

**Submission to:** Rotorua District Council - trading as RLC

**On:** Proposed Plan Change 4 – Noise

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**Submission Provisions:** All of Plan

**Outcome wanted:** Clearer effective noise control with a goal of reducing noise pollution levels over time.

**Could I Gain a Trade advantage from this submission?** No

### **Introduction:**

The Section 32 Report on Proposed Plan Change 4 indicates that the impetus for it arose from the deficiencies exposed by the recent Lumbercube event. I would therefore submit that the test for whether the proposed changes are justified should be if the proposed changes were in force and the Lumbercube proposal/issue or something similar were to arise again would the Council response to concerns, speed of action and resolution of the issue/problem be any different to that experienced with Lumbercube? If the answer is, as I believe is the only possible one, “no” then the proposed changes must be judged as being an unnecessary failure.

That said the idea of goal of consolidating and reducing repetition of material ODP material, reducing inconsistencies, removing redundant provisions, providing clear articulation of the relevant objectives, policies, and environmental outcomes that preface noise rules, etc., is to be applauded. However, unless the effect of all this consolidation and of additions to the Operating Plan regarding noise can be demonstrated as resulting in a different decision to the one which allowed Lumbercube to begin operation or, if that is not the case, is able to show that it would produce a speedy and effective resolution of problems such as that highlighted by the Lumbercube debacle – solution which depend on Council action/enforcement of the ‘new’ noise rules rather than the commercial failure of the company - then the proposed changes can only be regarded as being cosmetic - and largely irrelevant.

### **Specific Comments:**

#### **A. 11.6 Performance Standards**

1: Section 3.3 (Location of Noise measurement) of the Section 32 report states that ‘*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*’. Words such as “about” or “beyond” are not precise and while precision is not always necessary of helpful there is a need for clarity. It is therefore disappointing to discover that daytime and night-time are not specifically defined but need to be inferred from such things as (dealing with Residential Zones (RDI, RD2, RD3, etc).

Daytime	7am to 10pm, any day except public holidays	50 dB L <sub>Aeq</sub> (15 min)
Night-time	At all other times	40 dB L <sub>Aeq</sub> (15 min) and 70 dB L <sub>Amax</sub>

From this it appears that daytime is 7am to 10pm (except on public holidays where there is apparently no daytime) and by difference night-time is 10pm to 7am (on the following day).

I suggest that consideration be given to including a glossary where daytime and night-time are specifically defined. I'd also suggest that this glossary (or some other part of the document) make it specific that night-time rules apply to daylight hours of any day defined as a public holiday – if that is indeed the intention.

2: On the topic of Public holidays given that there has been a move over the years to open up public holidays to normal commerce – see for example the move to allow shops to be open at Easter and the move to the 24 hr per day 7 day a week economy – and given that (presumably) the normal daytime allowable noise limits have been set with public health and safety in mind is there in fact any justification for having any lower noise levels for the daytime hours of public holidays than for any other day? If 50 dB is the common/normal expected daytime residential noise level why should one expect it to be any less on a public holiday? Is Council in fact setting up conditions where every public holiday one can complain and discover that allowable noise limits are being breached?

3 Health and safety. A11.6.1 deals with noise generated and received within the same zone with sub-section 2.1 giving an annual noise level exemption for a (limited) number of large scale community events on Council owned/controlled property within City Centre 3. Specifically, four events with a noise limit of 95dB L<sub>Aeq</sub> (1 hour) are allowed per annum (There's also a couple of 70dB L<sub>Aeq</sub> (1 hour) also allowed for). The 95dB events must conclude by 12.30am while each of the 70dB events can go on for 12 hours per day for a two-day period. Translation a few very noisy events, events that potentially will damage the health/hearing of those attending them, are allowed in City Centre Zone Not only that but the noise limits allowed for these events within City Centre Zone 3 are also allowed at any point within receiving sites in adjacent zones. So, a residential zone with an apparent 40 dB noise limit could be subjected to 95 dB of noise from 10pm until 12.30am four times a year and 70 dB of noise from 10pm to 7am (the next day) for 4 days a year (two two-day events) with absolutely no recourse. That's simply not good enough. Council is approving a health hazard. This needs to be changed.

4 Then one turns to section A11.6.2 to the rules governing noise generated and received within different zones to find that *"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...."* What exactly does that mean? I believe the intention is to say that permitted/allowable zone noise levels are not allowed to be breached anywhere in the zone even if the source of any noise causing breach is in another zone with a higher allowed zone noise limit which is not being breached by that or any specific noise source within that zone. But that's not what is being said.

5 The wording indicates that specific activities in another zone is to be identified as the source of a breach of a lower noise zone area's limits. This may or may not be true. The wording needs to say that noise from (all) activities in one zone with a higher allowable zone noise limit when coupled with any noise generated from within the lower limit zone itself may not breach the noise limits applying in that zone. Requiring a specific activity to be identified as the cause of the breach is an excuse for endless procrastination, argument and litigation over who actually caused a breach – and

what should be done about it. That is going to be the case unless or until Council establishes actual measured base-line noise profiles for all properties in all zones and then revises/redoes those baselines every time there is (significant) change in the mix of businesses, dwelling types etc., within any given zone. That's not going to happen – so the noise generated and received within different zones is all a bit of a nonsense. It needs to be rethought and rewritten.

6 Measurement of Noise: The proposed changes indicate the location of noise measurement is to be “at any point within the receiving site” but is there any height restriction on that measurement point? One of the issues with Lumbercube was that the noise ‘rolled/bounced up the hill’ out of the caldera. The impacts impact depended not only on precisely what/where on a section one stood but how high off the ground one was at the time. Is there a height limit for measuring noise levels? One should be included based on building height restrictions for any noise receiving zone.

7 Future proofing. Much is made of how the wording in the proposed plan change now better aligns with NZS 6802:2008 and while this may be the best (or only) comprehensive New Zealand work on standards, noise definition and measurement the documents is now nine years old (and quite possibly in need of some revision). International research has continued to highlight the pernicious and surprising impact of even quite low levels of noise – see for example just in the last fortnight ‘Traffic noise may delay pregnancy’ p12 New Scientist No 3132 1 July 2017. The proposed plan change needs to be written in a way that should the NZ Standard be revised, or should sound and proper international research indicates outcomes permitted by the NZ Standard are no longer acceptable, that the noise provisions in the operating Rotorua District Plan are able to be easily and quickly changed to appropriately reflect the new knowledge and/or revised standards. Wording in the proposed change should be chosen to reflect this. So, the ODP wording about Noise should include a statement that where there is any reference to the plan conforming to NZS 6802:2008 that reference is to be read as the Plan conforming to the most recent NZ Noise standard (currently NZS 6802:2008). Alternatively, it could read conform to the most restrictive of the most recent NZ standard on noise or (select specify some other national/ international rules) which the Rotorua Council believes is more likely to be keep up to date and reflect the latest research results.

8 Noise is a growing problem nationally and internationally and one real concern with the current Rotorua proposals is a failure to have any provisions in the proposals to work towards reducing ambient noise levels with time. What, for example, was the basis for selecting the current zone noise levels and the times when these levels apply? With careful and proper planning can the absolute levels of noise be reduced? And if so by how much? And at what cost? Why for example is the City Centre Zone 2 set at 65 dB  $L_{Aeq(15\text{ min})}$  from 7am to 10pm any day except public holidays and at 60 dB  $L_{Aeq(15\text{ min})}$  and 75 dB  $L_{Amax}$  for night-time and all other times? One must ask why Rotorua's proposed noise regulation do not aim, at least in longer term, to reduce ambient noise levels. In the case of City Centre Zone 2 perhaps the target might be a longer term a 60 dB or perhaps even 55 dB noise level (perhaps with a 60 or 70 dB  $L_{Aeq(15\text{ min})}$  applying) for the zone - and to have this level apply always on every day. If one is going to talk about increased urban as opposed to suburban living one longer-term aim should surely be to reduce the level of noise in areas where one would like people to live. But the idea of reducing noise shouldn't apply just to those areas – it should be a target right across all zones. Rather than simply accepting zone noise levels as currently given the noise plan should outline not only where we are now and where we want to be in 5, 10, 20 or 30-years' time.

9 The presentation on the proposed plan change given by Council staff at Lynmore school included some comparisons of the proposed Rotorua noise levels and the times when these levels applied with noise regulations of other territorial authorities. While a number of the regulations

were identical to those proposed for Rotorua not all were. There were differences in hours that qualified as night and day and in the level of noise acceptable too. A couple of the options also included a shoulder period (between day and night). What work is being done looking at which options are best and why? Or is Council simply assuming that whatever rules are drafted here are axiomatically 'the best'.

At this point I do not wish to be heard in support of my submission. Rather I hope to see change/revision to the proposed plan change. Depending though on other submissions and Council's response I would like to reserve my right to either be heard or alternatively present a joint case with others at a hearing. As already stated I do not expect to gain an advantage in trade competition through this submission. As a resident though I am potentially directly affected by the subject matter of the submission noise and as a Lynmore resident I was negatively affected by the Council decisions that allowed the Lumercube operation to proceed. It is simply good luck rather than good management on Council's part that that particular problem is not currently an issue.