

SECTION 32 REPORT

ROTORUA OPERATIVE DISTRICT PLAN

PROPOSED PLAN CHANGE 4

MAY 2017

1 INTRODUCTION

1.1 Section 32 of the Resource Management Act 1991 (RMA) requires that the Rotorua District Council undertakes an evaluation of a proposed plan change before the plan change is publicly notified. Section 32 sets out the requirements for such evaluation and requires the benefits and costs of implementing provisions to be assessed in terms of the environmental, economic, social and cultural effects anticipated. This report addresses the requirements of section 32 for the Proposed District Plan Change 4 (the “Plan Change”).

1.2 The purpose of this Plan Change is to implement changes to the Operative District Plan (ODP) arising from a review of the ODP’s approach to Noise. The review of the ODP provisions around noise was initiated following difficulties encountered in the application of those provisions to the Lumbercube event. Particularly, the Lumbercube event exposed deficiencies in the reference to the appropriate New Zealand standards, and determination of the appropriate measurement location.

1.3 A number of alterations to the structure and provisions of the ODP as it relates to Noise are proposed. The main changes can be summarised as:

- Insertion of amended wording around the location for noise measurement
- Enhanced reference to relevant New Zealand Standards
- Restructuring of noise provisions and consolidation and placement into a new dedicated Noise chapter, including new objectives, policies and environmental outcomes, and the addition of noise-specific assessment criteria
- New definition of noise and statement of exemptions
- New definition of Noise Sensitive Activities, incorporating parts of the existing definition of Activities Sensitive to Aircraft Noise
- Clear distinction between noise generated and received within the same zone, and another zone
- Some change to the acoustic treatment requirements for noise sensitive activities
- Some change to the activity status for applications for extensions in those areas subject to airport noise

The reasons for the changes include:

- Significantly reduced repetition of the same material, and overall condensation of the ODP
- Significantly reduces inconsistencies between similar provisions
- The approach to the management of noise is clearly discernible through an articulation of relevant objectives, policies and environmental outcomes that preface noise rules. This will aid interpretation of the provisions if they were to come under challenge.
- Remove redundant provisions or duplications
- Improves implementation
- In relation to activity status for noise sensitive activities near the airport, the new approach is less onerous and more reasonable

1.4 Section 32 of the Resource Management Act 1991 (RMA) requires that a proposed plan change must be accompanied by an evaluation report at the time of public notification. Section 32(1)(a) requires an examination of the extent to which an objective is the most

appropriate way to achieve the purpose of the RMA. “Most appropriate” has been interpreted as meaning “suitable”.

1.5 Section 32(1)(b) of the RMA requires examination of whether the provisions (being policies, rules and other methods) in the Plan Change are the most appropriate way to achieve the objectives. The appropriateness must be considered in relation to:

- “(i) identifying other reasonably practicable options for achieving the objectives; and*
- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) summarising the reasons for deciding on the provisions”.*

1.6 The assessment must be at a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects of the change.

(1) An evaluation report required under this Act must—

- (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - (i) identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) summarising the reasons for deciding on the provisions; and*
- (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

(2) An assessment under subsection (1)(b)(ii) must—

- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) economic growth that are anticipated to be provided or reduced; and*
 - (ii) employment that are anticipated to be provided or reduced; and*
- (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

(3) *If the proposal (an **amending proposal**) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—*

(a) the provisions and objectives of the amending proposal; and

(b) the objectives of the existing proposal to the extent that those objectives—

(i) are relevant to the objectives of the amending proposal; and

(ii) would remain if the amending proposal were to take effect.

In this context, proposal and provisions have the following meanings in section 32(6):

proposal means a proposed standard, statement, regulation, plan, or change for which an evaluation report must be prepared under this Act

provisions means,—

(a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:

1.7 Plan Change 4 amends rules, definitions and zoning, and inserts a new dedicated Noise chapter which includes new objectives and associated policies. Therefore, a full evaluation is required in relation to the proposed objectives and policies. For most of the changes proposed however a full evaluation is not required because they are an amendment and refinement of existing provisions. For the most part this report must therefore:

- Assess the efficiency and effectiveness of the rules and other methods contained in the proposed plan at achieving the objectives (and policies);
- Consider alternative options for achieving the objectives;
- Assess the risk of taking or not taking action if there is uncertain or insufficient information about the identified issues; and
- Contain a level of detail that corresponds to the scale of significance of the effects anticipated from implementing the proposed plan.

1.8 Section 32(4) requires that:

(4) If the proposal will impose a greater prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

The Plan Change will not impose more restrictive provisions so this evaluation has not been undertaken.

1.9 The section 32 evaluation report must be integral to a decision to notify the Plan Change and must then be available for inspection when the plan change is notified.

(5) The person who must have particular regard to the evaluation report must make the report available for public inspection—

- (a) *as soon as practicable after the proposal is made (in the case of a standard or regulation); or*
- (b) *at the same time as the proposal is publicly notified.*

1.10 Section 32(2) requires the benefits and costs of implementing provisions be assessed in terms of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. If practical, these benefits and costs should be quantified.

2 STATUTORY CONTEXT

2.1 Section 73 requires the Council to prepare a district plan for its district to assist with carrying out its functions (section 31) to achieve the purpose of the RMA (section 72). The purpose of the RMA is set out in section 5 as follows:

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

2.2 The changes in the Plan Change are intended to achieve the purpose of the Act and in particular control the effects of activities on the environment.

2.3 The Council's functions under section 31 are to achieve the integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the District. In particular Council must control any actual or potential effects of the use, development, or protection of land including for the purpose of:

- *The avoidance or mitigation of natural hazards; and*
- *The prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and*
- *The prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land;*
- *The maintenance of indigenous biological diversity.*
- *The control of emission of noise and the mitigation of the effects of noise;*
- *The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes.*

- 2.4** Section 75 requires that district plans give effect to national policy statements and regional policy statements: there are none relevant to this Plan Change. Section 75 also requires that a district plan must not be inconsistent with a regional plan (Section 75(4)).
- 2.5** Section 44A of the Act requires that a rule must not duplicate or be in conflict with a national environmental standard. There are no NES affected by this Plan Change.
- 2.6** The Bay of Plenty Regional Policy statement identifies regionally significant issues as including:
- Inadequate recognition and provision for matters of national importance
 - Effects of growth and development pressures on access to the coast, lakes and rivers, ancestral sites and historic heritage
 - Inadequate recognition of kaitiakitanga, the Maori environmental resource management system and Te Tiriti o Waitangi principles
 - Insufficient protection of tangata whenua environmental values
 - Degradation of mauri of land and water
 - Uncoordinated growth and development
 - Land supply and inefficient patterns of land use
 - Fragmentation of rural land
 - Effects of urban and rural subdivision on natural features and landscapes
 - Conflict between incompatible or sensitive activities and rural production activities in rural areas
 - Integration of land use and infrastructure.
- 2.7** The change to the ODP will not affect its consistency with the RPS objectives and policies and will potentially be better aligned to achieve.
- 2.8** The Regional Council has a range of regional plans that Council has considered in the development of the recently Operative District Plan. The Plan Change will remain consistent with the relevant provisions of these plans.
- 2.9** Section 66(2a)(a) requires that, when Council is changing or developing a plan under the RMA, it must take into account relevant planning documentation recognised by an iwi authority.
- 2.10** Clause 3 of the 1st Schedule of the RMA sets out that the local authority shall consult with the tangata whenua of the area who may be affected by the plan change. The recent amendments to the RMA also specify the pre-notification requirements relating to iwi authorities.
- 2.11** In this case, the plan change is a technical plan change as detailed in paragraph 1.3. The changes will primarily affect how noise levels will be measured, along with changes to the structure and location of the rules. As such, it is not considered that the changes have the potential to affect iwi.
- 2.12** Council does however have a Joint Management Agreement with Te Arawa River Iwi Trust which addresses plan changes. A copy of the plan change documents have been forwarded to the Trust and it is intended that we will meet prior to the RMA Policy Committee Meeting. Staff will update the Committee as to the outcome of this meeting.

3 PROPOSED CHANGES, EXPLANATION AND EVALUATION

3.1 Introduction:

This section sets out changes to a number of provisions that need to be clarified or made more consistent with other similar rules. The changes are described in the sections below with the reasons for the changes. Changes are shown with new text underlined and deleted text is shown as ~~strikethrough~~. Where text has simply been transferred from the Zone Chapter into the new Noise Appendix with no substantive changes other than minor editorial amendments such as updating of referencing, the text is not underlined. Where there are substantive amendments to the text or new text added then these changes are underlined. Consequential changes arising out of changes 1-14 listed below, such as the relocation of text from the various Parts to the new Noise Appendix 11 are contained in the Tracked Changes document under Change 15, listed by Part or Appendix.

3.2 New Noise chapter

3.2.1 Addition of new Objectives and Policies

3.2.2 (Change 1 in Track Changes document)

EXPLANATION:

Rather than having the noise provisions for each zone spread through each of the individual zone chapters, noise provisions are extracted out and placed within a new Noise chapter. It is considered this will have several advantages:

- Significantly reduced repetition of the same material
- Significantly reduces inconsistencies between similar provisions
- The approach to the management of noise is clearly discernible through an articulation of relevant objectives, policies and environmental outcomes that preface noise rules. This will aid interpretation of the provisions if they were to come under challenge through their application.

PROPOSED CHANGES

The new objectives and policies for the new Noise chapter are set out in Change 1 in the Track Changes document.

EVALUATION

This evaluation relates to the new Objectives and Policies that form part of the new Noise chapter.

Where a new objective is proposed consideration must be given to *'the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act'*.

The purpose of the Act is set out in Section 5 of the RMA and is *'to promote the sustainable management of natural and physical resources'*. This includes *'managing the use, development and protection of ... physical resources in a way which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while ... sustaining the potential of natural and physical resources (excluding*

minerals) to meet the reasonably foreseeable needs of future generations; and ... avoiding remedying, or mitigating any adverse effects of activities on the environment.'

Objectives are required to be assessed as to whether they are the most appropriate to achieve the purpose of the RMA, where 'most appropriate' is interpreted to mean 'suitable'.

These objectives and accompanying policies will achieve the purpose of the RMA by enabling people and communities to provide for their social, cultural and economic well-being and for their health and safety, while avoiding remedying, or mitigating any adverse effects of activities on the environment.

While there are no matters of national importance addressed through the objectives, section 7 seeks the efficient use and development of natural and physical resources, the maintenance and enhancement of amenity values and the maintenance and enhancement of the quality of the environment in accordance with section 7(b), (c), and (f). These are promoted by the objectives. The objective gives effect to Objectives 23 and 24 of the RPS and policies UG1A and UG11B.

It is considered that the proposed Objectives and supporting Policies will enable an appropriate balance to be achieved between seeking a noise environment consistent with the character and amenity expected for zones, and the ability of people and communities to provide for their social and economic well-being.

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above. That is, current noise provisions are spread through the ODP with no clear and unifying policy base to their approach. Further, given the importance of noise for general amenity the absence of a dedicated policy approach deprives noise related provisions the policy backing they are entitled to.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The amendments provide a policy basis to the noise provisions consistent with the importance of the provisions and the contribution they make to amenity.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that the existing noise provisions may not withstand challenge well. Noise could be generated that exceeds anticipated levels but may not be able to be resisted because there is no coherent accompanying policy support. This has already occurred with the Lumpercube incident. The risk overtime is that the noise provisions become

	weakened and the noise environment becomes degraded. There is sufficient information known about the consequences.
Overall Assessment	The proposed changes are intended to be provide a policy framework that enables a suitable balance between protecting the anticipated noise environment and allowing for the ability of people and communities to provide for their social and economic well-being.

3.3 Location of Noise measurement

Throughout all zones amend wording around the location of noise measurement to “at any point within the receiving site”. For rural dwellings “at any point within the notional boundary of any rural dwelling”.

3.3.1 (Change 2 in Track Changes document)

EXPLANATION:

Noise rules need to clearly indicate the location where noise is to be measured, but the existing wording of the ODP: “at” “about”, “on” “beyond” imply a degree of survey precision that is not warranted and sometimes not achievable.

Existing wording (Residential):

Noise from any activity within any residential zone shall not exceed the following limits when measured at the boundary of the receiving residential site:”

Amend wording to:

“Noise from any activity within any residential zone shall not exceed the following limits when measured at any point within the boundary of the receiving residential site”

Existing wording (Rural):

“Noise levels from any activity within any rural zone shall not exceed the following limits when measured at the notional boundary of the receiving site:”

Amend wording to:

“Noise levels from any activity within any rural zone shall not exceed the following limits when measured at any point within the notional boundary of any rural dwelling:”

The amended wording mirrors wording of NZS 6802:2008 8.4.3 and 8.4.2, and provides the right balance of certainty and flexibility. Reframing the relevant rules closer to the Standard will help ensure consistent application of the rule. Insertion of the words “any rural dwelling” more accurately signals the rule applies to dwellings in the rural zones and aligns wording more closely with the Standard.

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above. Existing wording implies a degree of survey precision that is not warranted and sometimes not achievable.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions, more closely align the provisions with their parent Standards and achieve a more appropriate environmental outcome.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions as the requirement is existing.
Risk of Acting or Not Acting	The risk of not acting is that the purpose of the Act and section 7 will not be achieved, as current wording constrains the full implementation of relevant rules. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.4 Include reference to relevant New Zealand standards

3.4.1 (Change 3 in Track Changes document)

EXPLANATION:

Currently no reference to relevant New Zealand Standards in the existing noise provisions. Reference is considered essential in terms of legal enforceability.

The absence of reference within the noise rules to relevant standards impedes their application, since they provide significant further certainty around how noise is measured and assessed, for operators and the community.

NZS6801 and 6802: 2008 are the cornerstones of the measurement and assessment of environmental noise in New Zealand. However they exclude some noise sources, many of which are dealt with in other New Zealand standards, such as Construction Noise and Road Traffic Noise. To more adequately provide for all noise assessment eventualities and provide a better degree of certainty for operators and the community some standards should also be referenced for example Construction Noise and Noise Management and Land Use Planning for Helicopter Landing Areas. However it is not considered necessary to reference the NZ

Standard for Road traffic noise as that is exempted under s.326 of the RMA, and an Advice Note to this effect is proposed to be added.

An Advice note is added in relation to Airport Noise. Noise from aircraft on the ground, and other airport operations are subject to the controls of the District Plan. Appendix 7 contains detailed controls on such noise, so an advice note is added highlighting the link and location of these controls including reference to NZ Standard 6805:1992.

All relevant New Zealand Standards be referenced within one central location within the ODP - within an amended definition, in Part 17 Definitions.

PROPOSED CHANGES:

Term	Definition
Noise level	<p>Noise Level means a sound level measured in accordance with NZS6802:2008 <i>Acoustic – Measurement of Environmental Sound</i> and assessed, unless otherwise stipulated, with NZS6802:2008 <i>Acoustics – Environmental Noise</i>, but excludes the noise from the following sources:</p> <p>All zones:</p> <ul style="list-style-type: none"> • Construction: Sounds generated by construction, maintenance and demolition activities shall be assessed and controlled by reference to New Zealand Standard NZS 6803:1999 <i>Acoustics – Construction Noise</i>. • Temporary Military training • Emergency Services • Noise from helicopter landing areas: shall be assessed and controlled by reference to the provisions of NZS6807:1994 – Noise management and land use planning for helicopter land areas • Wind turbine generators with swept area greater than 80m²: shall be assessed and controlled by reference to NZS6808:2010 <i>Acoustics – Wind Farm Noise</i> • Emergency drilling in relation to geothermal bores <p>City Centre; Commercial; Industrial; Business and Innovation; Reserves, Community and Water zones:</p> <ul style="list-style-type: none"> • Emergency back-up generators <p>Rural zones:</p> <ul style="list-style-type: none"> • Vehicles and mobile machinery associated with agricultural and forestry production that are of limited duration and not in a fixed location (note that ss16 and 17 of the RMA or any relevant provisions superseding them will need to be satisfied).
<p>ADVICE NOTES:</p> <ol style="list-style-type: none"> 1. S. 326 RMA Act exempts noise from aircraft (including helicopters), vehicles being driven on a road, and trains. 2. The control of noise from Rotorua Airport is contained within Appendix 6, 	

Term	Definition
	Appendix 7 and the Noise chapter through land controls on noise sensitive activities in the Residential 1, Rural 1 and Business and Innovation 3 zones, and has been prepared in reference to the NZ Standard for Airport Noise Management and Land Use Planning 6805:1992.

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions, will reinforce the relevant provisions' legal enforceability and achieve a more appropriate environmental outcome.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that the purpose of the Act and section 7 will not be achieved, as without suitable reference the legal enforceability of provisions is potentially jeopardized. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.5 New definition for noise and statement of exemptions

3.5.1 (Change 4 in Track Changes document)

EXPLANATION:

A new definition of noise is needed to reduce uncertainty, reinforce noise-related provisions, enforce greater consistency with parent New Zealand standards and make the ODP more efficient by centralising in one location all ancillary exemptions, rather than repeating them throughout the ODP as is current practice. Within these exemptions reference to other New Zealand standards is also made where necessary, for example in relation to helicopter landing areas and wind turbines.

An evaluation of existing and suggested exemptions is set out below under Table 1.

Table 1	
Suggested Exemption	Discussion
Construction Noise	Current exemption, consultant endorsed, NZS available.
Temporary military training	MHA proposes separate rule. Considered unnecessary given low likelihood of military training activities.
Emergency services	Current exemption and should be continued.
Back-up generators	Current exemption and should be continued in selected zones, but amended to Emergency back- up generators to avoid granting exemption to longer duration noise source.
Helicopters	Refinement is made to the existing exemption for Helicopters. Noise from Helicopters in flight is exempted under s.326 RMA and unnecessary to duplicate within list of exemptions, except through an Advice Note to record such exemption. An exemption is however made for the noise associated with helicopter landing areas as guidance is contained in NZS6807- Helicopters Landing Areas. This is repeated across all zones for consistency.
Aircraft operating for a purpose accessory to a permitted agricultural activity	Removed given exemption under s.326 RMA. Dealt with by insertion of an Advisory Note.
Vehicles and mobile machinery associated with agricultural and forestry production that are of limited duration and not in a fixed location	Retain current exemption, consultant endorsed
Well machinery	Does not merit exemption, should be subject to the noise provisions. However sometimes emergency well drilling is required in relation to geothermal bores in residential areas, which should be exempted.
Noise insulation Electricity Generation Core – should be within separate noise insulation rule.	Does not merit exemption, should be subject to the noise provisions. Updated to reflect changes to internal insulation requirements (addressed separately).
Bird scaring and frost fans	Does not merit exemption, should be subject to the noise provisions.
Prospecting & Exploration	Given low likelihood not necessary to include
Community events	Does not merit exemption, should be subject to the noise provisions, as is currently.
Wind turbine generators	Increased demand, a NZS is in place, apply to all zones.
Dwellings in zones other than Residential & Rural	Best dealt with through a separate, amended rule for acoustic treatment.
Aircraft operated just before, during and after flight	Unnecessary given current management through Appendix 7, Airport Noise and Development Controls and NZ Standards 6805, and redundant in terms of s.326 RMA which exempts vehicles driven on a road from coming within the term 'excessive noise'. Dealt with by insertion of an Advisory Note.
Vehicles being driven on a road	Not recommended by consultants, not a current

	exemption, inclusion may make void Appendix 11, and redundant in terms of s.326 RMA which exempts vehicles driven on a road from coming within the term 'excessive noise'. Dealt with by insertion of an Advisory Note.
Crowd noise	Controlled through RMA s. 16 and not through the District Plan.
Impulsive noise	Low likelihood, and bird scaring controlled through the Rural noise rule.
Livestock noise	Unnecessary, and covered by the General Bylaw.
Non-commercial boating activities on the Rotorua Lakes maybe as for Lakes but potential conflict with Lakes A	Important, especially for Lakes A to be able to assess and control this noise source. Likely covered by s.15 RMA.
In Residential zones, noise from domestic activities	Differentiation between residential and non- residential, in the Residential zones would be administratively difficult, for minimal gain. Simpler to apply to all activities, acknowledging at time of assessment differentiation will be made between s16 noise and ODP noise.

'Helicopters' require a discussion expanded from that of the table above. The wording around helicopters has been amended. Previously noise from helicopters was exempted from the definition of noise level. However under s.326 of the RMA the term excessive noise is defined and a specific exemption made for aircraft being operated during, or immediately before or after flight (s.326 (1)(a)). Therefore it is redundant to duplicate this exemption by listing helicopter noise as an exemption in the new proposed definition of noise. Instead an advice note has been added to the definition of noise advising of the exemption for aircraft under the RMA.

An exemption is however made for the noise associated with helicopter landing areas, as NZS6807:1994 Noise Management and land use planning for helicopter landing areas specifically relates to such.

Consequentially the current exemption for noise from aircraft operating in connection with a rural activity (such as topdressing) is also removed given the blanket exemption for all aircraft obtained from s.326.

Consistent with this change noise from vehicles on a road is also listed in the advisory note as they are exempted under the same section of the RMA.

PROPOSED CHANGES:

Term	Definition
Noise level	Noise Level means a sound level measured in accordance with NZS6802:2008 <i>Acoustic – Measurement of Environmental Sound</i> and assessed, unless otherwise stipulated, with NZS6802:2008 <i>Acoustics – Environmental Noise</i> , but excludes the noise from the following sources: All zones:

Term	Definition
	<ul style="list-style-type: none"> • Construction: Sounds generated by construction, maintenance and demolition activities shall be assessed and controlled by reference to New Zealand Standard NZS 6803:1999 <i>Acoustics – Construction Noise</i>. • Temporary Military training • Emergency Services • Noise from helicopter landing areas: shall be assessed and controlled by reference to the provisions of NZS6807:1994 – Noise management and land use planning for helicopter land areas • Wind turbine generators with swept area greater than 80m²: shall be assessed and controlled by reference to NZS6808:2010 <i>Acoustics – Wind Farm Noise</i> • Emergency drilling in relation to geothermal bores <p>City Centre; Commercial; Industrial; Business and Innovation; Reserves, Community and Water zones:</p> <ul style="list-style-type: none"> • Emergency back-up generators <p>Rural zones:</p> <ul style="list-style-type: none"> • Vehicles and mobile machinery associated with agricultural and forestry production that are of limited duration and not in a fixed location (note that ss16 and 17 of the RMA or any relevant provisions superseding them will need to be satisfied).
<p>ADVICE NOTES:</p> <ol style="list-style-type: none"> 1. S. 326 RMA Act exempts noise from aircraft (including helicopters), vehicles being driven on a road, and trains. 2. The control of noise from Rotorua Airport is contained within Appendix 6, Appendix 7 and the Noise chapter through land controls on noise sensitive activities in the Residential 1, Rural 1 and Business and Innovation 3 zones, and has been prepared in reference to the NZ Standard for Airport Noise Management and Land Use Planning 6805:1992. 	

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above. The proposed changes allow centralisation of all exemptions into one location and eliminate inconsistencies. It is also an opportunity to review existing exemptions and determine whether any new exemptions should be added. This exercise has been carried out in Table 1 above under section 3.5.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
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Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions and achieve a more appropriate environmental outcome.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that the purpose of the Act and section 7 will not be achieved, as there are currently inconsistencies in the wording of plan provisions leading to difficulties in interpretation and leaving scope for challenge. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.6 **Clear distinction between noise generated and received within the same zone, and within another zone**

3.6.1 (Change 5 in Track Changes document)

EXPLANATION

Current provisions make the distinction but consultant advice recommends strengthening this through a clearer separation between noise generated and received within the same zone and noise received in another zone. Better highlighting the separation will aid interpretation and management by reinforcing the requirement that noise received within another zone is subject to the noise provisions of the receiving zone.

PROPOSED CHANGES:

Insert new rule as below:

B: NOISE GENERATED AND RECEIVED WITHIN DIFFERENT ZONES

a. Noise levels from any activity shall not exceed the noise limits specified for the adjoining zone when measured at any point within the receiving site, or at any point within the notional boundary of any dwelling in the Rural zones, except whereas provided under:

- i. A11.6.1.9.2 (audible bird scaring devices), and A11.6.1.9.3, (frost fans).
- ii. A11.6.1.10 and A11.6.1.10.1
- iii. A11.6.1.2.1
- iv. Octave band noise levels from the Commercial 1, 2, 4, 5 and 6 Zones should not exceed the following limits when measured at any point within any residential-zoned site:

75dBZ $L_{Aeq(1\ min)}$ at 63Hz and 65dBZ $L_{Aeq(1\ min)}$ at 125Hz

EVALUATION

Options considered are:

1. Status Quo
2. Proposed changes set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that potential ambiguity is retained leading to difficulties in implementation. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.7 Acoustic treatment of noise sensitive activities

3.7.1 (Change 6 in Track Changes document)

EXPLANATION

Requirements for acoustic treatment of noise sensitive activities, to avoid reverse sensitivity issues are currently spread through different zones. It is proposed that these be centralised in one place to ensure better consistency and less repetition. These are proposed to be placed within the new Noise chapter.

Additionally MHA proposes that acoustic treatment be carried out using the D_{ntw} method. Essentially this requires the external building envelope achieves a reduction of 30-35 dB_A to achieve an acceptable internal noise environment. This is a significant change from the current approach which requires that the internal noise level of habitable rooms does not exceed 35-40dB $L_{Aeq(24\text{ hours})}$. MHA states that there are significant difficulties with applying this approach:

'...checking to see how effective the insulation performance standard is by indoor measurements against a target noise limit cannot distinguish between the target sounds and sounds from other sources. In addition, there is no NZ standard or international equivalent to guide on assessing compliance using such indoor measurements.'

MHA also states that the proposed approach can be easily verified and tested in the field. This new approach has begun to be adopted in many District Plans around the country, and for

example is known to be used in Wellington City for the acoustic treatment of new noise sensitive activities within the Port Noise area.

Consequential changes have been made to parts of the ODP to reflect the new approach. Unfortunately such changes have not been extended to Appendix 11 State Highway Mitigation Requirements and Appendix 7 as it relates to insulation against airport noise. Such an extension would allow a single consistent approach throughout the ODP. However for both Appendices 7 and 11 the success of a complete extension is minimal.

The New Zealand Transport Agency has recently finalised a national Guideline on acoustic treatment of buildings near state highways which is based around the 40dB internal noise level. Verbal communications have declared they are unlikely to change this standard in the near future, and would likely resist a change to the D_{ntw} approach.

Similarly it is unlikely that the Airport, and such organisations as the Board of Airline Representatives New Zealand (BARNZ) which represents airlines, would accept this change and moreover against which would be anticipated to mount a significant challenge. It is noted that condition 6 of Rotorua Airport Designation RDC500 expressly imposes the requirements of Appendix 7 on the designated land.

The primary purpose of the plan change is to streamline the ODP's approach to noise and the changes proposed for the most part enable that. That purpose must in the case of state highway and airport noise be tempered with the potential push back, since it would be unfortunate to mire down the whole plan change which for the most part contains fairly innocuous changes with challenges to relatively secondary sub parts. Perhaps when thinking around the insulation of noise sensitive activities around airports and state highways evolves, a further plan change can be made at some future time to bring about the desired consistency.

Nevertheless some small changes are proposed to the reference to noise sensitive activities in relation to state highways, and Appendix 11 is proposed to be deleted and its contents transferred to the new noise chapter. Centralising such provisions allows the overall approach to be streamlined.

PROPOSED CHANGES

Insert new section in the new Noise chapter.

A11.6.3: Acoustic treatment of noise sensitive activities

1. Noise sensitive activities near State Highways

ADVICE NOTES:

- The term "Noise Sensitive Activities" has the same meaning as that as included in the Definitions, except that for the purposes of these performance standards does not include:

- Conference facilities, communal lounges operated as part of a holiday park
- Community facilities
- This performance standard shall not apply to Maori cultural training facilities at Te Puia, being the site inclusive of land legally described as Section 1 SO408975.
- The requirements of Clause G4 of the New Zealand Building Code will apply at the same time as to the requirements contained in this performance standard A11.6.3.

In the Residential, City Centre 1 and 3, Commercial 1-6 and Rural zones:

Noise sensitive activities that are within 40 metres of a state highway with a speed limit of less than 70KM/Hr, or within 80 metres of a State Highway with a speed limit of 70km/hr or more (measured from the nearest painted edge of the carriageway), shall comply with the noise mitigation requirements contained below:

- a.
 - i. Any new residential unit or extension/alteration to an existing residential unit that exceeds 25% of the existing gross floor area, shall meet an internal road-traffic design sound level of 40 dB $L_{Aeq(24h)}$ inside all habitable rooms,
 - ii. any new noise sensitive activity other than residential activity shall meet an internal road-traffic design sound level of 40dB $L_{Aeq(24h)}$ inside all habitable rooms and teaching areas.

An acoustics design report from a suitably qualified acoustics specialist shall be provided to the Council demonstrating compliance with A11.6.3.1.a prior to the commencement of construction.

- b. As an alternative to complying with A11.6.3.1.a, any new noise sensitive activity, including extension/alteration to a residential unit which exceeds 25% of the existing gross floor area, shall comply with the following:
 - i. The windows of all habitable rooms and teaching areas shall be constructed with glazing that includes a laminated pane that is at least 6.38mm thick and covers the glazed area.
 - ii. A ventilation system shall be installed in accordance with A11.6.3.1.d below.

ADVICE NOTE: An acoustic design report will not be required for compliance with A11.6.3.1.b.

- c. A11.6.3.1.a and A11.6.3.1.b do not apply if:
 - i. It can be demonstrated by way of prediction or measurement by a suitably qualified and experienced acoustics specialist that the road-traffic noise level from any existing state highway is less than 55 dB $L_{Aeq(24h)}$ on all façades of a new noise sensitive activity, or extension/alteration to an existing noise sensitive activity, or

- ii. The nearest façade of the dwelling is at least 50 metres from any state highway and there is a solid building, fence, wall or landform that blocks the line of sight from all parts of all windows and doors to habitable rooms to any part of the road surface of any state highway, or
- iii. The NZ Transport Agency provides written consent that the performance standards do not need to be applied to a proposed activity.

Explanatory note: A11.6.3.1.c.iii is intended to provide for circumstances where the expectation of human occupancy of buildings would, by reason of the period of occupancy or vulnerability, not be sensitive to state highway noise. It may also account for other circumstances which may not justify the compliance costs including the viability of the proposed activity or where it is apparent that the occupants of a building are unlikely to be subject to noise issues, such as low traffic volumes or building design.

- d. A ventilation system installed under A11.6.3.1.b.ii above shall comply with one of the following:
 - i. Consist of an air conditioning unit(s) provided that the noise level generated by the unit(s) shall not exceed 40dB $L_{Aeq (30s)}$ in the largest habitable room (excluding bedrooms) and 35dB $L_{Aeq (30s)}$ in all other habitable rooms and teaching areas, when measured 1 metre away from any grille or diffuser, or
 - ii. Comprise a system capable of providing at least 6 air changes per hour in the largest habitable room (excluding bedrooms) and teaching spaces and at least 5 air changes per hour in all other habitable rooms, and
 - 1) The noise level generated by the system shall not exceed 40 dB $L_{Aeq (30s)}$ in the largest habitable room (excluding bedrooms) and 35dB $L_{Aeq (30s)}$ in all other habitable rooms, when measured 1 metre away from any grille or diffuser, and
 - 2) The internal air pressure shall be no more than 10 Pa above ambient air pressure due to the mechanical ventilation, and
 - 3) The system must provide cooling that is controllable by the occupant and can maintain the temperature at no greater than 25 degrees Celsius.

2. Noise sensitive activities within City Centre and Commercial zones, and the Ohakuri Electricity Generation Core Site

In the City Centre 1 and 3, Commercial 1-6 zones and the Electricity Generation Core Site Noise Control Boundary identified on Planning Maps 213 and 540:

- a. Any new noise sensitive activities shall meet the minimum acoustic insulation standard of $D_{2m,nT,w} + C_r > 30$ dB for the external building envelope of each habitable room and when tested and verified in accordance with the following standards:

- AS/NZS ISO717.1:2004 Acoustics – Rating of sound insulation in buildings and of building elements – Airborne sound insulation.
 - ISO 16283-1:2014 Acoustics – Field measurement of sound insulation in buildings and of building elements – Part 1: Airborne sound insulation.
- b. Under this performance standard habitable areas do not include transit and utility areas such as corridors, kitchens, bathrooms and storage areas.
 - c. If the internal noise criteria cannot be achieved with windows and doors open, then a forced-air ventilation or air conditioning system which complies with the NZ Building Code shall be provided so that the acoustic and ventilation criteria can be achieved simultaneously with windows and doors closed. Noise from any ventilation system shall not cause the internal noise criteria to be exceeded.
 - d. At the time of application for building consent, an acoustic design certificate from a suitably qualified and experienced acoustic engineer will be required demonstrating how the internal noise criteria will be achieved.
 - e. The acoustic design is not required to include mitigation from noise generated by large scale community events as detailed in A.11.6.1.10 and defined in Part 17 Definitions.

EVALUATION

Options considered are:

1. Status Quo
2. Proposed changes set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that potential ambiguity is retained leading to difficulties in implementation. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.8 Insertion of assessment criteria

3.8.1 (Change 7 in Track Changes document)

EXPLANATION:

An additional benefit of a new noise chapter is the opportunity to introduce a comprehensive list of criteria for the assessment of applications related to noise. This will aid implementation of the noise provisions and provide better guidance to applicants and officers processing noise-related applications. These are grouped with existing assessment criteria for new and extensions to existing noise sensitive activities around the airport, imported from the RD1, RR1 and CM3 zones. Centralisation into one chapter also aids streamlining of the ODP through the removal of repetitious material.

PROPOSED CHANGES

Insert new sections into the new Noise chapter Appendix 11:

A11.7.1: Assessment Criteria

1. The nature of the zone within which the noise generating activity is located and its compatibility with the expected environmental results for that zone.
2. The nature of any adjoining zone(s), and the compatibility of the noise generating activity with the expected environmental results for those adjoining zone(s).
3. Existing ambient noise levels.
4. The length of time for which specified noise levels will be exceeded, particularly at night, with regard to likely disturbance that may be caused.
5. The potential for cumulative noise effects to result in an adverse outcome for receivers of noise.
6. The likely adverse impacts of noise generating activities both on and beyond sites, on a site, on visitors, users of business premises, or on public places in the vicinity.
7. The extent to which the noise may detract from enjoyment of any recreation or conservation area.
8. The maximum level of noise likely to be generated, its nature, character and frequency, and the disturbance this may cause to people in the vicinity.
9. Whether the noise generated would be of such a level as to create a threat to the health or well-being of persons living or working in the vicinity.
10. The proposals made by the applicant to reduce noise generation. This may include guidance provided by a suitably qualified and experienced acoustic consultant.
11. The value and nature of entertainment activities and their benefit to the wider community, having regard to the frequency of noise intrusion and the practicality of mitigating noise, or utilising alternative sites.

12. The extent to which achieving the relevant limits is practicable, given any existing activities which create noise, particularly on the interface with commercial, industrial or recreational activities.
13. The extent to which achieving the relevant limits is practicable where the existing noise environment is subject to significant noise intrusion from road, rail or air transport activities.
14. The adequacy of information provided by the applicant.
15. The level of involvement of a suitably qualified and experienced acoustic consultant in the assessment of potential noise effects and/or mitigation options
16. Any other relevant standards, codes of practice or assessment methods based on robust acoustic principles.

A11.7.2 Specific Assessment Criteria

Any Addition to Existing Activities Sensitive to Aircraft Noise within the Inner Noise Control Area, that increases the total gross floor area of the noise sensitive activity by more than 25% - Council shall restrict its discretion to the following matters:

1. The nature, size and scale of the proposed additions.
2. The application of the applicable acoustic performance standards listed under Appendix 7 Airport Noise and Development Controls, to existing parts of the structure housing the activity sensitive to aircraft noise.
3. Whether a covenant should be registered on the title to secure any conditions of consent in accordance with Appendix 7 Airport Noise and Development Controls; and the means of securing any conditions of consent.
4. Whether, having regard to all the circumstances the nature, size and scale of the addition is likely to lead to potential conflict with and adverse effects upon airport activities.
5. Any assessment criteria applicable to the activity within the residential zones.
6. Any particular issues of safety relating to occupants of the site, or aircraft, in relation to any proposed activities or buildings on the site.
7. The potential to detract from the qualities and characteristics specified of a landscape or feature identified in Appendix 2 Natural Heritage Inventory or the natural character of the environment.
8. How the proposal affects the appearance of the outstanding natural feature or landscape.
9. The level of involvement of a suitably qualified and experienced acoustic consultant in the assessment of potential noise effects and/or mitigation options

A11.8.1: Assessment Criteria for Any New Activity Sensitive to Aircraft Noise within the Inner Noise Control Area

- a. Whether, having regard to all the circumstances (including location in relation to the Airport, likely exposure of the site to aircraft noise, noise attenuation and ventilation measures proposed, and the number of people to be accommodated) the nature, size and scale of the activity is likely to lead to potential conflict with and adverse effects upon airport activities.
- b. Any particular issues of safety relating to occupants of the site, or aircraft, in relation to any proposed activities or buildings on the site.
- c. The desirability of reasonably limiting the intensity of development and activities within the Inner Control area, including in relation to proposed subdivisions and higher density residential development.
- d. The application of the applicable acoustic performance standards listed under Appendix 7 Airport Noise and Development Controls.
- e. Whether a covenant should be registered on the title to secure any conditions of consent in accordance with Appendix 7, Airport Noise and Development Controls; and the means of securing any conditions of consent.

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions and aid their implementation.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that potential ambiguity is retained leading to difficulties in implementation. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.9 Insertion of a reference time interval

3.9.1 (Change 8 in Track Changes document)

EXPLANATION

A minor correction is proposed that inserts a reference time interval of 15 minutes as part of the noise descriptors. This is the time over which measurement should extend when assessing compliance. It is considered that this will improve the ease of use of the descriptors and will enforce better consistency with the relevant noise standards, particularly NZS 6802:2008, 8.2.2.

PROPOSED CHANGES

Insert through the document except whereas an exception is specifically made, the reference time interval, as shown in the example below:

$$50\text{dB } L_{\text{Aeq}(15 \text{ min})}$$

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions and aid their implementation.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that potential ambiguity is retained leading to difficulties in implementation. It is acknowledged that the default reference time interval, when it is not stipulated, is 15 minutes, however to enhance use it is considered better to state the time interval within the noise descriptor. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.10 Airport Noise Insulation

3.10.1(Change 9 in Track Changes document)

EXPLANATION

Issues have been encountered with the equity of existing provisions requiring noise insulation for extensions to existing houses around the airport. They are considered unduly onerous for the following reasons:

1. The requirement that any addition to an existing sensitive activity require consent as a

RD activity. Therefore consent for any addition no matter how minor must be sought, eg. an extension of 1m², which may or may not be granted. Instead it would be fairer to base a consent requirement on the proportion of the extension, proposals under a certain proportion not requiring resource consent but still certification from an acoustic consultant that the additions are able to attenuate noise to a degree that meets the internal noise environment stipulated in Appendix 7. This recognises that the existing use is legitimately established and has accumulated a certain degree of existing use rights.

2. Larger extensions are proposed to remain subject to the existing regime, in recognition that a larger extension has the potential to significantly change the scale and intensity of the activity therefore diminishing the relevance of existing use rights. The threshold is proposed at 25% ie. Extensions that increase the size of the existing house by 25% or more will still require consent as a RD activity. A figure of 25% has been used elsewhere in the ODP for example in relation to acoustic treatment near state highways. A date is proposed within the proposed rule that ensures cumulative additions are captured.
3. This Plan Change retains the status of Prohibited for additions and new activities in the Air Noise Area, as per the Operative District Plan. It is noted that this is proposed to be changed to Non Complying under Plan Change 1, but given submissions received is likely to be returned to Prohibited. Some minor changes are made for the Commercial 3 and Business and Innovation 3 Zones in proposed Table A11.5.2, making the rules for sensitive activities within the Air Noise Boundary not applicable, since neither of these zones is located inside the Air Noise Boundary.

PROPOSED CHANGES

<u>Airport Noise Contour Controls</u>				
<u>Zone:</u>	<u>CM₃</u>	<u>RD₁</u>	<u>RR₁</u>	<u>BI₃</u>
<u>Any addition to an existing activity sensitive to aircraft noise within the Inner Noise Control Area shown on the Planning Maps, that increases the total gross floor area of the noise sensitive activity by more than 25% of the total gross floor area that existed before the date on which Council makes a decision on submissions on this rule under section 86B of the Resource Management Act 1991.</u>	<u>RD</u>	<u>RD</u>	<u>RD</u>	<u>RD</u>
Any new activity sensitive to aircraft noise within the Inner Noise Control Area shown on the Planning Maps	D	D	D	D
Any new or extension to an existing activity sensitive to aircraft noise within the Air Noise Area as shown on the Planning Maps	<u>NA</u>	Pro	Pro	<u>NA</u>

Consequentially the provisions and assessment matters for such activities are imported from the three zones and centralised within the new Noise chapter. Additionally, references in Appendix 7 have been adjusted to accommodate the changes, as per below:

A7.3 SUBDIVISION and LAND USE CONTROLS WITHIN THE AIR NOISE AREA, & INNER CONTROL AREA and ~~OUTER CONTROL AREA~~

1. Acoustic Standards for Additions and New Activities Located Within the Inner Noise Control Area; and extensions to an existing activity sensitive to aircraft noise within the Air Noise Area
2. Acoustic standards for additions to existing activities sensitive to aircraft noise (except for educational facilities including Kōhanga Reo) and any new activities sensitive to aircraft noise,(except for educational facilities (including Kōhanga Reo) in the Inner Control Area, as well as Papakāinga-, and extensions to an existing activity sensitive to aircraft noise within the Air Noise Area

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty to the plan provisions and aid their implementation. They will also reduce the burden on land owners around the Airport, and enable them to better fulfill their social and economic wellbeing.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions. There is unlikely to be a cost to the Airport in the form of significantly intensified number of noise sensitive activities. The change only applies to existing activities, and the controls applying to the establishment of new noise sensitive activities remain in place and are the same. Therefore the Airport will retain protection. The application of the 25% threshold ensures that larger extensions, which may result in an intensification of the noise sensitive

	use, will continue to be captured by the consent process and through that properly assessed.
Risk of Acting or Not Acting	The risk of not acting is that owners around the airport continue to face significant obstacles in developing their properties, at minimal environmental gain. The value of the dwellings will suffer, as will the general condition of the dwellings and general amenity of the area.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.11 **Amalgamation of existing definitions for “Activities sensitive to aircraft noise” and “Noise sensitive activities”**

3.11.1(Change 10 in Track Changes document)

EXPLANATION:

Given the repeated reference to noise sensitive activities and to aid use, the definition of noise sensitive activities has been suggested to be repeated in the proposed Noise chapter as an advice note. However inspection of the existing definition of Activities sensitive to aircraft noise revealed there are in fact two very similar definitions in the Definitions section of the District Plan. The alternative definition relates to “Noise Sensitive Activities”. To avoid ambiguity and confusion and reduce duplication this plan change takes the opportunity to blend both together into one single definition under “Noise Sensitive Activities”. To avoid any misunderstanding the advice note clarifies that the terms “Noise Sensitive Activities” and “Activities sensitive to aircraft noise” are synonymous.

Existing definitions:

Activities sensitive to aircraft noise	Conference facilities and communal lounges operated as part of a holiday park, community facilities, community housing, comprehensive residential developments, household units, educational facilities, daycare centres, hospitals, kōhanga reo, wharenuī, hospitals, medical centres, papakāinga, paramedical care facilities, retirement homes and villages.
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Noise Sensitive Activities	Buildings or parts of buildings used for – a) Residential activities, including household units, tourist accommodation, bed and breakfast and rest homes (except where the residential activity is accessory to another non-sensitive use), b) Wharenuī, c) Hospitals, d) Educational facilities e) Daycare centres
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PROPOSED CHANGE:

Delete definition “Activities sensitive to aircraft noise” and merge some of it’s elements into an amended definition for “Noise sensitive activities”:

Noise Sensitive Activities	Buildings or parts of buildings used for – a) Residential activities, including household units, tourist accommodation, bed and breakfast and rest homes (except where the residential activity is accessory to another non-sensitive use), <u>papakāinga</u> ; b) Wharenui, c) Hospitals, <u>including medical centres, paramedical care facilities</u> ; d) Educational facilities, <u>including kohanga reo</u> ; e) Daycare centres <u>f) conference facilities and communal lounges operated as part of a holiday park</u> g) <u>community facilities</u>
<u>ADVICE NOTE: the terms “Noise Sensitive Activities” and “Activities sensitive to aircraft noise” are synonymous, except where stated in relation to acoustic treatment and state highways.</u>	

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will remove what is effectively duplication of definitions. This will streamline the ODP and reduce the chance of inconsistency and misinterpretation.
Costs (Environmental, Economic, Social and Cultural)	There will be no costs resulting from the amended provisions.
Risk of Acting or Not Acting	The risk of not acting is that two definitions remain for the same matter, resulting in continued inconsistency and potential for misinterpretation. There is sufficient information known about the consequences.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more appropriate than the status quo.

3.12 Insertion of Advisory Note in relation to Noise from Telecommunications Equipment

3.12.1(Change 11 in Track Changes document)

EXPLANATION

Differing recommendations made by consultants. MHA recommends a new rule that signals that noise from telecommunications equipment is subject to the National Environmental Standard on Environmental Standards for Telecommunications Facilities 2008. MHA states this will ensure that consistent standards are applied to such facilities, and that pursuant to s43B of the RMA no rule or resource consent shall be more stringent than this NES.

MD however states that *"In our opinion the NES noise limits are not uncommon and there is unlikely to be any significant conflict between the NES for Telecommunications Facilities and the propose plan noise limit"*. On balance the addition of a new rule is not considered necessary as it will only state that such noise must meet the requirements of the NES, which is binding on the District Plan. An advisory note would suffice.

PROPOSED CHANGES

Rules	All zones
General	
1. Any activity stated as a permitted or controlled activity that does not meet the performance standards in A11.6	RD
<u>ADVICE NOTE: Noise levels from telecommunications cabinets located within road reserves shall comply with Clause 9 of the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008.</u>	

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty and strikes the right balance between adequately informing and not unnecessarily duplicating other regulation elsewhere.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The proposed change will have very minor effect, but will ensure a more robust planning document in future.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.13 Deletion of Assessment Matters regarding Helicopter Flight Paths

3.13.1(Change 12 in Track Changes document)

EXPLANATION

A noise related issue has been identified in the first assessment matter for Helicopter Land Areas in the following zones:

- Part 5 City Centre
- Part 6 Commercial

- Part 7 Industrial
- Part 8 Business and Innovation
- Part 9 Rural
- Part 10 Reserves, Community Assets and Water

It is considered ultra vires and beyond the scope of the District Plan to direct approach paths for aircraft, including Helicopters. The Act and the Operative District Plan cannot regulate approach paths for the control of noise, because such matters come within the mandate of the Civil Aviation Authority. Moreover, s.326 of the Act limits the control of aircraft noise from aircraft to that generated by take-off's, landings and ground movement. Direction of aircraft movements for the control of noise, when those aircraft are in flight, ie not landing, taking off or manoeuvring on the ground is therefore specifically exempted from control by the District Plan. As such the identified Assessment Matters are proposed to be deleted.

PROPOSED CHANGES

Part 5 City Centre

5.9.2.1 Helicopter Take-Off and Landing Areas

- a. ~~Approach paths to and from all helicopter facilities, other than for temporary or emergency purposes, to ensure that no residential zones are flown over at lower than 300 metres above ground level at that point.~~

Part 6 Commercial

6.9.2.1 Helicopter Take-Off and Landing Areas

- a. ~~Approach paths to and from all helicopter facilities, other than for temporary or emergency purposes, to ensure that no residential zones are flown over at lower than 300 metres above ground level at that point.~~

Part 7 Industrial

7.9.2.2 Helicopter Take-off and Landing Areas

- a. ~~Whether approach paths to and from all helicopter facilities, other than for temporary or emergency purposes, to ensure that no residential zones are flown over at lower than 300 metres above ground level at that point.~~

Part 8 Business and Innovation

8.9.2.1 Helicopter Take-Off and Landing Areas

- a. ~~Approach paths to and from all helicopter facilities, other than for temporary or emergency purposes, to ensure that no residential zones are flown over at lower than 300m above ground level at that point.~~

Part 9 Rural

9.9.2.3. Helicopter Take-Off and Landing Areas

- a. ~~Approach paths to and from all helicopter facilities, other than for temporary or emergency purposes, to ensure that no residential zones are flown over at lower than 300 metres above ground level at that point.~~

Part 10. Reserves, Community Assets and Water

10.9.2.2 Helicopter Take-Off and Landing Areas

- a. ~~Approach paths to and from all helicopter facilities, other than for temporary or emergency purposes, to ensure no residential zones are flown over at lower than 300 metres above ground level at that point.~~

EVALUATION

Options considered are:

- 3. Status Quo
- 4. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will provide clarity and certainty and removes from the plan ultra vires material, making the Plan more efficient
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The proposed change will have very minor effect, but will ensure a more robust planning document in future.
Overall Assessment	The proposed change is supported as enabling the

	purpose of the Act to be met and will be more effective than the status quo.
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3.14 Insertion of performance standard for construction noise.

3.14.1(Change 13 in Track Changes document)

EXPLANATION

A performance standard managing construction noise by reference to the New Zealand Standard on construction noise has been included. This ensures noise from construction is controlled.

PROPOSED CHANGES

A.11.6.4 Construction Noise

All construction noise shall comply with the relevant noise levels stated in NZS6803: 1999, and shall be measured and assessed in accordance with NZS 6803:1999 'Acoustics – Construction Noise'.

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will ensure the adverse effects arising from construction noise are adequately captured and controlled.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The proposed change will have very minor effect, but will ensure a more robust planning document in future.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

3.15 Deletion of Rural sub-Rule

3.14.1(Change 14 in Track Changes document)

EXPLANATION

It is proposed to delete a sub-rule as consultant advice states the rule is redundant and conflicts with other parts of the rule. It is considered that the first part of the rule (9.6.7.a.1) is sufficient to ensure noise from audible bird scaring devices is adequately captured and managed.

PROPOSED CHANGES

9.6.7.a.iii

~~iii. Where audible sound is used over a short or variable time duration, no event may result in a noise level greater than 50dB SEL when assessed at the notional boundary of any rural zoned site, or within the site boundary of any residential zoned site.~~

EVALUATION

Options considered are:

1. Status Quo
2. Proposed change set out above.

Retaining the status quo is not considered supportable for the reasons set out in the explanation above.

Under section 32(1)(b)(ii), the efficiency and effectiveness of the amended provisions in achieving the objectives are evaluated as follows:

Objectives	A11.3.1, A11.3.2
Benefits (Environmental, Economic, Social and Cultural)	The proposed change will remove redundant material from the Plan and make it more efficient and streamlined.
Costs (Environmental, Economic, Social and Cultural)	There are unlikely to be costs resulting from the amended provisions.
Risk of Acting or Not Acting	The proposed change will have very minor effect, but will ensure a more robust planning document in future.
Overall Assessment	The proposed change is supported as enabling the purpose of the Act to be met and will be more effective than the status quo.

4. Changes considered but not brought through

EXPLANATION

Some potential changes were considered but not brought through after the consideration set out below. These are:

4.1 Changing noise limits

The current noise limits are considered acceptable and closely align with those proposed by Marshall Day consultants as part of the preparation for the ODP. The only area where there is some slight variation is in relation to Rural night time noise limit, the ODP sets the noise limit at $75\text{dB}_{\text{L}_{\text{Amax}}}$, whereas Marshall Day recommended $70\text{dB}_{\text{L}_{\text{Amax}}}$. This slight variation is not considered significant, and no issue has arisen in the monitoring of the ODP.

Noise limits may be more comprehensively reviewed at a future date once noise monitoring as part of State of the Environment Reporting has been carried out. This will involve an assessment of current noise levels against the noise levels of the ODP, and along with community feedback will determine whether limits need to be revised.

4.2 Shoulder periods

It was examined whether to insert an evening shoulder period into the noise provisions of $45\text{dB L}_{\text{Aeq}}$ for Residential and Rural zones.

Inserting a shoulder period would add flexibility and may more closely align limits with ambient noise levels. However this minimal regulatory improvement would be outweighed by more significant administration complexity, therefore is not considered needed.

No issues being raised from community that suggest a more finer tuned approach is warranted.

4.3 Noise in the CBD

It was queried whether more restrictive noise levels could be applied to community events within the CBD to better protect the amenity of CBD residents. However it was concluded that living in the CBD involved a certain trade-off with amenity and residents could not be expected to enjoy the same noise levels of the Residential zones. As such noise levels remain the same as proposed.

4.4 Vibration

Consultants differed on insertion of a rule managing vibration. MHA does not recommend insertion of a specific rule, as it is not possible to mitigate through reverse sensitivity measures. Vibration can only be addressed at source. Given low likelihood, and difficulty in applying standards as per MHA, it is considered unnecessary to craft specific rule but if the issue arises it can be managed through s 16 RMA.

APPENDIX 1 – SUMMARY TABLES

Below are tables summarising the evaluation for many of the changes set out above, for reference. The tables are intended as a supplement to the s.32 evaluation carried out above.

TABLE A – BASIC REVIEW				
Issue	MHA	MD	Discussion	Recommendation
Noise descriptors	- 15 min reference time recommended to be stated: $L_{Aeq(15\ min)}$ - L_{Amax} ok	- stating reference time not necessary as where not stipulated 15min is default, as per NZS6802	Slight conflict between MHA and MD. NZS6802 8.2.2 states default value for (t) is 15min. If reference to relevant NZ standards 6801 and 6802 inserted into ODP then unnecessary to amend noise descriptor. However to avoid any chance for misunderstanding it is proposed to state the time as 15 min, where appropriate.	Change
Noise limits	Acceptable	ODP consistent with MD recommended Noise limits, except Rural zones night time L_{Amax} : - ODP: $75\text{dB}L_{Amax}$ - MD recommended $70\text{dB}L_{Amax}$	Slight variation for Rural zones not significant, no issue apparent	No change
Location of noise measurement	Noise rules need to clearly indicate the location where noise is to be measured, but words “at” “about”, “on” “beyond” imply a degree of survey precision that is not warranted and sometimes not achievable. Insert wording: “at any point within...the receiving residential site”. In a rural area, the	Recommended wording: “Noise levels should be measured and assessed at or within the site boundary of the noise receiver unless specified otherwise”. Rural zones – as for MHA except words “at any point” omitted.	Existing wording (Residential): <i>Noise from any activity within any residential zone shall not exceed the following limits when measured at the boundary of the receiving residential site:</i> MHA recommendation mirrors wording of NZS 6802:2008 8.4.3, and provides the right balance of certainty and flexibility. Reframing the relevant rules closer to the Standard will help ensure consistent application of the rule. Rural zones existing wording: <i>Noise levels from any activity within any rural zone</i>	Amend wording to: <i>“Noise from any activity within any residential zone shall not exceed the following limits when measured <u>at any point within</u> the boundary of the receiving residential site”</i> Relevant changes to be made to all other zones, except Rural zones.

	appropriate location is “Any point within the notional boundary of any rural dwelling”.		<p><i>shall not exceed the following limits when measured at the notional boundary of the receiving site:”</i></p> <p>MHA recommendation more closely mirrors Standard: NZS 6802:2008 8.4.2.</p> <p>Insertion of the words “any rural dwelling” more accurately signals the rule applies to dwellings in the rural zones and aligns wording more closely with the Standard.</p>	Rural zones - amend wording to: <i>“Noise levels from any activity within any rural zone shall not exceed the following limits when measured at any point within the notional boundary of any rural dwelling:”</i>
Time frames	Consider evening shoulder periods of 45dB L _{Aeq} for Residential and Rural zones	Simpler and easier to administer just two time periods, day and night.	<p>Inserting a shoulder period would add flexibility and may more closely align limits with ambient noise levels. However this minimal regulatory improvement would be outweighed by more significant administration complexity, therefore is not considered needed.</p> <p>No issues being raised from community that suggest a more finer tuned approach is warranted.</p>	No change
Reference to standards	<p>No reference to NZS6801 and 6802: 2008, Measurement of Environmental Sound & Environmental Noise</p> <p>Reference is considered essential in terms of legal enforceability</p> <p>Also following Standards should be referenced NZS 6803:1999 Acoustics – Construction Noise NZS 6805:1992 Airport Noise Management and Land Use Planning NZS 6806: 2010 Acoustics –</p>	In addition to MHA: NZS 6808: 2010 Acoustics – Wind Farm Noise	<p>The absence of reference within the noise rules to relevant standards impedes their application, since they provide significant further certainty around how noise is measured and assessed, for operators and the community.</p> <p>NZS6801 and 6802: 2008 are the cornerstones of the measurement and assessment of environmental noise in New Zealand. However they exclude some noise sources, many of which are dealt with in other New Zealand standards, such as Construction Noise and Road Traffic Noise. To more adequately provide for all noise assessment eventualities and provide a better degree of certainty for operators and the community some standards should also be referenced as recommended by MHA and MD: Construction Noise and Noise Management and Land Use Planning for Helicopter Landing Areas. However it is not</p>	<p>All relevant New Zealand Standards be referenced within one central location within the ODP - within an amended definition, under 6.1.</p> <p>Advice Notes added in relation to Noise from the Airport.</p>

	<p>Road Traffic Noise: New and Altered Roads NZS 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas</p>		<p>considered necessary to reference the NZ Standard for Road traffic noise as that is exempted under s.326 of the RMA Act, and an Advice Note to this effect is proposed to be added.</p> <p>An Advice note is added in relation to airport Noise. Noise from aircraft on the ground, and other airport operations are subject to the controls of the District Plan. Appendix 7 contains detailed controls on such noise, so an advice note is added highlighting the link and location of these controls including reference to NZ Standard 6805:1992.</p>	
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TABLE B – ADDITIONAL ELEMENTS REVIEW				
<p>Definitions & exemptions</p>	<p>All noise rules in the ODP contain similar exemptions. To avoid repetition and make the plan more efficient it is suggested that all exemptions be centralised in one location, inside a new definition</p> <p>Definition to be based on new term: “Noise emission level” as noise rules are designed to include numerical noise limits on permitted activities, the noise rules can be categorised as “noise emission rules”.</p>	<p>Number of exemptions suggested:</p> <ul style="list-style-type: none"> - Construction noise - Temporary military training - Vehicle and mobile machinery associated with rural production - Prospecting and exploration - Community events - Helicopters - Wind turbine generators - Dwellings in zones other than - Residential and Rural - Audible bird scaring devices 	<p>Insertion of a new definition would reduce uncertainty, and make the plan more efficient by centralising in one location all exemptions. Additionally it would allow reference to all relevant Standards.</p> <p>MHA proposed definition amended to include enhanced reference to Standards and some additional exemptions, which themselves refer to their own standards.</p> <p>It is not considered necessary to redefine ‘noise level’ as ‘noise emission level’. Noise level is simpler, adequately conveys the same concept and requires less change to the ODP.</p> <p>Exemptions evaluated as per Table C below.</p>	<p>New definition as stated, with exemptions listed as evaluated under Table C and 6.1 below</p>

Reverse sensitivity	New rule proposed that focuses on noise reduction ($D_{nT,W}$), compared with current approach seeking a certain noise level (usually $40dB_{L_{Aeq}(24h)}$) inside habitable rooms	ODP rule mirrors that advocated by MD in their 2010 report	MHA notes difficulty with ODP and MH approach: Difficult to enforce because cannot distinguish between target sound and noise from other sources. Difficult to determine how much sound reduction building envelope should achieve Not easily verifiable and tested in the field MHA approach has been adopted within many District Plans and is supported by AS/NZS ISO717.1:2004 and ISO 16283-1:2014 Not applied to Airport and state highways – this would be a significant expansion of the plan change, but would make the approach to acoustic treatment consistent across the entire plan. See discussion under 3.4	Adopt as recommended by MHA, except as set out under 3.4 do not extend to the Airport and State Highway acoustic provisions.
Vibration	No specific rule recommended, and not possible to mitigate through reverse sensitivity measures. Vibration can only be addressed at source.	Standards suggested	Given low likelihood, and difficulty in applying standards as per MHA, unnecessary to craft specific rule but manage through s 16.	No change
Within zone and between zones	MHA recommends redrafting of rules to better differentiate between noise (a) emitted from sites to other sites within the same zone, and (b) noise emissions into other, more sensitive zones.	-	Agreed. Clearer distinction between the two aids application	Change

Centralisation	Partial support for, in that it is recommended to place all reverse sensitivity requirements in one place.	All noise rules contained in one section of the DP, with all other sections of the Plan cross referenced to them as required. In our view, this provides clearer, more concise rules.	Agreed. Centralisation into one noise chapter, or in a general chapter would be significantly more efficient, save space and reduce risk of inconsistencies (several minor inconsistencies were identified in reviewing noise provisions across various chapters). Precedent in the Signs chapter. This could be extended to other matters which have general application across all chapters.	Substantial redrafting and extraction of noise provisions out of various chapters and consolidation into one single chapter. Will require amended referencing throughout the plan.
Noise from Telecomms Equipment	New rule recommended referencing NES for Telecomms Facilities	Reviewed but addition of rule not suggested. "In our opinion the NES noise limits are not uncommon and there is unlikely to be any significant conflict between the NES for Telecommunications Facilities and the propose plan noise limit".	Addition of new rule not considered necessary as will only state that such noise must meet the requirements of the NES, which is binding on the District Plan. An advisory note would suffice.	Insert advisory note in Noise chapter
Noise assessment matters	No recommendations	Comprehensive Recommendations in both General and Rotorua specific reports.	Should be added as it aids the assessment of noise related matters and provides more certainty to the community and the developers. Bolsters argument for a centralised location as repetition throughout the plan would result in considerable extra repetitious material.	New criteria to be added – would be preferable in a new Noise chapter to avoid repetition and enhance consistency. Assessment matters for noise sensitive activities around the Airport imported from the RD1, RR1 and CM3 zones.