

Recommendations to Council from the Statutory Management Committee

Date: 4 April 2016

Councillors

WHANGANUI DISTRICT COUNCIL

Subject:	Plan Change 41 – Noise
	Decisions on Submissions
Meeting Date:	29-30 October 2015

1.0 INTRODUCTION

- 1.1 Council is presently reviewing the District Plan in phases. This Plan Change is part of Phase 6 District Wide as it relates to every part of the District.
- 1.2 This report records the public notification and hearing process in relation to Plan Change 41. It records the Statutory Management Committee's recommendations and Council's decisions on submissions.
- 1.3 For details of the deliberations discussion refer to the formal Council Minutes of the meeting.

2.0 PROCEDURAL MATTERS

- 2.1 The Committee was convened to hear submissions on 29 October 2015. Six submitters attended. The Committee reviewed tabled evidence from submitters and listened to the reporting officer's recommendations before deliberating on submissions on 30 October 2015.
- 2.2 The Committee members were: Independent Commissioner Alan Taylor (Chair), Councillors Hamish McDouall, Jenny Duncan, Helen Craig and Independent Commissioner Jenny Tamakehu.
- 2.3 Submitters who tabled information instead of appearing to support their submissions were:
 - Horticulture NZ
 - The New Zealand Fire Service
- 2.4 PC41 was publicly notified in accordance with Clause 5 of the 1st Schedule of the Resource Management Act 1991 (the Act) on 30 May 2015, with the period for submissions closing on Tuesday 30 June 2015.
- 2.5 A total of 29 submissions, were received at the close of submissions.
- 2.6 All submissions received were summarised and the decisions requested by submitters were publicly notified in accordance with Clause 7 of the First Schedule of the Act. The further submission process closed on Friday 31st July 2015. Five further submissions were received.
- 2.7 At the hearing MidCentral Public Health Services withdraw part of their further submission that related to submission 24.

3.0 SCOPE OF THE PROPOSED PLAN CHANGE

- 3.1 This Plan Change is one of a series of changes proposed as part of Phase 6 of the wider District Plan review which address district wide matters.
- 3.2 One of the significant effects for any activity is noise. Noise is defined as unwanted sound. Noise has the potential to adversely affect people's health and the amenity of an area.
- 3.3 The Resource Management Act 1991(RMA) requires every person to adopt the best practicable option to ensure that noise does not exceed a reasonable level. The creation of noise limits in the District Plan provides guidance to the public as to what a reasonable level of noise is for a permitted activity.
- 3.4 The purpose of PC41 is to update the noise limits to provide for changes in how noise is measured, changes in technology for rural activities and changes in social expectations of reasonable noise. Through these changes the risk to people's health will reduce and the amenity of the environment could be enhanced.

4.0 STATUTORY AND LEGISLATIVE FRAMEWORK

4.1 Resource Management Act 1991

Section 74 of the Act requires the Council to change the District Plan in accordance with its functions under Section 31, the purpose of the Act in section 5 and the other matters under sections 6, 7 and 8.

Territorial authorities have the following functions under the Act:

31 Functions of territorial authorities under this Act

1. *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - a. *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development or protection of land and associated natural and physical resources.*
 - b. *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of –*
 - i. *the avoidance or mitigation of natural hazards*
2. *The methods used to carry out any of the functions under subsection (1) may include the control of subdivision.*

The Council is given these functions for the purpose of promoting the sustainable management of natural and physical resources, which is defined as:

- 5(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 wellbeing 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.*

In accordance with Section 5 of the RMA, PC41 has been developed with a focus on providing for the community's health and safety whilst avoiding or mitigating any adverse effects of activities on the environment, including people and property.

Section 7 matters to which particular regard shall be had in assessing this Plan change are:

(c) the maintenance and enhancement of amenity values:

(f) maintenance and enhancement of the quality of the environment:

PC41 identifies that by restricting noise the amenity of the environment is enhanced.

Further guidance and direction on the way in which resources are to be managed is provided in sections 6, 7 and 8 of the RMA.

The RMA also specifically identifies specific requirements in regards to noise under section 16:

Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or the coastal marine area, shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.

5.0 RELEVANT POLICY STATEMENTS AND PLAN PROVISIONS

5.1 National Policy Statements and Environmental Standards

The National Environment Standards for Telecommunication Facilities 2008 sets limits for noise emission levels. Rule 17.5.5 states that all telecommunication cabinets must comply with clause 9 of this standard.

5.2 Regional Policy Statement and Regional Plan (the One Plan)

Sections 75 (3) and (4) of the Act require that a district plan must give effect to any regional policy statement and must not be inconsistent with any regional plan.

With regard to the One Plan, there are no provisions which are of particular relevance to noise and which fall under Whanganui District Council's jurisdiction. Therefore, for the purposes of this evaluation, it is considered that the proposed District Plan provisions relating to signage have given regard to the regional documents.

6.0 SUMMARY OF SUBMISSIONS

- 6.1 Refer to Appendix 1 to this report for a summary of each submission and Council's decision and reasons for each decision.

7.0 PRINCIPAL ISSUES IN CONTENTION

- 7.1 Submitters identified the following concerns in relation to PC41:

- Bird scaring devices.
- Minor corrections for consolidation, grammatical and usability reasons.
- Noise limits around the racecourse.
- Noise sensitive activity performance standards.
- Rural Activities.

8.0 SUMMARY OF EVIDENCE HEARD

- 8.1 Key evidence presented by submitters is summarised below:

New Zealand Transport Agency (Sub 24)

- Submitter requested that their original submission in regards to reverse sensitivity provisions near the State Highway network be adopted. The Transport Agency's acoustic engineer Mr Smith; also appeared at the hearing and compared the Council's method with the Transport Agency's method in regards to dealing with reverse sensitivity. The Transport Agency's 'Guide to the management of effects on noise sensitive land use near to the state highway network' (published September 2015) was also submitted.

MidCentral Public Health Services (Sub 17)

- The submitter had Mr Goodwin, an environmental acoustics advisor for the Ministry of Health appear on their behalf. He reviewed the evidence provided by Council and the Transport Agency and concluded that the broad outcome sought by both parties is similar. However Mr Goodwin supports the approach of Council's noise expert Mr Hunt; as it is based on future predicted levels of traffic on State Highways 3 and 4 rather than a general approach.
- Mr Goodwin also supports Council's approach to bird scaring devices.

Wanganui Federated Farmers of New Zealand (Sub 29)

- Tim Matthews appeared on behalf of Federated Farmers. He supported the provisions for bird scaring devices and the approach taken by the s42a officers report in regards to reverse sensitivity near the state highway and railway networks.
- The submitter requested that their submission in relation to excluding all farming activities from noise requirements be accepted in full.

Architectural Designers New Zealand Inc (Sub 26)

- Stephen Palmer spoke on behalf of the submitter to request that reverse sensitivity requirements for the state highway and railway networks should be carried out by the networks and not the adjoining landowners.
- Concern was also raised on the phased review of the plan and the prescriptive nature of the rules.

Keith Hindson (Sub 15)

- Submitter spoke to his submission regarding his concern over the gas gun provisions. He believes that if the guns were implemented to the maximum provided by the rules, it would be against the policies of the noise chapter.

Donald Ross (Sub 20)

- Submitter spoke on behalf of Richard Overton who was unable to attend the hearing. Their concerns focused on the noise generated at the Whanganui Racecourse and the lack of accurate record keeping of complaints.

8.2 Officer's Right of Reply is summarised below:

- The Officer stands by the comments and recommendations of the S42A report except where stated below.
- The comment from KiwiRail in submission 25.2 regarding usability of the reverse sensitivity provisions being in the noise chapter could potentially be resolved by the addition of an extra sentence to the Rural and Residential chapters advising Plan users to refer to the noise chapter when assessing noise sensitivity activities.
- The difference between NZTA's and Council noise insulation methods:
 - The Council method promotes the use of standard construction materials in order to reduce uncertainty for developers and the cost of expert noise reports.
 - The NZTA method is site specific and requires a noise expert design for each development to be undertaken.
- And what we are in agreement on:
 - Applies to new and altered noise sensitive activities – no additional costs to Rural Activities.
 - Moving the 20m exclusion setback to the Noise Chapter so that it will apply across all relevant zones, instead of only Rural Production & General.
 - Giving landowners the option of mitigation through a variety of options:
 - Locating the activity a certain distance from the network; or
 - Screening the activity from the network; or
 - Using the standard construction table; or

- Getting a location specific design for an internal noise level.
- The issues that are not agreed yet...
 - Mapping the effects buffer on the District Plan maps.
 - The extent of the effects buffer on State Highway 4.
 - Using the subdivision criteria to require the issue to be considered during the location of the building platform.
- The following amendments are recommended as a result of the New Zealand Transport Agency's verbal submission (24.2) and the appeal of Plan change 36:
 - Alter the proposed definition of 'Noise Sensitive Activities' to remove 'Marae' as it is covered by 'Community Activities' and include 'Visitor Accommodation' for the reasons outlined by the Submitter.
 - The Rural Production and Rural General zones contain a specific setback designed to mitigate the reverse sensitivity issues associated with noise. As the insulation requirement is designed to reduce the reverse sensitivity effects of noise, it is logical that the provisions from these zones are moved to Chapter 17 with the other reverse sensitivity provisions as opposed to being repeated in each zone. This will reduce the size of the Plan and allow it to apply in all the zones affected by noise from the state highway or railway networks over 70km/hr (Rural Settlement and Rural Lifestyle). It will also address the concern of NZTA about applying a consistent approach across the District.
 - Accept the inclusion of a note under the definition of 'Habitable Room' stating that it is the same as the Building Code definition of 'Habitable Space' as it makes it clearer what is trying to be achieved.
 - I am open to using multiple options (buffer, line of sight, internal design & external materials) in the plan for mitigating the reverse sensitivity issues in relation to the state highway. It allows the owner of the site to carry out the method that is best for them.
 - Looking at the scale of the reverse sensitivity issue, it is noted that between 1997 and 2015 there were an average of 3.4 houses built per year on properties adjoining the state highway network outside the urban boundary. Of those, only a small percentage were closer than 80 or 50 metres to the state highway network:

Percentage of houses built closer than 80m on the State Highway network between 1997 and 2015¹

Network	No. of Houses	No. closer than 80m	Percentage total	No. closer than 50m	Percentage total
State Highway 3 North	30	7	23%	3	10%
State Highway 3 South	6	3	50%	3	50%
State Highway 4	28	12	43%	4	14%

Note: Does not include the unknown distance properties

- Looking at the aerial photography of these developments, it was noted that a portion of them were limited in where dwellings could be located due to topography and shape of the site. A good number of sites were 100m or less wide, meaning that there was limited chance that a house would have been built that would not need noise insulation of some kind. As an alternative method to achieve the same outcome as the Transport Agency and make property owners aware of the costs of insulation, a provision could be inserted into the Subdivision Chapter (13) requiring the building platform to be the set distance from the State Highway network. This has already occurred for the Electricity Transmission Corridor. Should the building platform for a subdivision be within the reverse sensitivity area, a consent notice on the title could advise future owners of the requirement to insulate. Submission 26 was against the cost of insulation and providing a building platform considering the effects area is one alternative method to keep costs down and allow future owners to make financially appropriate decisions. This method was also referred to in the verbal evidence by MidCentral Health.

9.0 MAIN FINDINGS ON PRINCIPAL ISSUES

9.1 The Committee considered each submission and confirmed a decision for each.

Refer to Appendix 1 for the decisions on individual submissions.

- The Committee accepted the recommendations of the reporting officer in respect to the majority of the issues raised in relation to PC41 and the evidence tabled and officer's reply.
- The Committee recommended to keep the **definitions** as provided in the marked up text of the Officer's right of reply, which incorporated the Transport Agency's comments that came up during the meditation of PC36. However it is proposed to make one minor addition to the definition of '**habitable room**' to include 'community

¹ Information extracted from the Property & Rating Database and visually checked using Intramaps.

activities' as well as domestic living, as these are considered a 'noise sensitive activity' that needs to be considered under Rule 17.5.3.

3. The submission by Federated Farmers to exclude all farming activities from the **definition of noise** (and therefore the performance standards) was rejected as every neighbour has a responsibility to manage adverse noise effects. The Committee preferred the officer's recommendation which provided for activities such as harvesting or hedge trimming where the noise could not be reasonably controlled, but requires permanent structures (such as milking sheds) to consider the noise effects on the adjoining properties.
4. The Committee debated long and hard about the **bird scaring provisions**. It was acknowledged that there is a sensitivity to the devices in the Westmere area due to the lack of regulations and enforcement capability in the past. It would be unreasonable to think that rural operators would use devices at the maximum allowed by the plan as it would reduce their effectiveness and are a cost on the operator to run. The rules proposed were identified through case law and accepted standards adopted for other districts as well as being supported by Council's and Mid Central Health's noise experts. No technical evidence was presented at the Hearing as to why stricter rules than those recommended by the Officer were required as the new standards are significantly stronger than the operative rules and should reduce noise impacts experienced in Westmere.
5. The Officer's right of reply recommended that an additional sentence be added to each **zone's performance standard for noise** noting that the noise chapter includes the noise sensitivity provisions. The Committee agreed that the sentence should be added, but with the word 'insulation' removed as insulation was not the only method of achieving reduced noise levels from the state highway and railway networks.
6. The Committee agreed with the Architectural Designers New Zealand Inc that reducing the cost of reverse sensitivity for noise is important. Therefore the proposed inclusion of **performance standard 13.5.6(b)(ix)** when considering subdivisions will make people aware early in the process of the potential additional costs and maybe encourage a redesign of the layout to provide building platforms a distance that will not require noise insulation. A minor change was recommended to the performance standard to ensure it applies only to state highways where the posted speed limit is at least 70km/hr.

Rule 17.5.3 NOISE SENSITIVE ACTIVITIES

7. The first issue to determine was which way to **define the noise effects buffer**. The options were:
 8. Show a buffer overlay on Planning Maps – This overlay would be determined by the Transport Agency.
 9. Have a minimum distance setback from the State Highway and Railway networks in the Plan, which is easy to understand, but less reactive to the surrounding environment.

The Committee decided to use a minimum distance setback over a mapped buffer as all the evidence to date was fixed on the set buffer. No information was presented on how the buffer overlay would look or how wide it could potentially be.

10. A discussion was then held about when the performance standards take effect for **altered** buildings. The officer's right of reply suggested that any alteration more than 10% of the existing gross floor area should trigger the standard. The Committee felt that this could penalise those doing alterations to non-habitable spaces (i.e garages) and that the word 'habitable' should be added in order to apply the rule to the specific spaces that it is trying to protect against adverse health effects. As a result of this, the Committee noted that the definition of 'habitable room' required a minor change to specifically include 'community activities' as well as 'domestic living' in order to be consistent with the Transport Agency's submission and mediation on PC36.
11. The Transport Agency had requested that the noise sensitivity provisions would apply as an **80 metre setback** from the State Highway network. Council's noise expert Mr Hunt disputed this number and recommended a 50 metre buffer for State Highway 3 and no buffer (apart from the 20 metre structure rule in the Rural Zones) for State Highway 4.

The Committee preferred the 50 metre buffer for State Highway 3 as it was specifically determined in the Whanganui context. The methods proposed by the Transport Agency were based on national guidelines, but the 50 metre/no buffer for state highways 3/4 took into account local traffic numbers and predictions for the next ten years, which was more credible in terms of mitigating adverse effects. The Committee determined there was insufficient evidence (4 complaints on SH4 in 1 year) to suggest this was a significant issue that warranted a stronger approach to protecting public health.
12. The Committee agreed to include an addition statement to provision **17.5.3(a)** to restrict dwellings within 20 metres of the traffic lane of a state highway where the posted speed is at least 70km/hr. Plan change 36 adopted this rule in the Rural Production and Rural General zones, however it was not adopted in the Rural Settlement and Lifestyle zones. Therefore it would only affect small pieces of additional land and would resolve the inconsistency between the zones that occurred as a result of a phased review of the District Plan.
13. The Committee supported the ability to provide for different options for achieving noise insulation that was also a part of the mediation of the appeal for PC36. It gives flexibility back to the developer. (**performance standard 17.5.3(b)**)
14. The Committee decided to reject provision **17.5.3(c)(ii)**; which provided for a cooling system requirement if doors and windows are required to be closed to achieve the noise insulation level. The reason for this was that 17.5.3(c)(iii) provides for ventilation, which includes how warm or cold a structure is. Therefore it was a repeat and put unnecessary requirements on the developer to control temperature which was outside the scope of the noise plan change.
15. The Committee accepted the Officer's assessment that the S.32AA evaluation had been completed appropriately.

10.0 SECTION 32 REPORT EVALUATION

A further evaluation for the S.32 report was required to incorporate the amendments made to the Plan change as a result of Council's Decision on Submissions. The S32AA report is attached as Appendix 3.

11.0 STATEMENT OF DECISIONS AND REASONS

Refer to Appendix 1 to this report for the Council's decision and reasons relating to each submission. Refer to Appendix 2 for the complete version of the Plan change text.

12.0 APPENDICES

- 1: Decisions on Submissions and Reasons for Decisions
- 2: Marked- Up Version of Plan Change 41 following Decisions on Submissions
- 3: Section 32AA Evaluation

Signature of Chairman



Independent Commissioner Alan Taylor

Dated: 5 April 2016

APPENDIX 1 – Decisions on Submissions and Reasons for Decisions

The following are the summary of submissions received and decisions of Council on each submission following consideration of the evidence.

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Submitter Name: New Zealand Fire Service Commission

Submission No: [1.1pc41](#)

Summary:

Support the proposed plan change. The Whanganui Fire Station is in the Outer Commercial Zone. The proposed noise limits for the zone are higher than the guidelines in NZS 6808:2008. The Fire Station is capable of meeting the standards in NZS6806:2008, and will therefore comply with the new noise standards.

Decision Sought:

Retain without modification Rule 17.5.9 as it reads.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.1pc41](#)

Supports submission 1 as it meets the New Zealand Standard.

Council Decision:

That submission 1.1 from the New Zealand Fire Service Commission and further submission 5.1 from the MidCentral Public Health Services be **accepted in part**.

No amendments are made as a result of this submission.

Council Reasons for Decision:

The support of the New Zealand Fire Service Commission and the MidCentral Public Health Services is noted and appreciated.

The terminology of the noise limits have been adjusted through another submission, however this does not alter the fundamental outcome sought by the submitters.

Submitter Name: Stacey Kristina Pram

Submission No: [2.1pc41](#)

Address: 81b Western Line

Summary:

Opposed to the specific performance standards for gas guns as the country is a peaceful and quiet environment.

Decision Sought:

Retain existing provisions in the District Plan in relation to gas guns.

Submitter Name: Kevin and Mary-Anne Redington

Submission No: [3.1pc41](#)

Address: 334 State Highway 3 North

Summary:

Opposed to the specific performance standards for gas guns.

Decision Sought:

No gas guns as a permitted activity.

Submitter Name: Gerard, Marlene, Gerardus and Antoine Bonnet

Submission No: [4.1pc41](#)

Address: 83 Western Line

Summary:

Opposed to the proposed rules in relation to bird scaring devices because the proposed limits are unreasonable and would cause excessive noise nuisance. The noise will cause constant irritation to the neighbours, affecting the peace, lifestyle and reason for living in the country. Additionally this will also devalue neighbouring properties. It will permanently affect the animals on adjoining properties. Research proved that Propane cannons become ineffective after a short while.

Decision Sought:

No gas guns as a permitted activity.

Submitter Name: Donna Jackson

Submission No: [5.1pc41](#)

Address: 352c State Highway 3 North

Summary:

Opposed to permitting gas guns. The activity will affect the peace and quiet of Westmere and the proposed noise invasion would adversely affect my wellbeing and property values.

Decision Sought:

No gas guns as a permitted activity in the Westmere area.

Submitter Name: Chris Robson

Submission No: [6.1pc41](#)

Address: 352 State Highway 3 North

Summary:

Opposed to permitting gas guns. Westmere is a well populated area and this activity could affect property values. Native bird species could also be affected. The peace and quiet will definitely diminish.

Decision Sought:

No gas guns as a permitted activity.

Submitter Name: Abigail Calman

Submission No: [7.1pc41](#)

Address: 352b State Highway 3 North

Summary:

Opposed to permitting gas guns. Gas guns will destroy our peaceful and quiet environment. It could affect children's sleep patterns. Native bird species could also be affected. The value of our property would greatly decrease. I want to enjoy sitting outside in the summer in the peace and enjoy our surrounding.

Decision Sought:

No gas guns as a permitted activity.

Submitter Name: Rodney Calman

Submission No: [8.1pc41](#)

Address: 352b State Highway 3 North

Summary:

Opposed to permitting gas guns. Westmere is densely populated area and a gas gun going off every 10 minutes would severely irritate the peaceful nature of this area. Native bird species could also be affected.

Decision Sought:

No gas guns as a permitted activity.

Submitter Name: Connor Jackson

Submission No: [9.1pc41](#)

Address: 352c State Highway 3 North

Summary:

Opposed to permitting gas guns. I work at night and rely on the peaceful nature of this area to recuperate. This activity will upset myself and other shift workers in the area as well as spoil peaceful afternoons outside and devalue our properties.

Decision Sought:

No gas guns as a permitted activity at any time.

Submitter Name: Matthew Morgan

Submission No: [10.1pc41](#)

Address: 352c State Highway 3 North

Summary:

Opposed to permitting gas guns for the purpose of bird scaring. I am a shift worker who moved to this area so I can have peace and quiet for sleeping during the day. This activity would completely ruin my sleep, my lifestyle and would devalue my property (which contains my life savings). This is a well populated area.

Decision Sought:

No gas guns as a permitted activity in the Westmere area.

Submitter Name: Heather and Ian Brown

Submission No: [11.1pc41](#)

Address: 352a State Highway 3 North

Summary:

Opposed to permitting gas guns for the purpose of bird scaring. The sound of the gas guns is loud and intrusive and scares more than just birds (visitors, children and the people who live here). We support Windermere Gardens in the area. As they are proposing to have most of the plants in plastic tunnel houses there is no need to have rules for a gas gun.

Decision Sought:

No gas guns as a permitted activity in the Westmere area.

Submitter Name: Ilma Smith

Submission No: [12.1pc41](#)

Address: 334 State Highway 3 North

Summary:

Opposed to gas guns going off every 10 minutes. The gas guns shatter the peace and quiet when I'm inside and outside working in my large garden. It also disturbs native birds.

Decision Sought:

No gas guns as a permitted activity.

Submitter Name: Graeme Kirk

Submission No: [13.1pc41](#)

Address: 54 State Highway 3 North

Summary:

Opposed to the specific performance standards for gas guns. The area is well populated and this activity may affect property values. We are also shift workers and rely on the peace and quiet for the area for rest and wellbeing. The constant noise is not what we want to hear when sitting outside enjoying the summer evenings. When they were used last year, they were shut down due to complaints lodged with Council.

Decision Sought:

No gas guns as a permitted activity.

Submitter Name: Deborah Hickford

Submission No: [14.1pc41](#)

Address: 390a State Highway 3 North

Summary:

Opposed to permitting gas guns in the Rural Zone. We value the peace and quiet of this area, which is why we live here.

Decision Sought:

Rejection of the Plan change in relation to gas guns.

Submitter Name: Keith Hindson, Gloria Rigg, Anthony and Ada Cameron

Submission No: [15.1pc41](#)

Address: 45 and 46 Watt Livingstone Road

Summary:

Opposed to permitting gas guns and avian distress devices for the following reasons.

- Westmere contains approximately 250 residents.
- When used correctly, gas guns and avian distress alarms can be effective when a part of an Integrated Pest Management Plan. Currently the Plan Change allows a cheap and nasty approach.
- The effect of the proposed rule would sound like living in the middle of the WW1 Somme battlefield. This will not protect the health of the community.
- There has been no formal request received by Council to change the current provisions.
- Supportive of the initiative to insulate new dwellings, but the retrofit of existing rural dwellings would be expensive.
- Against Policies 17.3.2-4.

Decision Sought:

- One or more of the following options:
- Buy the residential properties in Westmere and return them to farmland.
- Retain Status Quo for gas guns and bird scaring devices (prohibited).
- Exclude gas guns and avian distress alarms within 600m of high density residential properties.
- Require best practice which is an Integrated Pest Management Plan for Council approval and monitoring before gas guns and other bird scaring devices are approved.

Submitter Name: Tony Boswell

Submission No: [16.1pc41](#)

Address: 313 State Highway 3 North

Summary:

Support the allowance for bird scaring devices to assist farming activities. Not allowing bird scaring devices puts Whanganui rural businesses at a competitive disadvantage to other regions where they are common place and acknowledged as current best practice.

Decision Sought:

Allow bird scaring devices at levels commensurate with all other regions for all rural activities.

Submitter Name: Horticulture NZ

Further Submission No: [1.1pc41](#)

Opposed to submissions 3-15 and supportive of submission 16 as the provisions for gas guns proposed are more stringent than other Councils and meeting the standards should enable use as a permitted activity in a rural production area.

Submitter Name: Federated Farmers

Further Submission No: [3.1pc41](#)

Supportive of submission 16.1 in relation to bird scaring devices. Federated Farmers agrees with the comments made by the submitter, particularly to ensuring that the Whanganui District Plan aligns with other Council's Plans and making sure that rural businesses are not at a competitive disadvantage to other regions.

Council Decision:

That submissions 2-16 from the residents of Westmere and further submissions 1.1 and 3.1 from Horticulture NZ and Federated Farmers be **accepted in part**.

The following amendments are made as a result of these submissions:

Chapter 17 - Noise

17.5.6b. The operation of **gas guns** for the purpose of bird scaring shall be permitted provided that:

- iv. Sound emitted from the device shall not exceed L_{AE} ~~75~~ 65 dB measured within the notional boundary of any rural dwelling or at any point within a residential zone. Sound levels shall be measured in accordance with NZS6801:2008 *Acoustics – Measurement of Sound*.

Council Reasons for Decision:

1. The submissions from the residents of Westmere and further submissions from Horticulture NZ and Federated Farmers are noted and appreciated.
2. The Committee debated long and hard about the **bird scaring provisions**. It was acknowledged that there is a sensitivity to the devices in the Westmere area due to the lack of regulations and enforcement capability in the past. It would be unreasonable to think that rural operators would use devices at the maximum allowed by the plan as it would reduce their effectiveness and are a cost on the operator to run. The rules proposed were identified through case law and accepted standards adopted for other districts as well as being supported by Council's and Mid Central Health's noise experts. No technical

evidence was presented at the Hearing as to why stricter rules than those recommended by the Officer were required as the new standards are significantly stronger than the operative rules and should reduce noise impacts experienced in Westmere

3. The Manawatu-Whanganui Growth Study Opportunities Report (2015) identifies that rural production is an economic opportunity for the region. Council wishes to maximise the potential productive use of our Class I and II land by clarifying the acceptable ancillary activities in the rural zones. Therefore specific provisions (and restrictions) on particular rural ancillary activities have been developed as part of this Plan change.
4. After considering all the submissions, and the expert advice provided by Mr Hunt and Mr Goodwin, the Committee supported the following:
 - Because **bird scaring devices** have been unregulated until now, Westmere residents (and their animals) are particularly sensitive to the effects. It is recommended that the performance standards for bird scarers are adopted as this will improve surrounding resident's amenity and health, but with the single event noise limit changed from L_{AE} 75dB to L_{AE} 65dB (which has been adopted by some other districts) as a result of the concerns raised by the submitters.
 - Mr Hunt confirmed that the proposed limits for **avian bird scaring devices** are still considered the best method of control and the evidence does not support a stronger requirement.
 - The suggestion of a requirement for a compulsory **integrated pest management plan** is one aspect of best practice, but is not necessary as a performance standard for a permitted activity. To require an integrated pest management plan would not reduce any more environmental effects than already covered by the noise provisions and would result in Council staff controlling how farming is carried out, which is against the purpose of the RMA.
 - The suggestion that gas guns and avian distress alarms should be a **minimum of 600m** from highly dense residential properties is not necessary as they will now be controlled by performance standards. The zones in the "Rural Environment" chapter of the District Plan are designed primarily to enable and encourage 'rural activities' to occur, which since the Industrial Revolution has included loud and heavy machinery such as tractors, harvesters and engines for milking and shearing equipment. The permitted baseline provides for mobile rural machinery to be excluded from noise provisions because of their temporary duration. The gas guns and avian distress alarms are an expected temporary sound within a Rural Environment and the levels proposed by the District Plan will ensure that the noise will not become unreasonable.

Submitter Name: MidCentral Public Health Services

Submission No: [17.1pc41](#)

Summary:

Supportive of Issues 17.1.1 and 17.1.2 as the inclusion of these issues are reasonable and necessary. Submissions are intended to be helpful, objective and independent as to promote the reduction of adverse environmental noise on the health of communities.

Decision Sought:

Retain provisions 17.1.1 (human health) and 17.1.2 (noise compatible with character).

Submitter Name: MidCentral Public Health Services

Submission No: [17.2pc41](#)

Summary:

Supportive of the policies listed in Chapter 17, with minor amendments where stated in order to be accurate and clear for Plan users. Submissions are intended to be helpful, objective and independent as to promote the reduction of adverse environmental noise on the health of communities.

Decision Sought:

1. Policy 17.3.1 (new activities adjoining transport networks) is retained.
2. Policy 17.3.2 (manage noise emissions to protect health) is retained.
3. Policy 17.3.3 (noise levels reflect locality) is retained, but amended for clarity.
4. Policy 17.3.3(b) is retained, but amended to consider noise mitigation measures other than just insulation.
5. Policy 17.3.4 (retain rural amenity without unduly restricting rural activities) is retained.
6. Policy 17.3.5 (measurement of noise) is retained, but amended the titles of the New Zealand Standards.

Submitter Name: Horticulture NZ

Further Submission No: [1.2pc41](#)

Supportive of submission 17.2 as not unduly restricting rural activities is supported.

Council Decision:

That submissions 17.1 and 17.2 from MidCentral Public Health Services and further submission 1.2 from Horticulture NZ be **accepted**.

The following amendments are made as a result of these submissions:

17.3.3 Ensure that noise occurs at within limits that maintain and reflect the amenity values and character of the locality by:

- a. Limiting the sources, type, duration, timing or location of the noise;
- b. New noise sensitive activities are acoustically isolated to mitigate any adverse noise effects from existing noise generating activities. Noise sensitive activities are sound insulated to mitigate any adverse noise effects; from existing noise generating activities.
- c. Requiring adoption of the 'best practicable option' and regular maintenance of noise generating equipment or activities; and
- d. Requiring the use of landscaping to mitigate the perception of noise.

17.3.5 To ensure that there is a uniform approach to the measurement of noise effects and assessment of their adverse effects, all sound emissions shall be measured and assessed in accordance with:

- ...
 - b. New Zealand Standard 6802:2008 Acoustics - Assessment of Environmental Noise.
- ...
 - e. New Zealand Standard 6806:2010 Acoustics -Traffic Noise from New or Altered Roads
- ...
 - h. New Zealand Standard 6809:1999 Acoustics -Port Noise Management and Land Use Planning

Council Reasons for Decision:

- 1. The support of the MidCentral Public Health Services and Horticulture NZ noted and appreciated.
- 2. The minor amendments proposed to policies 17.3.3 and 17.3.5 are reasonable and will help promote clarity for Plan users.
- 3. The policies of chapter 17 are also discussed in submission 25.3 (KiwiRail Holdings Limited) and 29.1 (Federated Farmers).

Submitter Name: MidCentral Public Health Services

Submission No: [17.3pc41](#)

Summary:

Support the assessment methods for mining explosives (Rule 17.5.4), but requests minor changes to the terminology.

Decision Sought:

1. '128 unweighted BZ' is replaced with '128 dB'.
2. 'blast noise (air blast)' is replaced with 'blast vibration'.

Council Decision:

That submission 17.3 from MidCentral Public Health Services be **accepted**.

The following amendments are made as a result of this submission.

Chapter 17 - Noise

17.5.3 Mining Explosives.

- a. The measurement of blast noise (air blast) from explosives related to mining, quarry, mineral processing or construction activity shall be carried out in accordance with AS 2187.Part 2:~~1993~~ 2006 Explosives Storage and Use Part 2: Use of Explosives.
- b. Blast noise (air blast) from explosives related to mining, mineral processing or construction activity shall not exceed a peak sound pressure level of 128dB unweighted BZ.
- ...
- e. The limit of particle velocity (peak particle velocity) from ~~blast noise (air blast)~~ blast vibration measured on any foundation of an adjacent occupied building not connected with the site, or suitable location adjacent to the building, shall not exceed 25mm/second for commercial buildings or 10mm/second for dwellings and buildings of similar design.

Council Reasons for Decision:

1. The support of MidCentral Public Health Services is noted and appreciated.
2. After considering the submission, Council requested expert advice from Malcolm Hunt, a noise consultant. A summary of his recommendations in relation to issues raised in the submission were considered by the Committee and supported as set out below:
 - '128dB' is the correct term and should replace '128 unweighted BZ' in rule 15.5.4(a).
 - The term 'blast vibration' instead of 'blast noise (air blast)' is suitable for rule 15.5.4(e) as it is more technically appropriate as vibration from blasting will mostly have travelled through the ground. This means it is incorrect to refer to blast noise (air blast) as the source of the vibration being controlled. The amendment recommended by this submitter fixes this error and should be accepted.

Submitter Name: MidCentral Public Health Services

Submission No: [17.4pc41](#)

Summary:

Support Rule 17.5.5 as provision is consistent with the National Environmental Standard for Telecommunication Facilities.

Decision Sought:

Retain Rule 17.5.5.

Council Decision:

That submission 17.4 from MidCentral Public Health Services be **accepted**.

No amendments are made as a result of this submission.

Council Reasons for Decision:

The support of the MidCentral Public Health Services is noted and appreciated.

Submitter Name: MidCentral Public Health Services

Submission No: [17.5pc41](#)

Summary:

Supportive of the gist of the provisions of Rules 17.5.7-10 (Noise controls for zones), but requests amendments to the provisions in order to comply with case law and provide clarity for Plan users

Decision Sought:

1. Rule 17.5.7(a) (Rural zone limits) is retained, but with minor amendments to the terminology.
2. Rule 17.5.7(b-c) (bird scaring devices) is retained.
3. Rule 17.5.8 (Residential zone limits) is retained, but with minor amendments to the terminology.
4. Rule 17.5.9 (Commercial zone limits) is retained, but with minor amendments to the terminology.
5. Rule 17.5.10 (Manufacturing zone limits) is retained, but with minor amendments to the terminology.

Submitter Name: Horticulture NZ

Further Submission No: [1.3pc41](#)

Supportive of submission 17.5 as the provisions for gas guns proposed are more stringent than other Councils and meeting the standards should enable use as a permitted activity in a rural production area.

Council Decision:

That submission 17.5 from MidCentral Public Health Services and further submission 1.3 from Horticulture NZ be **accepted in part**.

The following changes are made as a result of this submission:

Chapter 2 – Definitions

LAF_{max}: means the maximum noise level, measured in decibels, which is permitted at any time.

Chapter 17 - Noise

17.5.6 RURAL ENVIRONMENT.

All activities within the Rural Production, Rural Lifestyle or Rural General zones shall comply with the following:

- a. Noise emissions shall not exceed the following limits ~~when measured from~~ at any point within the notional boundary, unless provided for elsewhere in this section.

<u>AVERAGE MAXIMUM NOISE LEVEL</u> <u>NOISE LIMIT</u> <u>dB LAeq(15min)</u>			<u>LAFmax</u> <u>dBA</u>
Daytime <u>7.00am-</u> <u>7.00pm</u>	Evening 7.00pm-10.00pm	Night time 10.00pm-7.00am	Night time 10.00pm – <u>7.00am</u>
50	45	40	75

17.5.7 RESIDENTIAL ENVIRONMENT.

All activities within the Residential, Coastal Residential or Rural Settlement zones shall comply with the following:

- a. Sound emissions from any activity shall not exceed the following limits at any point within when measured on, or within, the boundary of any other site zoned for residential, coastal residential or rural settlement purposes.

<u>AVERAGE MAXIMUM NOISE LEVEL</u> <u>NOISE LIMIT</u> <u>dB LAeq(15min)</u>			<u>LAFmax</u> <u>dBA</u>
Daytime 7.00am-7.00pm	Evening 7.00pm-10.00pm	Night time 10.00pm-7.00am	Night time 10.00pm – 7.00am
55	45	40	75

17.5.8 COMMERCIAL ENVIRONMENT.

All activities within the Arts and Commerce, Riverfront, Central Commercial, Neighbourhood Commercial or Outer Commercial zones shall comply with the following:

- a. Sound emissions from any activity shall not exceed the following limits at any point within the zones specified:

	<u>AVERAGE MAXIMUM NOISE LEVEL</u> <u>NOISE LIMIT</u> <u>dB LAeq(15min)</u>			<u>LAFmax</u> <u>dBA</u>
	Daytime 7.00am-7.00pm	Evening 7.00pm- 10.00pm	Night time 10.00pm- 7.00am	Night time 10.00pm – 7.00am
<u>At a</u> Residential Zone <u>Boundary</u>	55	45	40	75
<u>Other</u> <u>Boundaries</u> <u>Zones</u>	65			85

17.5.9 INDUSTRIAL ENVIRONMENT.

All activities within the Manufacturing zone shall comply with the following:

- a. Sound emissions from any activity shall not exceed the following limits when measured at the following boundaries at any point within the zones specified:

	<u>AVERAGE MAXIMUM NOISE LEVEL</u> <u>NOISE LIMIT</u> <u>dB LAeq(15min)</u>			<u>LAFmax</u> <u>dBA</u>
	Daytime 7.00am-7.00pm	Evening 7.00pm- 10.00pm	Night time 10.00pm- 7.00am	Night time 10.00pm – 7.00am
<u>At a</u> <u>Residential</u> <u>Zone</u> <u>Boundary</u>	55	45	40	75
<u>Other</u> <u>Boundaries</u> <u>Zones</u>	65			75

Submission 17 asks for any consequential amendments to the noise chapter as a result of their submission. The Committee determined to amend the following noise tables are also proposed to be altered in order to provide a consistent approach across the District Plan. Tables to be altered to refer to 'noise limit', 'LAFmax' and 'Zone' limits:

Rule 17.5.10(a), (b) and (d) - Airport Enterprise Zone

Rule 17.5.11(a), (b.i) and (b.ii.) - Reserves and Open Spaces

Council Reasons for Decision:

1. The support of the MidCentral Public Health Services and Horticulture NZ is noted and appreciated.
2. After considering all the submissions, Council requested expert advice from Malcolm Hunt, a noise consultant. A summary of his conclusions and recommendations in relation to issues raised in the submissions were supported by the Committee as set out below:
 - The proposed **Wording Changes** will provide for consistent terminology and should be adopted.
 - Mr Hunt confirmed that the proposed change in terminology from **Lmax** to **LAFmax** should be adopted to be consistent with the terminology used in the assessment and measurement standards cited.
 - Because **bird scaring devices** have been unregulated until now, Westmere residents (and their animals) are particularly sensitive to the effects. It is recommended that the performance standards for bird scarers are adopted as this will improve surrounding resident's amenity and health, but with the single event noise limit changed from L_{AE} 75dB to

L_{AE} 65dB (which has been adopted by some other districts) as a result of the concerns raised by the submitters.

- Mr Hunt confirmed that the proposed limits for **avian bird scaring devices** are still considered to be the best method of control and the evidence does not support a stronger requirement.

Submitter Name: MidCentral Public Health Services

Submission No: [17.6pc41](#)

Summary:

Supportive of proposed definitions as they complement plan provisions.

Decision Sought:

Retain definitions specified in Plan Change.

Submitter Name: Whanganui District Council

Submission No: [18.1pc41](#)

Summary:

Support the definitions of activities sensitive to noise, however requests a combined definition is created for ease of use.

Decision Sought:

The definitions for 'Activities sensitive to aircraft noise (ASAN)' and 'Noise sensitive activities' are combined and the terminology used throughout the Plan.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.2pc41](#)

Supports submission 18 regarding the consolidation of terms. This is common sense.

Council Decision:

That submissions 17.6 and 18.1 from MidCentral Public Health Services and Whanganui District Council and further submission 5.2 from MidCentral Public Health Services be **accepted**.

The following amendments are made as a result of these submissions.

Chapter 2 - Definitions

~~**Activities Sensitive to Aircraft Noise (ASAN)** – means any residential activity, visitor accommodation, retirement villages, day care facility, buildings used for overnight patient medical care or educational facility (including all associated outdoor spaces for such activities).~~

Noise Sensitive Activities: means buildings or parts of buildings used for, or able to be used for the following purposes:

- Residential activity; or
- ~~Educational activity; or Community activity; or~~
- ~~Healthcare activity; or~~
- ~~Marae activity~~ Visitor Accommodation.

Council Reasons for Decision:

1. The support of the MidCentral Public Health Services is noted and appreciated.

2. The definition for 'noise sensitive activities' was combined with the definition for 'activities sensitive to aircraft noise (ASAN)'. The different definitions for activities sensitive to noise were developed as a result of individual Plan changes over a period of time.
3. At the hearing the submitters agreed and the Committee accepted that the definition of 'noise sensitive activities' should be simplified to cover PPFs (as described in the Transport Agency's submission) as opposed to adding a new definition.

Submitter Name: Ruth Botten

Submission No: [19.1pc41](#)

Address: 18a Purnell Street

Summary:

Oppose any increase in noise limits for the Racecourse. Current noise levels are too loud.

Decision Sought:

A lowering of the noise limits or retention of the existing noise limits at the Racecourse.

Submitter Name: Donald Ross

Submission No: [20.1pc41](#)

Address: 18a Purnell Street

Summary:

Oppose any increase in noise limits for the Racecourse. Current noise levels are too loud.

Decision Sought:

Retention of existing noise conditions.

Submitter Name: Richard Overton

Submission No: [21.1pc41](#)

Address: 20 Purnell Street

Summary:

Opposed to current noise provisions. Want stronger noise limits or better enforcement of the regulations relating to noise emanating from private or commercial premises which have an effect on the neighbourhood.

Decision Sought:

To enforce and/or change the noise regulations.

Submitter Name: Diana Fowler

Submission No: [22.1pc41](#)

Address: 6 Hutchison Crescent

Summary:

Oppose any increase in noise limits for the Racecourse. Current noise levels are too loud.

Decision Sought:

Retention of existing noise conditions.

Submitter Name: Graeme Filer

Submission No: [23.1pc41](#)

Address: 54 Field Street

Summary:

Oppose any increase in noise limits for the Racecourse. Current noise levels are too loud.

Decision Sought:

Retention of existing noise conditions.

Council Decision:

That submissions 19-23 from Ms Botten, Mr Ross, Mr Overton, Ms Fowler and Mr Filer be **rejected**.

No amendments are made as a result of this submission.

Council Reasons for Decision:

1. The submissions in opposition from Ms Botten, Mr Ross, Mr Overton, Ms Fowler and Mr Filer are noted and appreciated.
2. The Committee were concerned about the number of potential breaches of the noise limits identified by submitters in relation to the racecourse.
3. The Committee noted that the Plan change makes a number of changes in noise limits for the racecourse (which is zoned Reserves and Open Spaces), which should result in an overall improved noise effect for surrounding activities and more accurate monitoring and enforcement.
4. The way the noise is measured will be changed from the L10 method to the LAeq(15min) method. This means the noise will be measured in a more precise way over a longer period. The day and night time levels have remained the same.
5. A new provision for one-off noise (such as a starting bang) is now also provided for by the use of a Lmax measurement. Previously these could not be controlled adequately, but by providing a limit for these types of sounds, Council can better manage noise effects on the surrounding environment.
6. In the past 5 years Council recorded 58 complaints regarding excessive noise at the racecourse. The majority of these were deemed by Council to be an unreasonable level of noise. The Committee noted that the issue seemed to be the users of the facility breaching the existing noise limits more than the noise limits being too high. Education of organisers of events at the racecourse and enforcement action where necessary were considered more likely to yield a better noise environment than lowering the existing noise levels.

Submitter Name: New Zealand Transport Agency

Submission No: [24.1pc41](#)

Summary:

Supportive of the intention to protect noise sensitive activities from the transport network. The Transport Agency recommends a provision that specifies the internal noise level instead of how the building performs as it relates more closely to the effect that is anticipated to be avoided and it ensures each building is appropriately designed in relation to its distance from the State Highway network.

Decision Sought:

Amend Rule 17.5.3 to restrict noise sensitive activities within 20 metres of the state highway and to require noise sensitive activities within 80 metres of the state highway to have an internal noise level of 40 dB LAeq(24hr) or habitable spaces and no greater than the maximum limits in AS/NZS 2107:2000.

Submitter Name: Stephen Palmer, Paul Harrison, Jim Richardson and Paul McKenna
(Architectural Designers New Zealand Inc)

Further Submission No: [4.1pc41](#)

Opposed to submission 24 in relation to mitigating state highway noise on adjoining sites. The RMA requires that noise should be mitigated by the operator of the activity. While it is unreasonable to expect no noise from the state highway network that should not mean that adjoining owners should be faced with the entire responsibility for mitigation. The District Plan rules should strike a balance between network operators and their neighbours to mitigate noise from the network activities.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.3pc41](#)

Supports submission 24 regarding the reverse sensitivity of noise provisions. The submitter has supplied a better provisions than Rule 17.5.3(b) as it is effects based rather than prescriptive and supports inclusion of 'PPF' definition.

Council Decision:

That submission 24.1 from the New Zealand Transport Agency and further submission 4.1 from the Architectural Designers New Zealand Inc are **accepted in part**.

It is noted that MidCentral Public Health Services withdrew their further submission to submission 24.

The following amendments are made as a result of these submissions.

Chapter 2 – Definitions

Habitable room means any room in a dwelling that is used or that can be used as a sitting room, a living room, a bedroom, a dining room or a family room.

means a space used for activities normally associated with domestic living or community activities, but excludes any bathroom, laundry, water-closet, pantry, walk-in wardrobe, corridor, hallway, lobby, clothes-drying room, or other space of a specialised nature occupied neither frequently nor for extended periods.

Note that this definition is based on the Building Code definition of ‘Habitable Space’.

Chapter 17 - Noise

17.5.2 Noise Sensitive Activities (including dwellings).

- a. Noise Sensitive Activities shall be located at least 20 metres from the nearest traffic lane of a State Highway where the posted speed is at least 70km/hour.
- b. New, altered (more than 10% of the existing habitable gross floor area) or relocated buildings for a noise sensitive activity on any site within any ~~rural~~, commercial or ~~industrial~~ manufacturing zone (excluding the Airport Enterprise Zone) or within 30 metres of a railway designation (District Plan reference: D204) or within 50 metres of any portion of the State Highway 3 designation (District Plan reference: D207) where a posted speed limit exceeding 70km/hr applies
must ~~shall~~ comply with at least one of the following:
 - ai. All ~~Any~~ habitable rooms within a new or altered building ~~shall~~ is be designed to achieve an insulation rating of no less than $D_{nT,w} + C_{tr} > 30 \text{ dB}$ $D_{2m,nT,w} + C_{tr} > 30 \text{ dB}$ for the external building envelope of each habitable room when tested and verified in accordance with the following standards:
 - ~~AS/NZS1276.1:1999 Acoustics – Rating of sound insulation in buildings and of building elements Part 1: Airborne sound insulation.~~
 - ~~AS/NZS ISO717.1:2004 Acoustics – Rating of sound insulation in buildings and of building elements – Airborne sound insulation.~~
 - ~~ISO 140-5:1998 Acoustics – Measurement of Sound Insulation in Buildings and of Building Elements Part 5: Field Measurements of Airborne Sound Insulation of Façade Elements and Facades.~~
 - ~~ISO 16283-1:2014 Acoustics – Field measurement of sound insulation in buildings and of building elements – Part 1: Airborne sound insulation.~~
 - b. ~~Compliance with this performance standard shall be achieved when the design and construction of each habitable room:~~
This can be achieved by using ~~accords with~~ the exact construction specification and schedule as set out in 17.6.
~~Note: A new dwelling constructed to the Building Code will comply with this performance standard.~~

or

- ii. an acoustic design certificate is provided to Council by a suitably qualified and experienced acoustic engineer (suitable to Council) which confirms that when built to the recommended design and specification will achieve the minimum acoustic insulation standard of $D_{nT,w} + C_{tr} > 30 \text{ dB}$ $D_{2m,nT,w} + C_r > 30 \text{ dB}$ for the external building envelope of each habitable room.

or

- iii. An acoustic design certificate is provided to Council by an suitably qualified acoustic engineer (suitable to Council) stating the outdoor noise level at the most affected exterior of the building containing the habitable room will be unlikely to exceed:

55dB LAeq(1hr) for rail traffic noise

57 dB LAeq(24hr) for road traffic noise

This can be used where a landscaping or physical noise insulation solution is proposed.

or

- iv. Evidence is provided of a solid and continuous building, fence, wall or landform that blocks the line of sight from all windows and doors of every new or altered habitable room to any part of the road surface of the State Highway Designation.

- c. If the above standard cannot be met with open-able doors and windows then:

i. mechanical air ventilation shall be is required in accordance with provisions of the New Zealand Building Code G4- Ventilation.

ii. At the same time as meeting this requirement, the sound of the system must not exceed 30 dB LAeq(30secs) when measured 1m away from any grille or diffuser.

- The occupant must be able to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour.
- The sound of the system must not exceed 35 dB LAeq(30secs) when measured 1m away from any grille or diffuser

Council Reasons for Decision:

1. The submissions from the New Zealand Transport Agency, the MidCentral Public Health Services and the Architectural Designers New Zealand Inc are noted and appreciated.
2. The Committee determined that adopting the provisions for the 20 metre setback from the state highway network would provide a consistent approach across the District in protecting human health from adverse traffic noise.
3. At the hearing the submitters agreed and the Committee accepted that the definition of 'noise sensitive activities' should be simplified to cover **PPFs** (as

described in the Transport Agency's submission) as opposed to adding a new definition.

4. Amendments to the definition of '**habitable room**' to be similar to the Building Code will facilitate developer compliance are supported. While originally the Committee sought to include the same definition, a minor amendment was required to include 'Community Activities' as part of the definition in order to make the provisions of section 17.5.3 consistent.
5. The Transport Agency and MidCentral Public Health Services agreed that traffic on the state highway network can cause adverse noise effects on neighbouring **noise sensitive activities**. Mr Hunt's report attached showed that this effect does exist and should be managed by the ISO standards. A difference of technical opinions was acknowledged. Mr Hunt preferred the approach proposed by the Plan change over the approach requested by the Transport Agency and MidCentral Public Health Services for the following reasons:
 - i. By using a standard based on building elements, the design noise levels do not have to be estimated by each and every user of the rule.
 - ii. The proposed rule is more workable for Plan users. It takes away the uncertainty and risk for designers and Plan users.
 - iii. State highways 3 and 4 contain low levels of traffic with low growth projections for the coming decade. A standard of noise insulation that is used for highways with high levels of traffic is too onerous in terms of the costs/benefits for development in Whanganui. State Highway 4's predicted traffic is sufficiently low that additional noise insulation should not be necessary.
 - iv. Generally a new house meets a noise insulation standard of $DnTw+Ctr < 28dB$. Bringing a new house up to a standard of $DnTw+Ctr > 30dB$ will be only a minor additional cost to the owner of the site. 30dB is the level set by the WHO Night Noise Guidelines For Europe (2009) and noise at this level or below appears to have no substantial biological effects. Therefore setting the minimum level at 30dB for noise insulation means that we are providing for the health of the community.

Some new houses of solid construction with double glazing can achieve $DnTw+Ctr > 35dB$, which is a higher level of insulation against noise effects.
 - v. This method still requires the Transport Agency to use best practice to mitigate the noise effect of the state highways. The method proposed by the Transport Agency would place the burden of noise mitigation solely on the adjoining land owners.
 - vi. The Transport Agency method has the potential to be subjective through determining which 24 hour period to measure (i.e a

weekend), the assumptions of future growth and the exclusion of non-traffic sounds.

- vii. The ability to monitor and determine effectiveness of the Plan is achievable with the provisions proposed in Plan change 41 as recommended by the reporting officer.
6. The Committee heard from the Transport Agency's expert that the cost of each method was similar. Both these methods have higher noise insulation costs, the larger the project. However, while the Transport Agency's method reduces insulation costs the further from the state highway network, it increases infrastructure costs and reduces available productive land as longer accessways will be required to achieve a cost effective setback. The Plan change 41 method has set costs that can be shopped around for and puts the ultimate decision of location and compliance method in the hands of the owner.
- This additional costs potentially incurred by other methods proposed could be excessive and unnecessary, especially where the Committee noted the mitigation works were for an effect that is not likely to be an issue in Whanganui (8 complaints for the region over the past year), The Committee considered this to be unreasonable. The projected growth in traffic for Whanganui over the lifetime of the District Plan is 2% per annum². The potential increase in traffic does not warrant this level of futureproofing.
- 7. However, whilst the detailed approach of the Transport Agency's submission was not supported, it was accepted in the hearing by the submitters and the Committee that alternative methods of noise insulation could be considered by Council to achieve the noise insulation outcome that all parties agreed on. These have been incorporated into the decision.
 - 8. The Committee decided to use a minimum distance setback rather than mapping to define the noise effects buffer as all the evidence related to the setback. No information was presented on how the buffer overlay would look or how wide it could potentially be.
 - 7. The Committee felt that a trigger of 10% building alteration could penalise those doing alterations to non-habitable spaces (i.e garages) and that the word 'habitable' be added in order to apply the rule to the specific spaces to be protected against adverse health effects.
 - 8. The Committee decided to use the 50 metre buffer for State Highway 3 as it was specifically determined for the Whanganui context. The methods proposed by the Transport Agency were based on national guidelines, but the 50 metre/no buffer for state highways 3/4 took into account local traffic numbers and predictions for the next ten years, which was more credible in terms of mitigating adverse effects. No evidence demonstrated that this was

² Malcolm Hunt Associates Reverse Sensitivity Noise Advice August 2015

likely to become a significant issue that may warrant a stronger approach to protecting public health.

9. The Committee rejected the need for a cooling system because rule 17.5.3(c)(iii) provides for ventilation, which includes how warm or cold a structure is. Therefore it was a repeat and put unnecessary requirements on the developer to control temperature which was deemed beyond the scope of PC41.

Submitter Name: New Zealand Transport Agency

Submission No: [24.2pc41](#)

Summary:

Support definitions for ‘noise sensitive activities’ and ‘reverse sensitivity’.

Decision Sought:

Retain definitions for ‘noise sensitive activities’ and ‘reverse sensitivity’.

Submitter Name: Horticulture NZ

Further Submission No: [1.4pc41](#)

Supportive of submission 24.2 as the definition is clear and will assist the Plan.

Submitter Name: Stephen Palmer, Paul Harrison, Jim Richardson and Paul McKenna
(Architectural Designers New Zealand Inc)

Further Submission No: [4.2pc41](#)

Opposed to submission 24. The RMA requires that noise should be mitigated by the operator of the activity. While it is unreasonable to expect no noise from the state highway network that should not mean that adjoining owners should be faced with the entire responsibility for mitigation. The District Plan rules should strike a balance between network operators and their neighbours to mitigate noise from the network activities.

Council Decision:

That submission 24.2 from the New Zealand Transport Agency and further submission 1.4 from Horticulture NZ be **accepted in part** and that further submission 4.2 from Architectural Designers New Zealand Inc be **rejected**.

The following amendments are made as a result of these submissions.

Chapter 2 - Definitions

Noise Sensitive Activities: means buildings or parts of buildings used for, or able to be used for the following purposes:

- Residential activity; or
- ~~Educational activity; or~~ Community activity; or
- ~~Healthcare activity; or~~
- ~~Marae activity~~ Visitor Accommodation.

Council Reasons for Decision:

1. The support of the New Zealand Transport Agency and Horticulture NZ is noted and appreciated.
2. The further submission from Architectural Designers New Zealand Inc goes beyond the scope of the submission by the New Zealand Transport Agency and was rejected.
3. The definition for ‘reverse sensitivity’ was retained.

4. At the hearing the submitters agreed and the Committee accepted that the definition of 'noise sensitive activities' should be simplified to cover PPFs (as described in the Transport Agency's submission) as opposed to adding a new definition.

Submitter Name: KiwiRail Holdings Limited (KiwiRail)

Submission No: [25.1pc41](#)

Summary:

Support the proposed definition of noise, however recommends that vibration is added to the definition to be consistent with the RMA.

Decision Sought:

Retention of the definition for noise, with the inclusion of vibration.

Submitter Name: NZ Transport Agency

Further Submission No: [2.1pc41](#)

Supportive of submission 25.1 adding vibration to the noise definition as both can be produced by motor vehicles and can result in reserve sensitivity effects.

Submitter Name: Stephen Palmer, Paul Harrison, Jim Richardson and Paul McKenna
(Architectural Designers New Zealand Inc)

Further Submission No: [4.3pc41](#)

Opposed to submission 25.1. The RMA requires that noise should be mitigated by the operator of the activity. While it is unreasonable to expect no noise from the state highway network that should not mean that adjoining owners should be faced with the entire responsibility for mitigation. The District Plan rules should strike a balance between network operators and their neighbours to mitigate noise from the network activities.

Council Decision:

That submission 25.1 from KiwiRail Holdings Limited and the further submission 2.1 from the New Zealand Transport Agency be **accepted** and that further submission 4.3 from Architectural Designers New Zealand Inc be **rejected**.

The following amendments are made as a result of these submissions:

Chapter 2 - Definitions

Noise means unwanted sound or vibration affecting people. For the purposes of this Plan, the following sounds and vibrations are exempt from this definition provided that best practicable options are implemented to minimise noise...

Council Reasons for Decision:

1. The support of KiwiRail Holdings Limited and the New Zealand Transport Agency is noted and appreciated.
2. The further submission from Architectural Designers New Zealand Inc goes beyond the scope of the submission by the New Zealand Transport Agency and is rejected.
3. The inclusion of vibration into the definition of noise is reasonable and will provide clarity to Plan users.

Submitter Name: KiwiRail Holdings Limited (KiwiRail)

Submission No: [25.2pc41](#)

Summary:

Supportive of moving the provisions for reverse sensitivity adjacent to the rail corridor from the Residential Zone to the Noise Chapter, however there is concern that the mitigation might be overlooked.

Decision Sought:

Retain as notified.

Submitter Name: Stephen Palmer, Paul Harrison, Jim Richardson and Paul McKenna
(Architectural Designers New Zealand Inc)

Further Submission No: [4.4pc41](#)

Opposed to submission 25.2. The RMA requires that noise should be mitigated by the operator of the activity. While it is unreasonable to expect no noise from the railway network that should not mean that adjoining owners should be faced with the entire responsibility for mitigation. The District Plan rules should strike a balance between network operators and their neighbours to mitigate noise from the network activities.

Council Decision:

That submission 25.2 from KiwiRail Holdings Limited be **accepted** and further submission 4.4 from Architectural Designers New Zealand Inc are **rejected**.

The following sentence is added to each zone's performance standards for noise:

Note that Chapter 17 contains requirements for noise sensitive activities.

Council Reasons for Decision:

1. The support of KiwiRail Holdings Limited and the opposition of Architectural Designers New Zealand Inc is noted and appreciated.
2. The further submission from Architectural Designers New Zealand Inc goes beyond the scope of the submission by KiwiRail Holdings Limited and is rejected.
3. The Committee agreed that there was the potential that the noise sensitive activity provisions could be overlooked. Therefore it resolved to add an additional sentence to the zone chapters advising Plan users of these requirements.

Submitter Name: KiwiRail Holdings Limited (KiwiRail)

Submission No: [25.3pc41](#)

Summary:

Supportive of Policy 17.3.1 (new activities adjoining transport networks) and Policy 17.3.3(b) (insulation of noise sensitive activities).

Decision Sought:

Retain as notified Policies 17.3.1 and 17.3.3(b).

Submitter Name: NZ Transport Agency

Further Submission No: [2.2pc41](#)

Opposed to submission 25.3 in relation to the insulation controls. The Transport Agency is seeking the same outcome as KiwiRail but consider it is best achieved by specifying internal noise levels as it ensures an adequate design.

Submitter Name: Stephen Palmer, Paul Harrison, Jim Richardson and Paul McKenna
(Architectural Designers New Zealand Inc)

Further Submission No: [4.5pc41](#)

Opposed to submission 25.3. The RMA requires that noise should be mitigated by the operator of the activity. While it is unreasonable to expect no noise from the railway network that should not mean that adjoining owners should be faced with the entire responsibility for mitigation. The District Plan rules should strike a balance between network operators and their neighbours to mitigate noise from the network activities.

Council Decision:

That submission 25.3 from KiwiRail Holdings be **accepted** and further submissions 2.2 and 4.5 from the New Zealand Transport Agency and Architectural Designers New Zealand Inc are **rejected**.

No amendments are made as a result of this submission.

Council Reasons for Decision:

1. The support of KiwiRail Holdings Limited and the opposition of the New Zealand Transport Agency and Architectural Designers New Zealand Inc is noted and appreciated.
2. The submission relates to policies 17.3.1 and 17.3.3(b). The policies are needed to provide guidance on how to assess activities against the proposed rules. Therefore alteration or removal of these policies is not best practice.
3. The further submission from the Transport Agency and Architectural Designers New Zealand Inc goes beyond the scope of the submission by KiwiRail and were rejected.

Submitter Name: KiwiRail Holdings Limited (KiwiRail)

Submission No: [25.4pc41](#)

Summary:

Supportive of Rule 17.5.3 (insulation of new noise sensitive activities) as it is consistent with what was adopted through the Phase 2 appeal. Recommended that altered buildings are also included, as changing uses could result in reverse sensitivity effects. KiwiRail also supports ventilation clause (c).

Decision Sought:

Retain as notified Rule 17.5.3, except with the inclusion for altered buildings.

Submitter Name: NZ Transport Agency

Further Submission No: [2.3pc41](#)

Supports in part submission 25.4 in relation to requiring alterations to buildings to comply with the reverse sensitivity provisions for noise. The Transport Agency is seeking the same outcome as KiwiRail but consider it is best achieved by specifying internal noise levels as it ensures an adequate design as opposed to what was notified.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.5pc41](#)

Supportive of submission 25.4 in relation to the insulation controls. May need to be incorporated into the Transport Agency's submission if adopted.

Submitter Name: Stephen Palmer, Paul Harrison, Jim Richardson and Paul McKenna
(Architectural Designers New Zealand Inc)

Submission No: [26.1pc41](#)

Summary:

Oppose Rule 17.5.3 (insulation of new noise sensitive activities). Agree that residential activities must expect noise and insulate against it in commercial, industrial and rural zones and railway lines, however forcing people to meet the cost of insulating against sound is questionable.

Support the inclusion of the noise insulation table in Rule 17.6, but are concerned about the requirement for reports by 'suitably qualified acoustic engineers'.

Decision Sought:

Removal of proposed rule 17.5.3 as people who choose to live next to the stated environments will have accepted the noise of the adjoining activities.

Submitter Name: NZ Transport Agency

Further Submission No: [2.4pc41](#)

Opposed in part to submission 26.1 as there is a risk that new noise sensitive activities such as dwellings that choose to locate near established state highways may object to the effects of the state highway.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.6pc41](#)

Supportive in part of submission 26.1 as the principle is supported, but the comments aren't. Addressing reserve sensitivity via rules is a sustainable measure to avoid and mitigate noise effects on regionally important infrastructure.

Council Decision:

That submissions 25.4 and 26.1 from KiwiRail Holdings Limited and Architectural Designers New Zealand Inc be **accepted in part** and further submissions 2.3, 2.4, 5.5 and 5.6 from the New Zealand Transport Agency and Mid Central Public Health Services be **rejected**.

The following amendments are made as a result of this submission.

Chapter 17 - Noise

17.5.2 Noise Sensitive Activities (including dwellings).

b. New, altered (more than 10% of the existing habitable gross floor area) or relocated buildings for a noise sensitive activity on any site within any ~~rural~~, commercial or ~~industrial~~ manufacturing zone (excluding the Airport Enterprise Zone) or within 30 metres of a railway designation (District Plan reference: D204) or within 50 metres of any portion of the State Highway 3 designation (District Plan reference: D207) where a posted speed limit exceeding 70km/hr applies

must ~~shall~~ comply with at least one of the following:.....

Council Reasons for Decision:

1. The support of KiwiRail Holdings Limited, the New Zealand Transport Agency and MidCentral Public Health Services and the opposition of Architectural Designers New Zealand Inc is noted and appreciated.
2. After considering all the submissions and the evidence of Mr Hunt and Mr Goodwin (the noise experts), the Committee concluded the following:
 - Including altered buildings (to cover change of use) is practical and should be adopted. It is more likely that an altered building would not meet the minimum noise level as a typical new dwelling will achieve DnTw+Ctr <28dB and a house of solid construction and double glazing can achieve DnTw+Ctr >35dB³. Altered buildings are generally older and not as well insulated.
 - Given that new dwellings and alterations built to the building code can typically achieve an insulation rating of DnTw+Ctr <28dB, it is unreasonable to require noise sensitive activities in the rural zone (apart from activities near state highways and the rail network) to achieve a level

³ Malcolm Hunt Associates. Email 30 September 2015

of $DnTw+Ctr < 30dB$ as the rural zones also require a minimum distance from all boundaries for new structures, which is partly designed to mitigate reverse sensitivity noise effects. Therefore additional requirements for all rural noise sensitive activities is questionable and should be deleted.

- The traffic on the state highway and railway networks as well as certain activities in areas can cause adverse noise effects on neighbouring noise sensitive activities. Mr Hunt's report confirms that this effect does exist and should be managed by the ISO standards. A difference of opinion arose during the hearing with the approach. The Committee decided to adopt a flexible approach which allows the Plan user to choose the method that is best for the development.
- Mr Hunt has confirmed that the NZ Acoustical Society has devised a system based on expertise and qualifications. The term 'Member ASNZ' is intended to be used to identify those persons holding suitable experience and qualifications. They do not publish a Member's Register, but interested parties can submit an enquiry to determine whether a person is an ASNZ Member, thereby confirming that the person meets the minimum qualifications and experience requirements. The term 'suitably qualified acoustic engineer' is commonly used in New Zealand legalisation relating to environmental noise and building acoustics. Therefore a suitably qualified acoustic engineer according to Council will meet this standard.

Submitter Name: Stephen Palmer, Paul Harrison, Jim Richardson and Paul McKenna
(Architectural Designers New Zealand Inc)

Submission No: [26.2pc41](#)

Summary:

Oppose the phased review of the District Plan. The constant changes of the rules is a risk to our clients, and the constant consultation puts people off.

Decision Sought:

Consider reviewing the rest of the Plan together, instead of in phases.

Submitter Name: Paul McKenna

Submission No: [27.1pc41](#)

Summary:

Oppose the phased review of the District Plan. The current process consists of constant consultation of multiple plan changes without adequate time to respond. Many members of the public do not understand how the changes will affect them until they find they can no longer do it.

Decision Sought:

Consider reviewing the rest of the Plan together, instead of in phases.

Council Decision:

That submissions 26.2 and 27.1 from Architectural Designers New Zealand Inc and Paul McKenna be **rejected**.

No amendments are made as a result of this submission.

Council Reasons for Decision:

1. The opposition of Architectural Designers New Zealand Inc and Paul McKenna is noted and appreciated.
2. The decision to review the District Plan as a rolling review as opposed to a full review was a Council decision made on 23 November 2009.
3. The ability to alter the way the Plan is reviewed can only be determined at a full Council meeting.
4. The decision to adopt a rolling review was partly made to allow the public the opportunity to better understand and focus on the areas being reviewed as opposed to having to engage about the entire Plan in one submission period.

Submitter Name: Paul McKenna

Submission No: [27.2pc41](#)

Summary:

Oppose Rule 17.5.3 (insulation of new noise sensitive activities) for the following reasons:

1. It is illegal. The Building Act stipulates that no one is required to build in a way more onerous than the Building Code (section 18).
2. It is illogical to require this additional cost on everyone on the basis that there may only possibly be a need in the future.
3. In order for noise design to be effective, a source of noise needs to be identified. Engineers design insulation to protect against an activity, not a zone.
4. The responsibility of protecting against a noise hazard rests with the one producing the hazard, not the adjoining activities.
5. The additional cost may break the camel's back on many projects with the net result of stifling growth in our already slow economy.

Decision Sought:

Removal of proposed rule 17.5.3.

Submitter Name: NZ Transport Agency

Further Submission No: [2.5pc41](#)

Opposed in part to submission 27.2 as there is a risk that new noise sensitive activities such as dwellings that choose to locate near established state highways may object to the effects of the state highway.

Council Decision:

That submission 27.2 from Paul McKenna and further submission 2.5 from the New Zealand Transport Agency be **accepted in part**.

The following amendments are made as a result of these submissions:

Chapter 13 – Subdivision and Infrastructure

13.5.6 Site suitability.

b. In addition, the identified building platform shall be required to meet the following requirements:

- ix. Must comply with 17.5.3(a) (Noise Sensitive Activities) and if 17.5.3 (b) applies this will be lodged on a section 221 certificate.

Council Reasons for Decision:

1. The opposition of Paul McKenna and the further submission from the New Zealand Transport Agency is noted and appreciated.

2. The Committee rejected Mr McKenna's statement that the proposed noise sensitive activity provisions are illegal. This is simply inaccurate. All development must comply with both the Building Act (2004) and the Resource Management Act (1991).
3. Council currently receives over 2000 noise complaints per year. While the majority of these relate to residential activities, there are instances where the concern relates to activities that can affect the health of neighbouring noise sensitive activities. It is not solely about protecting against a possible future need for noise insulation, it is also to deal with issues occurring now.
4. Zones and designations define which activities can occur in an area, therefore using them as the threshold for noise insulation is a reasonable way to prevent reverse sensitivity effects from noise. Engineers are able to design to achieve the permitted baseline.
5. Section 16 of the Resource Management Act does require the producer of the noise to adopt best practice. However, sometimes nearby noise sensitive activities can be affected even when best practice is adopted. Therefore additional insulation requirements against noise will protect these activities against noise, while still requiring the producer of the noise to adopt best practice.
6. The cost of additional noise insulation has been taken into account during the determination of the method of noise insulation. Overall it came down to a balance between costs and effects. Plan Change 41 provisions provide a good balance between costs and effects and puts the final choice of method for noise insulation in the developer's hands.

Submitter Name: New Zealand Defence Force

Submission No: [28.1pc41](#)

Summary:

Opposed to the following parts of the proposed Plan change:

1. The definition of noise is broad and does not provide any practical use in terms of the application of the Plan provisions.
2. The vibration performance standards are not appropriate for a permitted activity as it is subjective and not easily quantifiable. NZDF considers such a standard unworkable.

Decision Sought:

1. Remove the proposed definition of noise and exclude the listed activities from the relevant rules.
2. Amend the proposed performance standard for vibration to refer to the appropriate standard.

Submitter Name: NZ Transport Agency

Further Submission No: [2.6pc41](#)

Opposed to submission 28.1 in relation to the definition of 'noise'. When incompatible land uses are located near each other, conflict between the activities often results, typically through complaints from the more sensitive activity.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.4pc41](#)

Opposed to submission 28.1 as submission has implications throughout the Plan but provides no wording to substitute for the global editorial approach in drafting the Plan which promotes consistency and readability.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.7pc41](#)

Supportive in part of submission 28.1 as it relates to vibration. The criteria is subjective and not easily quantifiable. The word 'offensive' is particularly problematic given the High Courts findings in *Zdrahal v Wellington City Council* [1995] 1 NZLR 700 (HC). Note former standard is out of date and s32 analysis does not contemplate an updated reference to a more appropriate standard.

Council Decision:

That submission 28.1 from the New Zealand Defence Force is **accepted in part** and the further submissions 2.6, 5.4 and 5.7 from the New Zealand Transport Agency and MidCentral Public Health be **accepted in part**.

The following amendments are made as a result of these submissions:

Chapter 17 - Noise

Noise means unwanted sound or vibration affecting people. For the purposes of this Plan, the following sounds and vibrations are exempt from this definition provided that best practicable options are implemented to minimise noise ...

The following performance standard is removed from the rules section of each Zone chapter:

Vibration:

~~No activity shall cause a vibration considered offensive or objectionable.~~

Council Reasons for Decision:

1. The opposition of the New Zealand Defence Force and further submissions opposed to submission 28.1 from the Transport Agency and Mid Central Public Health Services are noted and appreciated.
2. The **definition of noise** in the District Plan is valid and useful. It also identifies the types of sounds that were previously listed in Appendix D of the Plan and not subject to the District Plan rules for noise as they are not covered by the relevant New Zealand Standards.
3. Mr Hunt confirms that there are no relevant New Zealand Standards to assess **vibration effects**, therefore the issue is proposed to be dealt with under the nuisance provisions of the Health Act 1956, or as an adverse effect that there is a duty to manage under section 17 of the RMA. Therefore all reference to vibration in the Performance Standards of the zones have been removed, however reference in the objectives and policies shall remain in order to consider any vibration effects during the consent process. The inclusion of vibration into the definition of noise is reasonable and will provide clarity to Plan users.

Submitter Name: Wanganui Federated Farmers of New Zealand

Submission No: [29.1pc41](#)

Summary:

Support/oppose the following parts of the proposed Plan change:

1. The definition of 'Noise' needs to have the word 'intermittent' removed to the exemption for rural machinery. Some activities such as regular dairy milking cannot be considered intermittent. However, the exemption is appreciated and supported.
2. The introduction to the Noise Chapter (17) is amended to clarify that aircraft noise generated after the craft has left the ground is not controlled under the RMA.
3. That provision has been made for the intermittent operation of farm airstrips and helicopter landing areas so that they are not unduly restricted. This could be achieved by adding an additional sentence to Issue 17.1.2, Policy 17.3.4 and Rule 17.4.1 or be excluded under the definition for 'noise'.

Decision Sought:

1. The definition of 'Noise' needs to have the word 'intermittent' removed to the exemption for rural machinery. The rest of the definition is retained.
2. Amend the Introduction to Chapter 17 to exclude aircraft noise generated after the craft has left the ground.
3. That the District Plan excludes from the definition of noise or permits the noise generated from the intermittent operation of farm airstrips and helicopter landing areas.

Submitter Name: Horticulture NZ

Further Submission No: [1.5pc41](#)

Supportive of submission 29.1 for the following reasons:

1. Clarity as to what 'intermittent' means is needed if it remains in the definition of 'noise'.
2. The RMA does not control aircraft noise after take-off and before landing.
3. Intermittent use of aircraft and helicopters is necessary for rural production activities and should be provided for as part of the permitted farming activity.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.9pc41](#)

Opposed to submission 29.1 as it relates to the introduction of Chapter 17. The proposed addition is misleading and ultra vires the Act.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.10pc41](#)

Supportive in part to submission 29.1 as it relates Noise rules. MidCentral accepts the use of farm airstrips, but is opposed to helicopter landing areas as permitted activities as ‘ancillary activities’ is undefined and experience nationwide shows helicopter landing areas should be discretionary or controlled activities subject to compliance with NZS6807:1994. Opposed to the addition of airstrips and helicopter landing areas to the exemptions of the ‘noise’ definition as it would undermine the objectives for the rural area. No wording of the exemption clause has been supplied and that part of the submission lacks the specificity required to be a valid submission under the Leith test.

Council Decision:

That submission 29.1 from Wanganui Federated Farmers of New Zealand and further submissions 1.5, 5.9 and 5.10 from Horticulture NZ and MidCentral Public Health Services be **accepted in part**.

The following amendments are made as a result of the submissions:

Chapter 2 - Definitions

Noise means unwanted sound or vibration affecting people. For the purposes of this Plan, the following sounds and vibrations are exempt from this definition provided that best practicable options are implemented to minimise noise:

- a. Livestock noise and intermittent noise from mobile rural machinery in the rural zones.

Chapter 17 - Noise

Introduction ...

Airports, and their associated flight operations, generate noise. This noise is distributed over a wide geographical area, and can vary from barely perceptible to significant nuisance depending on the sensitivity to air noise of the activity where the noise occurs. These provisions manage the relationship between air noise and land use activities that may be sensitive to that air noise. The following provisions should be read in conjunction with the Airport Enterprise Zone. Note that aircraft noise generated in flight is not controlled under the Resource Management Act.

Council Reasons for Decision:

1. The submissions from Wanganui Federated Farmers of New Zealand, Horticulture NZ and MidCentral Public Health Services are noted and appreciated.
2. The Committee concluded that the word ‘**intermittent**’ is unclear and it be replaced with ‘mobile’. The intention is that transport machinery would not be included as it is transient and not regular, but short term regular activities that occur in the same location such as milking need to comply with the noise rules.
3. The Committee were advised that section 9(8) of the RMA prevents any Council from prescribing controls for aircraft in the air, however Council does have the right and the responsibility under the RMA to prescribe controls for aircraft using landing areas, **landing strips** or the airport. The provision for agricultural airstrips

as a permitted activity was determined during Plan change 36, and is not under review as part of this Plan change.

4. The **introduction** to the chapters of the Plan have no legal weight and are a good location to advise Plan users of additional requirements. Informing Plan users about activities to which the RMA does not apply to is a reasonable use of this section and is not ultra vires to the Act.
5. The Committee rejected the submission to exclude all farming activities from the **definition of noise** (and therefore the performance standards) as every generator of noise or every person or entity that generates noise has a responsibility to manage adverse noise effects.

Submitter Name: Wanganui Federated Farmers of New Zealand

Submission No: [29.2pc41](#)

Summary:

Support/oppose the following parts of the proposed Plan change:

1. Opposed to the inclusion of a Bird Management Plan. It is not practical for the District Council to enforce the practical applications for farmer pest management – this sits with the Regional Council. The noise provisions proposed will mitigate and manage undue noise effects to surrounding communities.
2. Amend the provisions for Noise Sensitive Activities to allow for engineered noise barriers/landscaping to be considered also in order to achieve a safe noise environment.
3. Amend the Daytime noise levels to start at 6am, which reflects standard rural operating practice.

Decision Sought:

1. Remove all reference to 'Bird Management Plan' from the District Plan.
2. Amend the provisions for Noise Sensitive Activities to allow for engineered noise barriers/landscaping to be considered also in order to achieve a safe noise environment.
3. Amend the Daytime noise levels to start at 6am.

Submitter Name: Horticulture NZ

Further Submission No: [1.6pc41](#)

Supportive of submission 29.2 for the following reasons:

1. Rural activities commence earlier than 7am.
2. A bird management plan should not be required.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.8pc41](#)

Supportive in part of submission 29.2 as it relates to the Bird Management Plan. Submitter's point in relation to the words 'prepared and accepted by Council' create uncertainty who is to prepare the Plan and 'accepted by Council's an arbitrary process not authorised in the RMA and undefined in the proposed Plan. The process would better lie in codes of practice developed alongside the Plan as has been the case in some other districts.

Submitter Name: MidCentral Public Health Services

Further Submission No: [5.11pc41](#)

Supportive in part to submission 29.2 as it relates to noise prevention barriers. However if the Transport Agency's submission is adopted, this submission will be unnecessary as barriers are a routine possible whole or part noise mitigation measure contemplated in their proposed provisions.

Council Decision:

That submission 29.2 from Wanganui Federated Farmers of New Zealand and further submissions 1.6, 5.8 and 5.11 be **accepted**.

The following amendments are made as a result of this submission:

Chapter 2 –Definitions

Bird Management Plan: means a document that outlines how farmer managers bird populations while also managing adverse effects (including noise) on the surrounding environment. It includes the following:

- A map showing the issues;
- Description of the area and the bird problems;
- Damage caused by birds;
- Management strategies and resources;
- Monitoring records; and
- Communications with neighbours.

Chapter 17 -Noise**17.5.2 Noise Sensitive Activities (including dwellings).**

...

b. Compliance with this performance standard shall be achieved when the design and construction of each habitable room:

- i. This can be achieved by using ~~accords with~~ the exact construction specification and schedule as set out in 17.6.

or

- ii. an acoustic design certificate is provided to Council by a suitably qualified and experienced acoustic engineer (suitable to Council) which confirms that when built to the recommended design and specification will achieve the minimum acoustic insulation standard of ~~$D_{nT,w} + C_{tr} > 30 \text{ dB}$~~ $D_{2m,nT,w} + C_r > 30 \text{ dB}$ for the external building envelope of each habitable room.

or

- iii. An acoustic design certificate is provided to Council by an suitably qualified acoustic engineer (suitable to Council) stating the outdoor noise level at the most affected exterior of the building containing the habitable room will be unlikely to exceed:

55dB LAeq(1hr) for rail traffic noise

57 dB LAeq(24hr) for road traffic noise

This can be used where a landscaping or physical noise insulation solution is proposed.

or

- iv. Evidence is provided of a solid and continuous building, fence, wall or landform that blocks the line of sight from all windows and doors of every new or altered habitable room to any part of the road surface of the State Highway Designation.

17.5.6 RURAL ENVIRONMENT.

All activities within the Rural Production, Rural Lifestyle or Rural General zones shall comply with the following:

- a. Noise emissions shall not exceed the following limits ~~when measured from~~ at any point within the notional boundary, unless provided for elsewhere in this section.

<u>AVERAGE MAXIMUM NOISE LEVEL</u>			LAFmax
<u>NOISE LIMIT</u>			dBA
dB LAeq(15min)			
Daytime <u>76.00am-</u> <u>7.00pm</u>	Evening 7.00pm-10.00pm	Night time 10.00pm-7.00am	Night time 10.00pm – <u>76.00am</u>
50	45	40	75

...

- c. The operation of **avian distress alarms** for the purpose of bird scaring shall be permitted provided that:
- i. The device shall not be used within 300 metres of a notional boundary of any dwelling ~~unless a Bird Management Plan is prepared and accepted by Council.~~

Council Reasons for Decision:

1. The support of the Wanganui Federated Farmers of New Zealand, Horticulture NZ and MidCentral Public Health Services is noted and appreciated.
2. The Committee determined that a compulsory bird management plan is one aspect of best practice, but is not necessary as a performance standard for a permitted activity. To require an bird management plan would not reduce environmental effects more than already covered by the noise provisions and may result in Council staff prescribing how farming operations are carried out, which is against the purpose of the RMA.
3. It is reasonable to amend daytime noise levels in the Rural Zones only to start at 6am as it reflects standard rural operating procedure.
4. The Committee chose to adopt several methods of achieving noise insulation for noise sensitive activities, including barriers, which puts the ultimate decision of location and compliance method in the hands of the owner.