to enable further intensification (beyond the rule framework proposed by the Council) within the Inner Air Noise Overlay. This position does align with the proposed amendments set out in my EIC in relation to the Subdivision

Chapter provisions – where my recommended amendments are focused to policy wording as well as the notification rule requirement, but where no amendments were proposed to the activity status relating to subdivision (e.g. no amendments were proposed to enable more density / intensification through amendments to the subdivision rule framework which applies to the Air Noise Boundary).

- 1.7 I have set out some minor updates, in light of the above, to my previously proposed amendments and have attached these to this summary statement. These updates are all located within R3, are highlighted for ease of reference – and largely seek to reinstate specific provisions / clauses which I had previously unintentionally deleted.

Rule NOISE-R3 – State Highway and Rail Corridors

- 1.8 With regard to the rules which would apply to the state highways and rail corridors – I continue to maintain my earlier position that I consider the ‘default distance’ approach is inappropriate – and that a ‘spatially modelled’ approach is the most appropriate method for any such rule requirement to be included in the District Plan. I note that this ‘spatially modelled’ approach also appears to be generally supported by Council experts, as well as the experts on behalf of Waka Kotahi and KiwiRail.

- 1.9 My position is also generally aligned with the position of Ms Heppelthwaite, on behalf of Waka Kotahi and KiwiRail, in that an appropriate rule framework can be incorporated within the District Plan which provides:

- (a) a permitted pathway where acoustic insulation and ventilation standards can be complied with;
- (b) a restricted discretionary activity framework, with a suite of targeted matters of discretion, to be able to assess any non-compliance with the permitted standards.

Rule NOISE-R3.2(a) – reference to “for up to three residential units on a site”

- 1.10 With regard to Rule NOISE-R3.2(a) – my proposed deletion of the reference to “*up to three residential units on a site*” was not intended as a means to enable or provide for additional density or intensification but rather – and as discussed in my EIC – focused on the issue of allowing the zone provisions themselves to determine the appropriate activity status for residential activities, as well as whether any density rules are also necessary. I note that MDRS requirement to provide for up to three residential units on

a site is specifically focused to 'relevant residential zones' - and my review of rule R3.2 as proposed by the Council highlighted that this enablement '*for up to three dwellings on a site*' would apply well beyond what would be considered to be a 'relevant residential zone' under the provisions of the Amendment Act and the MDRS. I also note that my proposal to delete these density references within R3.2 – in relation to the state highway and rail corridors – is also aligned with the position of Ms Heppelthwaite on behalf of Waka Kotahi and KiwiRail.



Matthew Lindenberg

04 July 2023

**ATTACHMENT A – UPDATED ‘SUMMARY STATEMENT’ AMENDMENTS TO NOISE
CHAPTER PROVISIONS**

Proposed EIC amendments on behalf of Kāinga Ora shown in green text.

Proposed Rebuttal evidence amendments on behalf of Kāinga Ora shown in blue text.

Proposed Summary Statement updated amendments to NOISE-R3 on behalf of Kāinga Ora shown in blue text with highlight.

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| NOISE-R3 | Noise sensitive activity in a new building, or in alterations / additions to an existing building |
| As specified in Rule | <p>1. Activity status: Permitted</p> <p>Where:</p> <p>a. Compliance with NOISE-S4 (High Noise Areas) <u>and NOISE-S6 (Ventilation)</u> is achieved <u>for one residential unit on a site</u> within:</p> <ul style="list-style-type: none"> i. <u>40m of a State Highway;</u> ii. <u>40m of a Railway corridor;</u> iii. <u>Courtenay Place Noise Area;</u> iv. <u>General Industrial Zone;</u> or v. Inner Air Noise Overlay <u>for one residential unit on a site.</u> <p><u>Note: Distances from a state highway or railway corridor shall be measured from the closest habitable room to the closest point of a state highway or railway designation.</u></p> |
| As specified in Rule | <p>2. Activity status: Permitted</p> <p>Where:</p> <p>a. Compliance with NOISE-S5 (Moderate Noise Areas) <u>and NOISE-S6 (Ventilation)</u> is achieved <u>for up to three residential units on a site</u> within:</p> <ul style="list-style-type: none"> i. <u>The area between 40m and 100m of a State Highway with a posted speed limit greater than 70 km/hour;</u> ii. <u>The area between 40m and 100m of a Railway corridor;</u> iii. City Centre Zone; iv. Mixed Use Zone; v. <u>Commercial zone;</u> vi. Neighbourhood Centre Zone; vii. Local Centre Zone; viii. Metropolitan Centre Zone; ix. <u>Waterfront Zone;</u> x. Outer Port Noise Overlay; and xi. Outer Air Noise Overlay. <p><u>Note: Distances from a state highway or railway corridor shall be measured from the closest habitable room to the closest point of a state highway or railway designation. Unless otherwise restricted by zone or overlay based rules, there is no limit on the number units per site on land</u></p> |

Commented [ML1]: Reinstating reference to "one residential unit one a site", specific to the Inner Air Noise Overlay. Original deletion sought to this reference within clause (a) is retained, specific to the Courtenay Place Noise Area.

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| | | further than 40m from a State Highway that has a posted speed limit equal to or less than 70 km/hour. |
| All Zones | 3. Activity status: Restricted Discretionary | <p>Where:</p> <ul style="list-style-type: none"> a. Compliance with the requirements of NOISE-S4, NOISE-S5 and NOISE-S6 or NOISE-S5 cannot be achieved; is cannot be achieved for two residential units on a site listed by NOISE-R3.1; or b. Any noise sensitive activity is proposed on a site within land subject to NOISE-R3.2; c. Two residential units are proposed on a site within the Inner Air Noise Overlay; and d. Compliance with the requirements of NOISE-S5 and NOISE-S6 is achieved for four or more residential units on a site listed by NOISE-R3.2 Four or more residential units are proposed on a site within the Outer Air Noise Overlay; e. Compliance with the requirements of NOISE-R3.1 for the Courtenay Place Noise Area is not otherwise achieved; or. f. Any other noise sensitive activity is proposed on a site within land subject to NOISE-R3.2 and the requirements of NOISE-S5 and NOISE-S6 are achieved. <p>Matters of discretion are:</p> <ol style="list-style-type: none"> 1. The matters of assessment in NOISE-S4, and NOISE-S5 and NOISE-S6; and 2. The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standard. <p>Wellington International Airport Limited will be considered an affected party for applications within the Inner Air Noise Overlay.</p> <p>Note: This rule does not obligate Wellington International Airport Limited (WIAL) to provide or upgrade mechanical ventilation or noise insulation in a residential unit which has already received such treatment.</p> |
| | 4. Activity status: Discretionary | <p>Where:</p> <ul style="list-style-type: none"> a. Three or more residential units are proposed on a site subject to NOISE-R3.1; or b. Compliance with the requirements of NOISE-R3.3 for the Inner Air Noise Overlay is not otherwise achieved; or c. Any other noise sensitive activity is proposed on a site within land subject to NOISE-R3.1; and d. Wellington International Airport Limited will be considered an affected party for applications within the Inner Air Noise Overlay. Three or more residential units are proposed on a site within the Inner Air Noise Overlay. <p>Note: This rule does not obligate Wellington International Airport Limited (WIAL) to provide or upgrade mechanical ventilation or noise insulation in a residential unit which has already received such treatment.</p> |
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P1 Sch1

Commented [ML2]: Reinstating the unintentional deletion of this clause, to retain the Council's proposed approach of 2 residential units as Restricted Discretionary.

Commented [ML3]: Correcting reference here to Noise-R3.3, to retain Council's proposed approach of 3+ residential units in the Inner Air Noise Overlay as Discretionary.

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