

0.0 PLANNING REPORT FOR PLAN CHANGE 88 - NOISE STANDARDS WITHIN INDUSTRIAL ZONES

File Number: A3735954

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RECOMMENDATION

1. That the report titled "Planning Report for Plan Change 88 - Noise Standards within Industrial Areas" dated 4 May 2020 be received.
 2. That pursuant to Clause 10(1) of Schedule 1 of the Resource Management Act 1991, the District Plan Committee makes the following decisions on Plan Change 88 ...*decisions to be inserted here.*
 3. That staff be authorised to make minor editorial changes to the decision of the District Plan Committee in consultation with the Committee Chairperson.
 4. That pursuant to Clause 10(4)(b) of Schedule 1 of the Resource Management Act 1991, the decision on Plan Change 88 be publicly notified.
 5. That pursuant to Clause 11 of Schedule 1 of the Resource Management Act 1991, the decision on Plan Change 88 be served on every person who made a submission on the Plan Change and be made available at all Council offices and all public libraries in the District.
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INTRODUCTION

The purpose of this report is to provide recommendations on submissions to Plan Change 88 – Noise Standards within Industrial Zones.

Plan Change 88 proposes to limit the amount of noise that can be produced and received within the Industrial Zone (i.e. from one industrial property to another).

For a full background to the Plan Change and explanation of the proposed provisions please refer to the Section 32 Report ('s32 Report') (Attachment 1).

Any recommended changes to the District Plan First Review are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in **red**, and recommendations as a result of this Planning Report in **blue**.

BACKGROUND

Plan Change 88 identified that noise rules for the Industrial Zone relate to the level of noise experienced in other adjoining land use zones that are potentially more sensitive to the effects of noise (e.g. Residential Zone and Rural Zone). It was also identified that there are no rules to limit the effects of noise within the Industrial Zone itself (i.e. from one industrial property to another). The issue identified through the plan change is that noise emitted in the Industrial Zones has caused some concern within the District. There is potential for adverse effects on people and their health and safety if noise is not managed adequately.

As such, Plan Change 88 proposed rules to limit the amount of noise that can be produced and received within the Industrial Zone (i.e. from one industrial property to another). Changes were also proposed to the 'Significant Issues' in Section 4C.1.1 regarding noise, and consequential changes were proposed to the policies in Section 4C.1.2.2.

The proposed changes were notified as follows:

(a) Amend the Significant Issues in Section 4C.1.1 to read as follows:

4C.1.1 Significant Issues

- ...
3. The potential for ~~Permitted Activities~~ within one zone to generate noise which detracts from the existing amenity of nearby zones.
- ...
5. The potential for noise emissions within the Industrial Zone to adversely affect the health and safety of people within and adjacent to that zone.

(b) Amend Policy 3 in Section 4C.1.2.2 to read:

3. Have regard to any relevant New Zealand legislation, standards, guidelines, ~~or~~ and codes of practice, in the assessment of applications for resource consents.

(c) Amend Rule 4C.1.3.2(b) – Noise limits for activities in Industrial and Commercial Zones to include new clause (i) as follows:

- (i) All activities located within Industrial Zones shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits within the stated timeframes at any point within the boundary of any other property within an Industrial Zone:

<u>Time Period</u>	<u>Sound Level Not to be Exceeded</u>	
	<u>Leq</u>	<u>Lmax</u>
<u>Daytime 7am-10pm</u>	<u>60dBA</u>	<u>N/A</u>
<u>Night time 10pm-7am</u>	<u>45dBA</u>	<u>70dBA</u>

SUBMISSIONS AND FURTHER SUBMISSIONS

Four parties (Fulton Hogan Limited, Quayside Properties Limited, Fire and Emergency New Zealand, and Daniel Kinnoch) made submissions on Plan Change 88. No further submissions were made.

A total of eight submission points were made, including:

- One (1) submission point in support (submission point 12.9 – Fulton Hogan Limited);
- Six (6) submission points in support, subject to amendments (submission points 1.25 to 1.28 – Daniel Kinnoch, 5.1 - Fire and Emergency New Zealand, and 14.1 - Quayside Properties Limited); and
- One submission point is in opposition (submission point 12.10 - Fulton Hogan Limited).

The main submission points are summarised as follows:

- a. Support for the proposed Significant Issue (4C.1.1(5)) as it clearly sets the issues to be managed by the District Plan provisions.
- b. A minor typographical error pertaining to numbering in Rule 4C.1.3.2(b) (Industrial and Commercial Zone noise limits) has been queried (i.e. whether the new clause should be numbered (i) or (ii)).
- c. The use of ‘Leq’ rather than ‘LAeq’ as a noise measurement standard has been queried.
- d. The need for a reduced noise limit in the evening has been queried and a noise limit of 60dBA Leq applying at all times has been requested.

- e. A reference number has been requested for the proposed intra-zone noise limits table within Rule 4C.1.3.2(b).
- f. A request has been made to exempt emergency services sirens from proposed Rule 4C.1.3.2(b)(ii) (i.e. intra-zone noise limits for Industrial Zone).
- g. It has been suggested that the proposed noise limits are overly conservative for some activities in the Industrial Zone.
- h. It has been suggested that the night time noise limit is unnecessary as the District Plan contains noise limits at the notional boundary of sensitive receivers.
- i. A request has been made to amend the proposed noise limits to achieve consistency with the Tauranga City Council noise limits for the Port Zone and Tauriko Industrial Park.

In summary, most submitters are generally supportive of the proposed plan change. Where the proposed plan change is supported subject to amendments, the requested amendments relate to the proposed noise limits. This includes changes to the proposed limits and removal of the proposed night time limit and exemption for emergency service sirens. One submitter has also asked for minor editorial changes.

DISCUSSIONS ON SUBMISSIONS

This section provides a discussion on the key issues arising from the submissions.

Proposed intra-zone noise limits for Industrial Zone (i.e. from one industrial site to another)

Some submitters have suggested alternative noise limits to what has been proposed. The following are the noise limits (as notified):

<u>Time Period</u>	<u>Sound Level Not to be Exceeded</u>	
	<u>Leq</u>	<u>Lmax</u>
<u>Daytime 7am-10pm</u>	<u>60dBA</u>	<u>N/A</u>
<u>Night time 10pm-7am</u>	<u>45dBA</u>	<u>70dBA</u>

The suggested alternatives for intra-zone noise limits are higher (i.e. more permissive) than proposed and these are as follows:

- 60dBA Leq at all times (rather than only during the day as proposed);
- 65dBA Leq at all times;
- 65dBA Leq during the day and 55dBA Leq at night; and
- 85dBA Lmax during at night.

The key points provided in support of the alternative intra-zone noise limits include that the proposed noise limit within the Industrial Zone will unreasonably constrain industrial activities that are of a heavy nature and that an alternative higher noise limit will provide consistency over the District (or sub-region) for industrial activities.

Stricter intra-zone noise limits (60dBA Leq during the day and 45dBA Leq at night) were originally proposed in the plan change. These more restrictive intra-zone noise limits were proposed because there was concern that higher noise limits may cause industrial operators to (perhaps unintentionally) exceed the inter-zone noise limits (e.g. at properties in the Rural or Residential Zone).

Having considered the matters raised in submissions, and given there are separate inter-zone noise limits (which would need to be complied with regardless), it is considered that a higher (i.e. more permissive) noise level for the Industrial Zone is justified. Industrial operators will be required to meet both the existing inter-zone noise limits and the new intra-zone limits.

It is accepted that a relatively low (or more restrictive) noise limit (such as that proposed in the plan change) may unreasonably constrain industrial activities. It is also acknowledged that such constraints may discourage industrial activities from locating within the District and in the Industrial

Zone. An overly restrictive noise limit may therefore have unintended consequences by making it too difficult for industrial operators to comply. They may instead prefer to locate outside of the District or (for example) within the Rural Zone (as a home enterprise) where compliance may be easier to achieve.

Fulton Hogan and Quayside Properties have requested a daytime noise limit of 65dBA Leq. This noise limit is considered reasonable having regard to existing inter-zone noise limits that will provide protection for more sensitive activities in other zones. In addition, the 65dBA Leq is considered reasonable given there is only one type of Industrial Zone (for all types of industrial activities) within the District and a higher limit (such as 75dBA) may result in conflict within the zone. In addition, 65dBA Leq is a common noise limit used in other Districts with only one Industrial Zone.

Need for a reduced noise limit in the evening

Submitters have queried why a separate noise limit is proposed in the evening as opposed to one limit applying at all times. One submitter suggests that a night time noise limit could discourage industrial activities from locating within the District where the activity operates with more than one shift (i.e. shifts that operate throughout night time hours).

It is also suggested that the level of noise tolerated between industrial sites in the evening versus during the day is no different (as opposed to between industrial properties and more sensitive receivers located outside of the zone). One submitter also notes that the Section 32 analysis does not explain or assess why a lower (i.e. more restrictive) night noise level is the best method to address the identified environmental effect.

A second submitter suggests that the night time noise limit is unnecessary as the District Plan contains noise limits at the notional boundary of sensitive receivers.

Having considered the matters raised in submissions, it is considered that there may be no need for a lower (i.e. more restrictive) noise limit within the Industrial Zone at night time because sensitive activities in adjacent zones are adequately protected by existing inter-zone noise limits.

In addition, the existing rules adequately protect noise sensitive activities within the Industrial Zone (e.g. commercial offices, places of assembly, medical, veterinary or scientific facilities and dwellings and accommodation facilities). This is done by requiring buildings to be designed so that the internal noise levels do not exceed the following:

Time Period	Sound Level Not to be Exceeded	
	Daytime	Night time
	Leq	Lmax
Offices not accessory to any industry, storage or warehousing	45dBA	N/A
Residential units (habitable spaces)	45dBA	30dBA

The policy and rule framework within Chapter 22 – Industrial seek to limit the establishment of non-industrial activities in industrial areas to those which have a functional or operational need for such a location. This is achieved, in part, through the activity status rules which require resource consent for activities sensitive to effects (including noise) associated with industrial activities. As such, it is considered that intra-zone noise limits for the Industrial Zone do not need to protect sensitive activities that would not ordinarily be expected within the zone. Those activities that may be anticipated (e.g. an ancillary office or caretakers dwelling) will also be adequately protected through existing rules and resource consent processes.

Exemption for emergency services sirens

Fire and Emergency New Zealand has requested an exemption from the proposed Rule 4C.1.3.2(b)(ii) (i.e. intra-zone noise limits for Industrial Zone) to provide for the operational requirements of fire and emergency services and to enable them to meet their statutory obligations. Specifically, the submitter requests an exemption for emergency services sirens from the proposed rule.

Providing an exemption for emergency services sirens is considered to be appropriate and necessary to ensure such services can carry out their required functions. This approach is also consistent with exemptions for warning sirens for emergency services provided in Rule 4C.1.3.3 with respect to residential activities (in all zones) and activities within the Rural Zones.

Minor matters and editorial changes

This section addresses various submissions by Mr Kinnoch that identify minor editorial issues with the proposed plan change as notified.

In his submission, Mr Kinnoch queries a potential minor typographical error pertaining to numbering in Rule 4C.1.3.2(b) (i.e. whether the new clause, being the intra-zone noise limits for the Industrial Zone, should be numbered (i) or (ii)). At present, Rule 4C.1.3.2(b) includes one unnumbered clause and table explaining inter-zone noise limits for the Industrial and Commercial Zones. The Plan Change proposes a new clause and table explaining intra-zone limits for the Industrial Zone only. If the Plan Change is approved, the existing clause and table would be numbered (i) and the new clause and table would be numbered (ii). This is reflected in the recommendations below.

Mr Kinnoch also queries the use of 'Leq' (existing and proposed) rather than shifting to 'LAeq' as a noise measurement standard. Mr Kinnoch concedes, however, that his suggested amendment may constitute a change in practice that should be considered holistically across all noise standards in the district plan rather than introducing it for one specific standard through this Plan Change. It is acknowledged that there are different ways of expressing noise measurement standards, however, the two are essentially the same (i.e. Leq dBA means the same as LAeq dB). However, because the District Plan defines 'Leq' and noise limits are expressed in this manner throughout the entire Plan, it is not considered appropriate to change the measurement standard at this time.

OPTIONS & ANALYSIS

Option 1 – Retain noise limits as notified (Option 2 in the s32 Report)

This option includes a rule in the District Plan to limit the amount of noise that can be produced and received within the Industrial Zone (i.e. from one industrial property to another) as follows:

Time Period	Sound Level Not to be Exceeded	
	<i>Leq</i>	<i>Lmax</i>
Daytime 7am-10pm	60dBA	N/A
Night time 10pm-7am	45dBA	70dBA

This option includes changes to the 'Significant Issues' in Section 4C.1.1 regarding noise and consequential changes to the policies in Section 4C.1.2.2 (as notified).

Costs	<ul style="list-style-type: none"> The proposed noise limits may unreasonably constrain industrial activities. The proposed noise limits (as notified) are not necessary to protect more sensitive activities within the Industrial Zone or
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	<p>adjacent zones because such activities are already adequately protected through existing rules.</p> <ul style="list-style-type: none"> • Lower noise limits for night time hours may unreasonably constrain legitimate activities within the Industrial Zone and are not considered necessary for the reasons identified in the previous point (above) and having regard to the nature of activities anticipated within the Industrial Zone.
Benefits	<ul style="list-style-type: none"> • The proposed noise limits address the issue that noise produced and received within the Industrial Zone has the potential for adverse effects and that there is a need to manage activities to ensure unreasonable effects of noise are avoided.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> • The inclusion of noise standards within the Industrial Zone is considered to be an effective and efficient method for addressing the identified issue. However, it is considered that the noise limits proposed in the plan change (as notified) were overly restrictive and may unreasonably and unnecessarily constrain operators of industrial activities. As such, the plan change (as notified) is considered to be only partly efficient and effective in terms of addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> • N/A – Sufficient information is available.

Option 2 - Allow for higher (i.e. more permissive) noise limits and an exemption for emergency service sirens

This option includes amendments to the proposed noise limits to increase the Leq noise limit to 65dBA at all times (day and night). The Lmax would be increased to 85dBA (applicable to night time only). Minor editorial changes are also proposed to clarify numbering.

The table within new Rule 4C.1.3.2(b)(ii) (intra-zone noise limits for Industrial Zone) would appear as follows:

Time Period	Sound Level Not to be Exceeded	
	Leq	Lmax
Daytime 7am-10pm	60 65dBA	N/A
Night time 10pm-7am	45 65dBA	70 85dBA

Under this option changes are proposed to the notified version of Rule 4C.1.3.2(b) to provide an exemption for emergency services sirens. Minor editorial changes are also proposed to clarify numbering.

Costs	<ul style="list-style-type: none"> • The amended noise limits may still result in additional constraints for operators of industrial activities, although is less onerous than Option 1.
Benefits	<ul style="list-style-type: none"> • Providing an exemption for emergency service sirens will ensure these services can carry out their functions and is

	<p>consistent with the purpose of the RMA in terms of providing for peoples' health and safety.</p> <ul style="list-style-type: none"> • The amended noise limits address the issue that noise produced and received within the Industrial Zone has the potential for adverse effects and that there is a need to manage activities to ensure unreasonable effects of noise are avoided. • The amended noise limits would protect people within the Industrial Zone from the adverse effects of noise. • The amended noise limits manage noise effects within the Industrial Zone while also acknowledging that inter-zone noise limits are sufficient to protect more sensitive activities in other zones (such as rural or residential). The intra-zone limits do not unduly constrain legitimate industrial activities within the Industrial Zone. • Applying the same Leq limit for day time and night time hours acknowledges that legitimate activities within the Industrial Zone may operate during night time hours and that existing District Plan provisions adequately protect sensitive activities within the Industrial Zone. This includes through resource consent processes and by requiring buildings associated with sensitive activities to be constructed to ensure appropriate internal noise levels can be achieved. • Editorial changes provide clarification and assist plan users.
<p>Effectiveness/ Efficiency</p>	<ul style="list-style-type: none"> • Providing higher (i.e. more permissive) noise limits than those in the plan change (as notified) is considered to be both an effective and efficient method in addressing the identified issue.
<p>Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter</p>	<ul style="list-style-type: none"> • N/A – Sufficient information is available.

RECOMMENDATIONS

It is recommended that amendments be made to proposed Plan Change 88 to adopt an approach consistent with Option 2 above. This includes:

- Increasing the Leq noise limit to 65dBA at all times (day and night);
- Increasing the night time Lmax noise limit to 85dBA;
- Providing an exemption for emergency services sirens;
- Retaining the changes proposed (as notified) to the 'Significant Issues' in Section 4C.1.1 regarding noise and the consequential changes proposed to the policies in Section 4C.1.2.2; and
- Minor editorial changes to numbering within Rule 4C.1.3.2(b).

The following submissions are therefore:

Accepted

Submission	Point Number	Name
12	9	Fulton Hogan Limited
1	25	Daniel Kinnoch
1	27	Daniel Kinnoch
5	1	Fire and Emergency New Zealand
12	10	Fulton Hogan Limited

Accepted in Part

Submission	Point Number	Name
1	26	Daniel Kinnoch
14	1	Quayside Properties Limited

Rejected

Submission	Point Number	Name
1	28	Daniel Kinnoch

REASONS

Option 2 addresses the identified issue and would ensure that effects on people's health and safety as a result of noise are better managed. In addition, the inclusion of noise standards within the Industrial Zones makes it clear that industrial operators have a responsibility to ensure they do not generate unreasonable noise.

Increasing the noise limits in line with those requested by submitters will ensure that activities within Industrial Zones are not unduly constrained. In addition, it is accepted that a relatively low noise limit may unreasonably constrain industrial activities and such constraints may act to discourage industrial activities from locating within the District and the Industrial Zone. An overly restrictive noise limit may therefore have unintended consequences by making it too difficult for industrial operators to comply and they may prefer to locate outside of the District or within the Rural Zone (as a home enterprise) where compliance may be easier to achieve.

Existing District Plan rules adequately protect noise sensitive activities in the Industrial Zone and in other zones (e.g. the Residential and Rural Zones). Furthermore, the District Plan also recognises that it may not be appropriate for sensitive activities to locate within the Industrial Zone. To protect such activities from adverse amenity effects (such as noise) and to protect legitimate industrial activities within the Industrial Zone from reverse sensitivity effects, the District Plan restricts the establishment of non-industrial activities in industrial areas (through the rules and the supporting policy framework discussed earlier in this report under 'Discussion on Submissions').

It is considered that there is no need for a lower (i.e. more restrictive) Leq noise limit within the Industrial Zone at night time because sensitive activities in adjacent zones are adequately protected by existing inter-zone noise limits.

The Lmax noise limit of 85dBA for night time hours is recommended in accordance with the submission by Quayside Properties Limited and is a common approach used by other Councils, including the Industry Zone within Tauranga City.

Minor editorial changes clarify the typographical error pertaining to numbering in Rule 4C.1.3.2(b) (i.e. the existing clause becomes sub-clause (i), and the new rule becomes sub-clause (ii) under Rule 4C.1.3.2(b)).

Because none of the noise rule tables within Section 4C - Amenity include specific reference numbers, it is considered that the change requested by Mr Kinnoch (to number the table) is not necessary.

The continued use of the term 'Leq' (rather than 'LAeq') is considered to be appropriate given the two terms essentially have the same meaning and the former is currently defined and used consistently throughout the Plan.

PLAN CHANGE 88 - RECOMMENDED CHANGES TO THE DISTRICT PLAN FIRST REVIEW

The purpose of this part of the report is to show the proposed plan change in full including any recommended changes in response to the submission.

Changes recommended to the District Plan First Review as the result of Plan Change 88 are shown as follows; existing District Plan text in black, proposed changes as included in the Section 32 Report in red, and recommendations as a result of this Planning Report in blue.

(a) Amend the Significant Issues in Section 4C.1.1 to read as follows:

4C.1.1 Significant Issues

- ...
- 3. The potential for ~~Permitted Activities~~ within one zone to generate noise which detracts from the existing amenity of nearby zones.
- ...
- 5. The potential for noise emissions within the Industrial Zone to adversely affect the health and safety of people within and adjacent to that zone.

(b) Amend Policy 3 in Section 4C.1.2.2 to read:

- 3. Have regard to any relevant New Zealand legislation, standards, guidelines, ~~or~~ and codes of practice, in the assessment of applications for resource consents.

(c) Amend Rule 4C.1.3.2(b) – Noise limits for activities in Industrial and Commercial Zones to include the existing rule as sub-clause (i), and to include a new clause (ii) as follows:

(b) Noise limits for activities in Industrial and Commercial Zones

- (i) All activities located within Industrial and Commercial Zones shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits within the stated timeframes at any point within the *notional boundary* of any *dwelling* in a Rural Zone or Rural-Residential Zone, nor at any point within the boundary of any property within a Residential or Future Urban Zone:

Time Period		Sound Level Not to be Exceeded	
Day	Hours	Leq	Lmax
Monday to Saturday	6am to 10pm	55dBA	N/A
Sunday and Public Holidays	9am to 6pm	55dBA	N/A
At all other times		45dBA	70dBA

- (ii) All activities located within Industrial Zones (excluding emergency service sirens) shall be so conducted as to ensure

that noise from the site shall not exceed the following noise limits within the stated timeframes at any point within the boundary of any other property within an Industrial Zone:

<u>Time Period</u>	<u>Sound Level Not to be Exceeded</u>	
	<u>Leq</u>	<u>Lmax</u>
<u>Daytime</u> <u>7am-10pm</u>	60 65dBA	N/A
<u>Night time</u> <u>10pm-7am</u>	45 65dBA	70 85dBA

ATTACHMENTS

1. Section 32 Report - Plan Change 88 - Noise Standards within Industrial Zones



*Western Bay of Plenty
District Council*

Change to the District Plan - First Review

Plan Change 88

Noise Standards Within Industrial Zones

Section 32 Report



1.0 Introduction

1.1. General Introduction and Background

The purpose of this report is to consider a plan change to include standards within the District Plan for noise generated and received within the Industrial Zone.

2.0 Resource Management Act 1991

2.1. Section 32 – Requirements for Preparing Evaluation Reports

Before a proposed plan change can be publicly notified the Council is required under section 32 ("s.32") of the Resource Management Act 1991 ('the Act' or 'RMA') to carry out an evaluation of alternatives, costs and benefits of the proposal. With regard to the Council's assessment of the proposed plan change s.32 requires the following:

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

- (2) An assessment under subsection (1)(b)(ii) must—*
 - (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) economic growth that are anticipated to be provided or reduced; and*
 - (ii) employment that are anticipated to be provided or reduced; and*
 - (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*
 - (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

- (3) If the proposal (an amending proposal) will amend a standard, statement, regulation, plan, or change that is already proposed or that already exists (an existing proposal), the examination under subsection (1)(b) must relate to—*
 - (a) the provisions and objectives of the amending proposal; and*
 - (b) the objectives of the existing proposal to the extent that those objectives—*
 - (i) are relevant to the objectives of the amending proposal; and*
 - (ii) would remain if the amending proposal were to take effect.*

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

(4A) *If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—*

- (a) *summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and*
- (b) *summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.*

2.2. Section 74 – Iwi Management Plans

In accordance with Section 74(2A) of the Act, Council must take into account any relevant planning document recognised by an iwi authority that has been lodged with Council. None of the iwi/hapu management plans lodged with Council raise any issues of particular relevance to this Plan Change.

2.3. Clause 3 of Schedule 1 - Consultation

Clause 3(1) of Schedule 1 of the RMA requires the Council to consult the following during the preparation of a proposed plan:

- a. The Minister for the Environment;
- b. Other Ministers of the Crown who may be affected;
- c. Local authorities who may be affected;
- d. Tangata Whenua of the area who may be affected (through iwi authorities); and
- e. Any customary marine title group in the area.

Information was provided to the Minister for the Environment on a range of proposed plan changes and feedback was requested. No feedback has been received.

No other Ministers of the Crown or local authorities are considered affected by this proposed plan change. Nevertheless, the Bay of Plenty Regional Council has been consulted and they identified no issues with the proposed change. No marine title groups are considered affected.

Under Clause 3B of Schedule 1, with respect to Tangata Whenua, the Council is treated as having consulted iwi authorities if it:

- (a) *considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and*
- (b) *establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and*
- (c) *consults with those iwi authorities; and*
- (d) *enables those iwi authorities to identify resource management issues of concern to them; and*

(e) indicates how those issues have been or are to be addressed.

Tangata Whenua have been consulted through the Tauranga Moana and Te Arawa ki Tai Partnership Forum on 14 March 2019 and 25 June 2019. No feedback was provided in relation to this proposed plan change.

In addition, the Council engaged with the public to request input prior to the writing of this report. This was done through notices in local newspapers and the Council's 'Have Your Say' website.

Two people provided feedback on this topic, and both considered there should be standards within the District plan to limit noise between properties located within the Industrial Zone.

One person raised concern about bird scaring devices operating at orchards through the night, and the potential impact they have on shift workers who sleep throughout the day, children, and animals. Although these concerns are acknowledged, the issue of noise from bird scaring devices is not related to noise within the Industrial Zones. In addition, these devices are subject to specific rules within the District Plan, which the Council has provided direction to retain unchanged for the time being.

It is also noted, for completeness, that bird scaring devices are only permitted to operate from half an hour before sunrise to half an hour after sunset. Any operation outside of these hours is considered to be a non-compliance with the rules of the District Plan, which are able to be enforced by Council's compliance staff.

The second person raised concern about the expanding kiwifruit industry and the potential noise impacts on established urban centres.

Council also engaged with the following groups and stakeholders on a range of proposed plan changes:

- a. Representatives of the kiwifruit industry through NZKGI;
- b. New Zealand Transport Agency ('the Agency'); and
- c. Toi Te Ora Public Health.

No specific issues were raised by any of these stakeholders regarding this proposed plan change.

3.0 Issue 1 – Noise within Industrial Zones

3.1. Introduction

Under the current District Plan, noise rules for the Industrial Zone relate to the level of noise experienced in other adjoining land use zones that are potentially more sensitive to the effects of noise (e.g. Residential Zone and Rural Zone). However, there are no rules within the District Plan to limit the effects of noise within the Industrial Zone itself (i.e. from one industrial property to another). Noise emitted in the Industrial Zones has caused

some concern within the District, and there is potential for adverse effects on people and their health and safety if noise is not managed adequately.

3.2. Research & Analysis

A review of other District Plans from around New Zealand shows that there is a mixed approach to noise limits within the Industrial Zones. While some councils have rules limiting noise within their Industrial Zones, others do not. Those that do have rules restricting the amount of noise that can be produced within the Industrial Zone typically have an Leq noise limit (i.e. average sound level) of 65dBA Leq or 75dBA Leq. Some councils also include an Lmax noise limit (i.e. the highest level of noise) of 85dBA Lmax. In addition, some councils have lower noise levels for night time hours.

Worksafe also controls noise levels to protect the health and safety of people at work. Under health and safety laws, workers must not be exposed to noise levels equivalent to 85 dBA (averaged over an 8 hour period) or a peak noise level of 140 dBA.

Further to this, the New Zealand Standard for Acoustics – Environmental Noise (NZS 6802:2008) includes guidelines for the protection of health and amenity. For the protection of the amenity values within heavy industry zones the guideline suggests that a limit of 75dBA Leq may be appropriate as an intra-zone noise limit (i.e. between properties within the industrial zone). The guideline also states that it may be appropriate for there to be no noise limits within industrial areas where there are similar activities in an industrial zone, but that differing levels of activity may require different levels of protection (e.g. administrative offices associated with industrial activities).

Initial noise monitoring undertaken by Council staff suggests that a lower noise level would be more appropriate in the Western Bay of Plenty district than the 75dBA Leq suggested in NZS 6802:2008 for heavy industrial zones.

3.3. Option 1 – Status Quo – No noise limits within the Industrial Zone

This option is to retain the existing rules without change. Existing rules limit the amount of noise produced in an Industrial Zone that can be experienced in other zones (e.g. Residential Zone and Rural Zone). However, the existing rules do not restrict the level of noise that can be experienced within the Industrial Zone itself (i.e. from one industrial property to another).

Costs	<ul style="list-style-type: none"> ▪ May not adequately protect some people within the industrial zone from the adverse effects of noise in some cases. ▪ Without noise restrictions in place, the obligation for industrial operators to manage their noise is unclear. This causes issues in terms of the general duty under section 16 of the RMA that there is a need to adopt the best practicable option to avoid unreasonable noise. ▪ It also causes potential issues for complying with Worksafe requirements if neighbouring sites (and their workers) are
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	subject to noise levels exceeding the prescribed limits under health and safety legislation.
Benefits	<ul style="list-style-type: none"> ▪ Would benefit industrial operators that undertake particularly noisy activities and/or where noisy activities occur without noise attenuation. ▪ Industrial operators would continue to be allowed to operate without restrictions on noise produced within the Industrial Zone.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ Not an effective or efficient in addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information about the subject matter	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

3.4. Option 2 – Plan Change to include noise limits and associated provisions within the Industrial Zone

This option is to include rules in the District Plan to limit the amount of noise that can be produced and received within the Industrial Zone (i.e. from one industrial property to another). Changes are also proposed to the 'Significant Issues' in Section 4C.1.1 of the District Plan regarding noise, and consequential changes are proposed to the policies in Section 4C.1.2.2

Costs	<ul style="list-style-type: none"> ▪ May result in additional constraints for operators of industrial activities.
Benefits	<ul style="list-style-type: none"> ▪ Addresses the issue that noise produced and received within the Industrial Zone has the potential for adverse effects and that there is a need to manage activities to ensure unreasonable effects of noise are avoided. ▪ A noise limit would protect people within the Industrial Zone from the adverse effects of noise. ▪ Noise limits within the Industrial Zone would mean that industrial operators would need to design and operate their businesses to manage noise appropriately. This would also ensure the ability of neighbouring properties to meet Worksafe obligations is not compromised by third parties. ▪ A minor change to Policy 3 in Section 4C.1.2.2 highlights the need to consider other relevant legislation (such as the Health and Safety at Work Act) when setting noise limits and considering consent applications.
Effectiveness/ Efficiency	<ul style="list-style-type: none"> ▪ The inclusion of noise standards within the Industrial Zone is considered to be an effective and efficient method for addressing the identified issue.
Risks of Acting/ Not Acting if there is uncertain or insufficient information	<ul style="list-style-type: none"> ▪ N/A – Sufficient information is available.

information about the subject matter	
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3.5. Preferred Option

The preferred option is Option 2:

(a) Amend the Significant Issues in Section 4C.1.1 to read as follows:

4C.1.1 Significant Issues

...
 3. The potential for ~~Permitted Activities~~ activities within one zone to generate noise which detracts from the existing amenity of nearby zones.

...
 5. The potential for noise emissions within the Industrial Zone to adversely affect the health and safety of people within and adjacent to that zone.

(b) Amend Policy 3 in Section 4C.1.2.2 to read:

3. Have regard to any relevant New Zealand legislation, standards, guidelines, ~~or and~~ codes of practice, in the assessment of applications for resource consents.

(c) Amend Rule 4C.1.3.2(b) – Noise limits for activities in Industrial and Commercial Zones to include new clause (ii) as follows:

(i) All activities located within Industrial Zones shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits within the stated timeframes at any point within the boundary of any other property within an Industrial Zone:

Time Period	Sound Level Not to be Exceeded	
	<i>Leg</i>	<i>Lmax</i>
Day time 7am – 10pm	60dBA	N/A
Night time 10pm – 7am	45dBA	70dBA

3.6. Reasons

The preferred option is Option 2 as it addresses the identified issue and would ensure that effects on people’s health and safety as a result of noise are better managed. In addition, the inclusion of noise standards within the Industrial Zones makes it clear that industrial operators have a responsibility to ensure they do not generate unreasonable noise.