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

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

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| **IN THE MATTER** | of the Resource Management Act 1991 |
| **AND** | |
| **IN THE MATTER** | of the hearing of submissions on Te Mahere - Rohei Tūtohua the Wellington City Proposed District Plan |
| **HEARING TOPIC:** | Stream 5 – Noise |

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# LEGAL SUBMISSIONS ON BEHALF OF KĀINGA ORA – HOMES AND COMMUNITIES

**28 JULY 2023**

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**MAY IT PLEASE THE COMMISSIONERS:**

## 1. INTRODUCTION AND SCOPE

1.1 These submissions are filed by Kāinga Ora – Homes and Communities (**Kāinga Ora**) in support of the relief sought in its submissions and further submissions on the provisions addressed by Stream 5 – Noise.

1.2 The statutory objectives of Kāinga Ora, and its reasons for attending these hearings, have been described in earlier submissions.

1.3 These submissions:

(a) make some initial comments on the concept of reverse sensitivity, how it is proposed to be applied in this case by several submitters, and why Kāinga Ora says that any bare assertion of "reverse sensitivity effect" must be robustly interrogated, particularly:

(i) in the regulatory context of a plan making process that must give effect to a strong national direction to provide for residential intensification and provision of affordable housing; and

(ii) in a factual context where both the noise-generator and the noise receiver are both long-established activities;

(b) highlight the primary areas of evidential dispute between Kāinga Ora and the Council, WIAL, and Waka Kotahi/KiwiRail (collectively, **Transport Authorities**); and

(c) address the Commissioners on certain statutory provisions and legal and planning principles that, in my submission, bear on your choice between those competing provisions.

**Reverse sensitivity - Airport**

1.4 It is a trite observation that plan making must be undertaken with regard to the environment as it exists at the time the plan is made. In this regard, the existing environment around Wellington Airport has long been developed for existing residential activities. Both the Airport and the surrounding residential uses, are long-standing existing activities. The development and enablement of both land uses must be enabled, and preferring one over the other in the absence of compelling reasons gives rise to broader questions of equity, appropriateness and balance of costs and benefits (the latter two phrases being the RMA nomenclature, but which encompasses broader notions of equity).

1.5 In my submission, the debate is not about whether there should be some "new" noise sensitive activity that did not previous exist coming into the ambit of an already established noise generating activity; it is instead about a well-established residential suburb *and* a well-established airport, and whether or not redevelopment of old homes into modern, dry, warm and affordable homes (with an inevitable increased density) can give rise to a reverse sensitivity effect *above that which currently exists*, or to an extent that justifies a material restrictions on the opportunity for redevelopment of people's homes.

1.6 Kāinga Ora says that any proposed intensification that might arise from its proposed rule framework will not give rise to any such reverse sensitivity effect, such as to warrant any restriction on intensification or redevelopment, beyond the requirement for acoustic insultation of these replacement of, or additions or alterations to, residential units.[1]

1.7 As the Commissioners will discern, a key theme underlying the Kāinga Ora submissions is a request that the evidence put forward in support of there *being* a reverse sensitivity effect arising from the potential intensification of residential uses around Wellington Airport is properly interrogated.

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[1] I confirm that Kāinga Ora accepts acoustic insulation is appropriate in the context of this plan and these residential uses, because this requirement addresses an existing effect of aircraft noise. I note that the contours currently provide an allowance for some increased noise and airport operations grow over time (as reflected by the location of the 65 dBA contour).

1.8 Kāinga Ora accepts, of course, that:

(a) areas close to airports and transport corridors experience higher noise; and

(b) at sufficiently high levels, noise can cause adverse health effects for their inhabitants, particularly as regards sleep disturbance.

1.9 But that does not – and cannot – automatically equate to a reverse sensitivity effect, such that the noise sensitive activity proposed should be regulated (beyond, in this case, an appropriate requirement for acoustic controls) or refused consent (which the Council and WIAL clearly want to be "on the table" because of the classification as a restricted discretionary activity). The essence of a "true" reverse sensitivity effect in the context of plan making is that *it will lead* to a material restriction on the operation of, in this, case, the State Highway network, the rail corridor, or Wellington Airport.

1.10 There is no such evidence before you.

1.11 Ms O'Brien for BARNZ, says that at her para [5.6] "It is logical that the more people living in the aircraft noise overlay areas and exposed to noise, the more potential there is for complaint and/or involvement in future district plan reviews, designations etc." But, in my submission, that is not a reverse sensitivity effect, as that effect is understood and applied today.

1.12 Ms O'Brien then says that: "While these concerns can appear hypothetical their foundation lies in previous experiences at Wellington Airport and other airports which I outline further in section 6 below". However, after reading section 6, it is apparent that:

(a) There is no literature cited to support her statement that "International experience, as well as experience in New Zealand, has shown that the higher the density of residential accommodation …. around an airport, the greater the pressures are for curtailed operation."

(b) The reasoning appears based on the statement at 6.4 that "Where conflicts arise between urban land uses and airport operations *there is a risk* that constraints may be imposed on the operation airport, such as limits on noise levels, limits on hours of operations, limits on flight paths or limits on the number of fights." (emphasis is mine) There is no description of how real this risk is or in what circumstances it might apply.

(c) The final statement in [6.4] is that "The long-term viability and efficiency of Wellington Airport would be compromised by additional restrictions." With respect, this statement is so lacking in detail that it can be given no weight. Ms O'Brien is not giving evidence for Wellington Airport. It is simply not plausible that any further restriction would render Wellington Airport "unviable", and there is no evidence before the Commissioners that would support such a statement.

1.13 Ms O'Brien has no acoustic or planning expertise or experience. She makes some comments on the NZ Standard for Airport Noise, presumably from a lay-person's perspective. My submissions below address the legal effect of this standard.

1.14 Section 8 of Ms O'Brien's evidence is titled "Examples of reverse sensitivity effects on Airport". But when this is closely examined, what it appears to be is that when a new operator of loud jets commenced flights out of Wellington Airport, the noise significantly increased, and the residents around the Airport complained. That is not particularly surprising and that is not a reverse sensitivity effect. These were all existing residents complaining about significant *new noise sources* coming *into their* neighbourhood.

1.15 Likewise, those around the Airport were apparently concerned about night-time flights, and this led to the imposition of a curfew and various noise abatement processes. Again, there is no evidence that this behaviour from existing residents represents a reverse sensitivity effect. Nor is there evidence that these controls were not the best practicable option to reduce noise (as is required by s 16, RMA); nor is there any evidence that these controls made Wellington Airport unviable.

(Presumably it didn't, because Wellington Airport continues to operate successfully today.)

1.16 Finally, at para [8.9] Ms O'Brien refers to what she considers to be "consenting issues within airport contours and associated inefficiencies" which, in her view, "illustrate why clear planning objectives and policies are appropriate". I completely agree. Clear planning objectives and policies are always preferable. But, as I submit below, there must be a proper evidential basis for those provisions, particularly when they operate to restrict other land uses. At her para [8.10] Ms O'Brien says that the examples given by her in the previous paragraph are illustrative of situations where the development or proposed development has resulted in significant costs to BARNZ members. The focus on costs to BARNZ members is understandable, given Ms O'Brien's role, but nowhere in her discussion is there any assessment or understanding of the cost to the community or to the landowners affected by the provisions controlling land uses around airports. All costs and benefits must be considered – not just those of the airport operator or user.

1.17 Other witnesses for WIAL also make this assumption about reverse sensitivity effects. Ms Lester says that it is "extremely important" that within the Air Noise Overlay, residential development is "less permissive" so that more people are not exposed to aircraft noise which "in turn will lead to reverse sensitivity effects" (at [3.23]). Later paragraphs, however, are less definitive (emphasis added):

(a) "This will *likely* result in a decrease in amenity (and a corresponding increase in annoyance) leading to an increase in noise complaints." (at [5.25])

(b) "Without adequate safeguards to restrict urban development within areas affected by predicted aircraft noise, this *could likely* result in the occupants of new urban developments being subject to adverse effects and then seek to further restrict the operation of the Airport through complaints." (at [5.25])

(c) And in conclusion at [5.25], "Overall, this indicates to me that noise complaints are on the rise and care needs to be taken to ensure that the Airport is protected from reverse sensitivity effects that *may well* result."

1.18 Ms Heppelthwaite's planning evidence appropriately draws attention to the WRPS provisions addressing potential reverse sensitive effects. Importantly, that analysis demonstrates the provisions' focus on regionally significant infrastructure being protected from "*incompatible*, *new*, subdivision, use and development" (at [4.0(d)], emphasis added). Importantly, Policy 8's explanation states that "Incompatible subdivisions, land uses or activities are those which *adversely affect the efficient operation of infrastructure*, its ability to give full effect to any consent or other authorisation, restrict its ability to be maintained, or restrict the ability to upgrade where the effects of the upgrade are the same or similar in character, intensity, and scale."

1.19 The explanation to Policy 8 expressly states that "Protecting regionally significant infrastructure *does not mean that all land uses or activities under, over, or adjacent are prevented*" and that "*Competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances."*

1.20 Kāinga Ora will say that residential activity around the Airport, in particular, is not new and, with appropriate acoustic insulation, it is not incompatible. This is because there is no evidence showing that proposed redevelopment of existing residential areas with houses that are appropriately acoustically insulated will adversely affect the efficient operation of adjacent infrastructure. In this case, Kāinga Ora will say that key among those competing considerations are the requirements of the NPS-UD, and the broader social and economic benefits flowing from the development of warm, dry, affordable houses, within close proximity to Wellington City's main centre.

1.21 Ms O'Sullivan, WIAL's planning witness, also addressed the issue of reverse sensitivity, and takes a more enabling approach to the development of noise sensitive activities where they are 'reasonably anticipated' (at her para [1.6], and [5.56]). She proposes a tiered

structure of rules that allow for one residential unit per site as a permitted activity, two or more as restricted discretionary activities, with four matters of discretion specifically targeted at avoiding or minimising reverse sensitivity effects on the Airport, and identifying WIAL as an affected party for all applications within the entire Air Noise Overlay.

1.22 While this approach does enable some residential development as permitted, the limitation on 2 or more dwellings per site is premised on the concept that the more people that live in the Air Noise Overlay, the more likely there will be reverse sensitivity effects. For example, at para [5.59], she says that the Airport "*needs to be protected from* the ongoing and increasing pressures to enable residential intensification within its bounds with *the consequent reverse sensitivity effects that follow*." (emphasis is mine)

1.23 In my submission, there is no evidential basis for this assumption, and certainly not sufficient evidence that would justify a restricted discretionary activity status for 2 or more units *and* notification to WIAL as an affected party, thereby offering the opportunity for WIAL to oppose the proposal, require a hearing at first instance, and potentially appeal any decision. All such a provision would do is to:

(a) create uncertainty for landowners (eg, no evidence has been given by WIAL as to the circumstances in which they would oppose a proposed development that they were give notice of);

(b) generate a significant workload for WIAL staff assessing all of the applications; and

(c) lead to an inefficient and potentially time consuming and costly consent process.[2]

1.24 Acoustic insulation does not protect outdoor amenity.[3] Nor does the design of a building and layout, acoustic fences etc, provide much

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[2] It seems from Mr Humpheson's evidence that WIAL would consider the nature of the development (site layout, design and location of structures and buildings and outdoor amenity areas) and the nature of the use itself (Mr Humpheson, at his para [5.4], and [6.15]).

[3] Noting that there is no requirement under the RMA to "protect" amenity, including outdoor amenity. The NPS-UD expressly recognizes that amenity will change over time, including in those Tier 1 areas where intensification is urgently needed.

protection when outdoors from elevated noise sources (such as from aircraft). To the extent however, that some acoustic shielding might be provided due to topography or the orientation of the building, this would only be evident following a detailed (and expensive) modelling process and acoustic report. Obviously people do not sleep outside, and so acoustic insulation and ventilation is a solution for sleep disturbance and health effects that arise from unrelenting noise sources.

1.25 Furthermore, while I understand that WIAL is providing, over time, acoustic insulation to the most affected neighbours (ie those closest to the Airport), those residents will have outdoor areas that they are – and will continue – to use. Presumably this outcome is seen as appropriate to WIAL from a public health perspective, or otherwise WIAL would be purchasing these properties (given that it is not possible to acoustically insulate outdoor areas).

1.26 The underlying tension evident in situations such as Wellington Airport and its surrounding, well-established residential neighbourhoods, is, with respect, well summarised by the following exchange between Judge Hassan and a planning witness in the Christchurch Replacement Plan hearings.

1.27 This exchange related to a very comparable debate between the intensification objectives of the Christchurch Replacement Plan imperatives and the existing residential areas around Christchurch Airport on the one hand, and the concerns about the operation of the Christchurch Airport itself:

JUDGE HASSAN: And it is true, isn't it, that reverse sensitivity as a construct allows for development potential on the part of one or continuation of activities at the expense of limiting the other in terms of land use opportunity and development opportunity, that is the nature of it?

MR BONIS: Yes, and I have identified that in my evidence.

JUDGE HASSAN: Yes, and at the heart of that construct is the question of equity, isn't it?

MR BONIS: Yes.

JUDGE HASSAN: It just strikes me as unusual, given all of that, to see a reverse sensitivity regime imposed on what might be regarded as typical development or further development of well-established residential activities associated with a well-established airport facility where the two have existed and coexisted for so long together under the Plan. Don't you think it is unusual to bring the reverse sensitivity construct into that setting?

MR BONIS: What I have tried to convey in my evidence - - -

JUDGE HASSAN: Is it unusual?

MR BONIS: No, I don't, I think it is - - -

JUDGE HASSAN: Where have you seen it before?

MR BONIS: It is a - - -

JUDGE HASSAN: Where have you seen it before in practice?

MR BONIS: I couldn't provide an example.

JUDGE HASSAN: So it is unusual in your experience?

MR BONIS: Yes.

1.28 The question of "equity" identified by Judge Hassan is, in my submission, inherent in s 32's analysis of costs and benefits. The costs of restricting development around the Airport will be felt immediately and directly by those landowners affected. Any requirement to obtain consent to construct multiple units on a site will not only be a disincentive to redevelop those sites because of the uncertainty of outcome, but the number of houses able to be developed will go directly to the feasibility of the development and the affordability of the new houses. Any new houses will be warm, dry, and acoustically insulated, and the more intensively developed they are, the less outdoor area they will logically have. Unreasonable restrictions on its neighbours' use of their land is not the best way, with respect, for WIAL to main good relationships with its community. Accordingly, and perversely, WIAL's

attempts to unreasonably restrict redevelopment of existing land and dwellings around the Airport may lead to overall worse outcomes for both WIAL and it relationship with the community in which it exists. The relief proposed by Kāinga Ora, on the other hand, adopts an even-handed approach by enabling development and redevelopment of people's homes, provided that there is sufficient acoustic insultation to address noise effects from the Airport's operation. If a landowner does not want to acoustically insulate, then they will need to seek a resource consent. This rule package option involves potential costs and benefits to *both parties*, will be more acceptable to the local community, and will therefore be a more enduring planning outcome.

## 2. KEY AREAS OF DISPUTE

2.1 From a review of the evidence filed, the primary provisions in dispute are as follows (generally matching Mr Lindenberg's structure, at his para [3.2], primary evidence):

(a) Objectives and Policies: The wording of the objectives and policies of the Noise and Subdivision chapters, and to align these with the requirements of both the NPS-UD and the WRPS.

(b) Whether the acoustic controls applicable to noise sensitive activities adjacent to State Highways and rail corridors should be based on:

(i) a default distance (Transport Authorities' position); or

(ii) modelled noise effects (Kāinga Ora position).

(c) Rule Noise – R3: the activity status for more than one residential unit per site within the Inner Air Noise Overlay (Noise – R3.1) or more than three residential units per site within the Outer Air Noise Overlay (Noise – R3.2):

(i) Council says that the rules should permit 1 residential unit per site within the Inner Air Noise Overlay and up to 3 within the Outer Air Noise Overlay, subject to compliance with acoustic controls.

(ii) Kāinga Ora says that any number of residential units should be permitted in either overlay, subject to compliance with acoustic controls. Failure to comply with the acoustic controls makes the activity status discretionary within the Inner Air Noise Overlay, and restricted discretionary within the Outer Air Noise Overlay.

(d) Whether or not WIAL should be specifically identified as an affected party on whom any applications for resource consent should be served.

(e) Standards Noise-S4 and Noise-S5 in relation to acoustic treatment.

(f) Standard Noise-S6 in relation to ventilation requirements (addressed in the rebuttal evidence of Mr Jimmieson on behalf of Kāinga Ora).

## 3. STATUTORY PROVSIONS, AND LEGAL & PLANNING PRINCIPLES

3.1 The statutory framework applicable to the Hearing Panel's decision-making, including in respect of the qualifying matters and IPI process, has been addressed in earlier legal submissions filed by Kāinga Ora on other topics, and will be well known to the Hearing Panel members.

3.2 Specific to this hearing, I wish to draw attention to the following statutory provisions, and legal and planning principles:

(a) The choice of words in objectives and policies are important – this was re-affirmed by the Supreme Court in the *New Zealand King Salmon* case. Shades of meaning matters, particularly when these provisions are attempting to reconcile important competing considerations.

(b) A plan must be made in the context of the environment as it exists – in this case, that involves two long established land uses (the Airport and surrounding residential uses) being located in very close proximity to each other.

(c) The use of land should be constrained to the least extent possible, while still achieving relevant objectives of the District Plan and, in this case, the objectives of the higher order instruments such as the NPS-UD.

(d) Any proposed controls or restrictions on activities should have a robust evidential base, particularly if such a restriction cuts across higher order instruments such as the NPS-UD that direct a contrary approach.

(e) It would be anomalous and contrary to the three previous principles to not allow existing land around the Airport to be redeveloped in a manner that was efficient – ie if redevelopment allowed for the replacement of one house on a site with 4 or more, then that is an appropriate outcome – unless there was a robust evidential basis to require a more restrictive outcome.

(f) NZ Standards (such as NZ6805) are not binding on plan making processes, and do not override other higher order instruments that are mandatory (eg, WRPS and NPS-UD, to which effect must be given by the PDP). I would also submit that, despite the acousticians saying that NZS6805 is still "fit for purpose", it is now more than 30 years old and its non-technical commentary does not reflect today's more complex planning frameworks and competing considerations within urban settings. (Noting that only the measurement methodologies, and none of its other provisions, have been referenced in the National Planning Standards as a mandatory standard.[4])

(g) The Commissioners will be familiar with the statutory directions in section 32(2) regarding the "efficiency and effectiveness"

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[4] National Planning Standard, part 15: "Any plan rule to manage noise emissions must be in accordance with the mandatory noise measurement methods and symbols in the applicable New Zealand Standards incorporated by reference into the planning standards and listed below: … New Zealand Standard 6805:1992 Airport noise management and land use planning – measurement only"

assessment. In addition, for effectiveness, this requires assessment of the "contribution new provisions make towards achieving the objective, and how successfully they are likely to be in solving the problem they were designed to address."[5]

(i) Efficiency leans upon economic concepts and cost benefit analyses, typically of comparing the net benefits of the proposal with the benefits of the best alternative or status quo.[6]

(ii) This exercise should not be limited to purely economic matters but also capture elements of the provisions that may be non-monetary or less clearly defined (ie social benefit from warm, dry affordable housing).[7] Some useful comments on the meaning of efficiency in the s 32(1)(b) context were provided in *Federated Farmers of New Zealand Inc v Bay of Plenty Regional Council:*[8]

> **[330]** … at least in the context of s 7(b) of the RMA, efficiency is not an end in itself: rather, it is way of using and developing resources. In the wider scheme of the RMA, and as indicated by the evaluation requirement in s 32(1)(b)(ii) of the RMA, the meaning of efficiency therefore depends on the particular planning objective or objectives being pursued and the corresponding policies which guide that pursuit. These objectives and policies are likely to import constraints on one's choices in the use and development of resources. Such considerations are likely to go beyond the distributional or allocative operations of an ordinary market, particularly where unquantifiable and incommensurable costs or benefits are present such as those identified in part 2 of the RMA. This means that the option of maximum output at least cost may well not be the most efficient.
>
> [331] For those reasons, we respectfully adopt the definition of efficiency used by another division of the Court in *Rogers v Christchurch City Council*, which is the production of the required result with little or no wastage. The required result is to be identified by reference to the relevant planning provisions. Wastage includes adverse effects on the environment, as broadly

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5 Ministry for the Environment, 2017: *A guide to section 32 of the Resource Management Act: incorporating changes as a result of the Resource legislation Amendment Act 2017,* at 18.

6 *Self Family Trust v Auckland Council* [2018] NZEnvC 49, [311]-[313].

7 See for example, *Carter Holt Harvey Limited v Waikato Regional Council* [2011] NZEnvC 380, pages 59-67.

8 *Federated Farmers of New Zealand Inc v Bay of Plenty Regional Council* [2019] NZEnvC 136 at [330] – [331].

defined under the RMA and as relevantly identified in the same planning provisions.

(iii) In this case, the "resources" are the residential land around the Airport and the Airport itself. I submit that restricting residential units to 1 per site as a permitted activity, with 2 or more requiring a restricted discretionary activity with notification to WIAL, is on its face inefficient. The corollary – that additional residential units per site will materially affect the efficient operation of the Airport – is absolutely not so self-evident; in fact there is no evidence establishing that such an outcome will, or even may, realistically occur.

## 4. THE KĀINGA ORA POSITION ON KEY DISPUTED PROVISIONS

4.1 I wish to draw attention to the following key disputed provisions/issues that Kāinga Ora considers to be central to the Proposed Plan's being the "most appropriate" for the purposes of s 32, RMA.

(a) Minor changes to the objectives, in particular the replacement of the verb "Restrict" with "Manage" (with a consequential change to Noise-P6) and other minor changes to the policies, replacing "maintain" with the phrase "are compatible with" (Noise-P1), and changes to the title of policy 2 (Noise-P2). Consequential changes to the subdivision policy (Sub-PX) are also sought. Other parties are seeking more substantive changes to the objectives and policies.

(b) A range of amendments are sought in order to replace the reference to a "default distance" to modelled contours, to manage noise effects adjacent to transport. The Transport Authorities are seeking to maintain this "default distance" approach. (I acknowledge that if the Commissioners favour a modelling contour approach to these rules, then the relevant Transport Authority would need to provide that information to the Council. To encourage that to occur expeditiously, my suggestion would be to finalise a set of provisions that refer to

those contours and that these effectively "go live" once that information is provided, and the planning maps are updated. If these contours are within the default distances in the notified PDP, then there would appear to be no reason to need a future plan change to formally incorporate those contours.

(c) Specific changes are proposed to Noise-R3, essentially implementing a rule regime that permits all residential uses, subject to compliance with the acoustic insultation standards (ie. the de facto density control in the Proposed Plan, and supported by WIAL, would be deleted). Failure to comply with the acoustic controls would result in the activity being classified as restricted discretionary, or discretionary within the Inner Air Noise Overlay. Kāinga Ora also opposes the suggestion that WIAL be notified of all consent applications within the Air Noise Overlay.

(d) Changes are proposed to S4 and S5, in particular replacing the reference to "suitably qualified acoustic engineer" with "suitably qualified acoustic expert". Mr Styles has explained the rationale for this change in his evidence.

4.2 Mr Lindenberg has acknowledged in his rebuttal evidence that some of the amendments put forward by the Transport Authorities are appropriate and he would support those changes. Kāinga Ora accepts that advice.

## 5. WITNESSES

5.1 Kāinga Ora is calling 4 witnesses for this hearing stream:

(a) Mr Brendon Liggett, Manager Development Planning at Kāinga Ora;

(b) Mr Jon Styles, Director and Principal of Styles Group Acoustic and Vibration Consultants

(c) Mr Lance Jimmieson, Managing Director and Building Services Engineer, Jacksons Engineering Advisers Ltd

(d) Mr Matt Lindenberg, Principal Planner, at Beca Ltd

## 6. CONCLUSION

6.1 Kāinga Ora respectfully requests the amendments to the provisions set out in Attachment A to Mr Lindenberg's rebuttal statement. This version incorporates the proposed changes discussed in both the primary and rebuttal evidence.

6.2 As confirmed in Mr Lindenberg's primary statement at para [1.4], these provisions represent the full updated set of relief requested by Kāinga Ora in respect of this Hearing Stream 5. **(Attachment A** to these legal submissions sets out a summary of the Kāinga Ora position on each of the submission point.)

**Dated** 28 July 2023

**Bal Matheson**
Counsel for Kāinga Ora

## ATTACHMENT A – SUBMISSION POINT SUMMARY

**(see separate document)**

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| **Noise** | | | | | | |
| FS89.160 | Part 2 / General District wide Matters / Noise / General NOISE | Support. Kāinga Ora supported the original submission from Strathmore Park Residents Association Inc to include a rule to require that the Quieter Homes ventilation and/or insulation are for existing homes within the 60dB Outer Air Noise Overlay and impose a time limit to provide the Quieter Homes package in a timelier manner once they are formally identified to be within the 60dB Outer Noise Overlay. | Section 42A report rejects the submission. Council understands the Quieter Homes programme will be extended to cover all properties within the Outer Air Noise Overlay. However, this is a matter for the Air Nose Committee and WIAL, also requiring updating of the provisions of the ANMP. Regarding timeframes for the Airport to complete implementation of the Quieter Homes Programme, this is not considered a district plan matter – this would be developed by WIAL in accordance with condition 28 of the main airport designation – obliging WIAL to "offer to fund noise mitigation for all existing residential properties within the Air Noise Boundary in accordance with the Quieter Homes Programme". | Kāinga Ora no longer seek inclusion of the new rule proposed in the original submission from Strathmore Park Residents Association Inc. | | |
| 391.284 & 391.285 | General District wide Matters / Noise / General NOISE | Oppose in part. Kāinga Ora sought amendment to all Rules in the Noise chapter to include a notification preclusion statement for activities under Restricted Discretionary | Section 42A report rejects the submission. The case for adopting a notification preclusion statement for activities under Restricted Discretionary Activity has not been made. Notification decisions on each application is best assessed under existing RMA provisions. | Kāinga Ora seeks the deletion of notes / clauses pertaining to the consideration of WIAL as an affected party for applications within the Inner Air Noise Overlay from NOISE-R3. It is not considered appropriate for WIAL to be considered an affected party for any resource consent application within the Inner Air Noise Overlay where a proposal fully complies with the relevant standards. Moreover, the standard RMA notification tests provide Council with the ability to identify WIAL as an affected party for any resource consent application within the Inner Air Noise Overlay which does not comply with the relevant noise standards. | | No change in position. |
| FS89.125 & FS89.126 | Part 2 / General District Wide Matters / Noise / General NOISE | Oppose. Kāinga Ora opposed the original submission from Wellington International Airport Ltd (WIAL) to include a new suite of policies that address the management of noise sensitive activities within the Air Noise Boundary and 60dB Ldn Noise Boundary. | Section 42A accepts the submission, except to the extent that modifications are introduced by decisions in other submissions. Specific to the WIAL suite of policies, the Section 42A report notes that the Noise chapter seeks a balance between residential intensification and minimising potential reverse sensitivity effects in proximity to the Airport (i.e., within the Inner and Outer Air Noise Overlays). Residential and other activities remain permitted throughout urban areas which may also receive some aircraft noise. The degree of intensification in noise | Kāinga Ora still opposes the original submission from WIAL to include a new suite of policies (supporting the Section 42A recommendation to not include the new suite of policies proposed by WIAL). | | |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | | affected areas is managed via NOISE R3. Acoustics insulation requirements for new or altered habitable rooms (and accompanying ventilations requirements) are set out in NOISE-S4, S5 and S6. | | | |
| FS89.127 | Part 2 / General District Wide Matters / Noise / General NOISE | Oppose. Kāinga Ora opposed the original submission from WIAL to allow all new noise sensitive activities within the Air Noise Boundary or 60dB Ldn noise boundary should be subject to a resource consent requirement and WIAL being considered an affected party to any application under section 95E of the RMA. | Section 42A report accepts the submission, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report accepted in part, noting affected party status is appropriate within the Inner Noise Overlay. | Kāinga Ora still seeks to delete the note pertaining to consideration of WIAL as an affected party for applications within the Inner Air Noise Overlay. | | |
| FS89.128 | Part 2 / General District Wide Matters / Noise / General NOISE | Oppose. Kāinga Ora opposed the original submission from WIAL to establish a policy framework where resource consents can be rejected within existing residential zones for noise sensitive activities on reverse sensitivity grounds. | Section 42A report accepts the submission, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejected the submission point for the same reasons as outlined in Row 3 above. | Kāinga Ora still opposes the original submission from WIAL to include a new suite of policies (supporting the Section 42A recommendation to not include the new suite of policies proposed by WIAL). | | |
| FS89.129 | Part 2 / General District Wide Matters / Noise / New NOISE | Oppose. Kāinga Ora opposed the original submission from WIAL to add new objective to NOISE chapter relating to reverse sensitivity. | Section 42A report accepts the submission, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejected the submission point on the basis that there is no RMA purpose served by elevating the issue of reverse sensitivity protection of the airport beyond that achieved by the more general wording of NOISE-O2. | Kāinga Ora still opposes the original submission from WIAL to include a new objective (supporting the Section 42A recommendation to not include the new objective proposed by WIAL). | | |
| FS89.130 | Part 2 / General District Wide Matters / Noise / New NOISE | Oppose. Kāinga Ora opposed the original submission from WIAL to add a new standard because it is a duplication of standards NOISE-S4 and NOISE-S5. | Section 42A report accepts the submission, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejects the submission point stating that there is no RMA purpose served by adopting the wording sought for new standards referring to acoustic insulation and associated ventilation of habitable room above that achieved by the integrated approach under NOISE-S4, S5 and S6. Proposed amendments to NOISE-S6 represent improved standards for room ventilation aimed at improving thermal comfort and living conditions while | Kāinga Ora still opposes the original submission from WIAL to include a new standard (supporting the Section 42A recommendation to not include the new standard proposed by WIAL). | | |
| FS89.131 | Part 2 / General District Wide Matters / Noise / New NOISE | Oppose. Kāinga Ora opposed the original submission from WIAL a new standard to NOISE chapter relating to noise sensitivities because it duplicates NOISE-S6. | | | | |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | | remaining protected from outdoor noise. Adopting this approach is considered inappropriate and not recommended. | | | |
| FS89.132 | Part 2 / General District Wide Matters / Noise / New NOISE | Oppose. Kāinga Ora opposed the original submission from WIAL that required acoustic and/or mechanical ventilation for new, or additions or alterations to existing buildings containing noise sensitive activities. | Section 42A report rejects the submission point. Specific to the WIAL submission, the Section 42A report accepts the submission point seeking a requirement that acoustic treatment and / or mechanical ventilation for new, or additions or alterations to existing containing noise sensitive activities. | Kāinga Ora still opposes the original submission from WIAL that required acoustic and/or mechanical ventilation for new, or additions or alterations to existing buildings containing noise sensitive activities and seeks to include a pathway for alterations and additions to existing buildings (refer to discussion in relation to submission numbers 391.298 - 391.301 below). | | |
| FS89.133 | Part 2 / General District Wide Matters / Noise / New NOISE | Oppose. Kāinga Ora opposed the original submission from WIAL requesting standalone reverse sensitivity requirements are added for noise sensitive activities within the Air Noise Boundary and Outer Air Noise Overlay. | Section 42A report accepts the submission, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejected the submission noting adequate reverse sensitivity protection controls under the 'restricted discretionary' provisions of NOISE R3.3 and acoustic insulation requirements for new or altered habitable rooms (and accompanying ventilation requirements) set out in NOISE-S4, S5 and S6 are considered, in combination, to the best practicable option for dealing with this issue. | Kāinga Ora still opposes the original submission from WIAL to include standalone reverse sensitivity requirements (supporting the Section 42A recommendation to not include the new requirements proposed by WIAL). | | |
| FS89.31 | Part 2 / General District Wide Matters / Noise / New Noise | Oppose. Kāinga Ora opposed the original submission from KiwiRail to add a new standard to provide options for developers in achieving an appropriate level of amenity for residents who live within 100m of the rail corridor. | Section 42A report accepts, in part the submission. Specific to the KiwiRail submission, the Section 42A report rejects the submission point stating that, notwithstanding general support for vibration standards related to rail, due to the absence of technical evidence from KiwiRail, the Reporting Officer recommends that the panel should reject KiwiRail's submissions on vibration. | Kāinga Ora seeks the deletion of the 'default distances' references for State Highway and rail corridors as this approach could lead to the need for landowners to potentially incur a mitigation cost to address an adverse effect which is not of their creation (being the noise levels emitted from the transport corridors), and may not in fact be to a level which requires any mitigation at all (particularly for those properties beyond the 'first row' of properties which adjoin these corridors). | Mr Hunt' evidence supports a 'contour approach' to indicating areas affected by current and future noise from the State Highway network – noting his agreement with Mr Liggett's support for transport noise corridors to be spatially modelled. However, My Hunt retains his recommendation that any new information such as electronic files suitable for mapping overlays of State Highway noise should be provided with suitable supporting documentation to enable the technical veracity of the mapped areas to be checked – recommending an independent peer review of new information be carried out prior to being considered for inclusion in the PDP. | No change in position. |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | | | | In addition, Mr Hunt's evidence supports the proposal of Catherine Heppelthwaite (planning expert on behalf of Waka Kotahi) insofar as adopting the following wording to define 'moderate' noise areas adjacent to the State Highway networks:<br>*The area between 40m and 100m of a State Highway with a posted speed limit or maximum variable speed limit greater than >70 km/hour* | |
| 391.286 & 391.287 | General District wide Matters / Noise / General NOISE | Support in part. Kāinga Ora sought amendment to articulate the balance more clearly between providing for noise generating activities, whilst appropriately managing effects on the community. | Section 42A report accepts the submission point insofar as it seeks to retain Objective NOISE-O1. However, the Section 42A rejects the amendments sought to Objective NOISE-O1 as sought in the submission point. The Reporting Officer notes that the meaning of the requested amended wording "health and well-being are not compromised from adverse noise generating activities" is unclear and sees no particular value in the proposed rewording. The use of the word "protected" is considered stronger than the proposal to use "not compromised" and is therefore to be preferred. | Kāinga Ora seeks the phrase "protected from" is replaced with "not compromised by" in Objective NOISE-O1, as sough in its submission. | Mr Ashby's evidence supports, in principle, that a change is necessary to reflect that 'protection' or 'maintaining' implies there will never be any variation in noise related amenity. However, Mr Ashby's evidence supports Ms O'Sullivan's (planning expert on behalf of WIAL) proposed replacement word being "managed" – noting this would be consistent with s.5 RMA and the NPS-UD. | No change in position. |
| 391.288 | General District wide Matters / Noise / NOISE-O2 | Oppose. Kāinga Ora sought for NOISE-O2 to be deleted. | Section 42A report rejects the submission point and notes that it is important for the proper functioning of the PDP that Objective NOISE-O2 be retained so that existing and authorised activities that generate high levels of noise are protected from reverse sensitivity. | Kāinga Ora seeks that Objective NOISE-O2 is retained however, that the phrase "reverse sensitivity effects" is replaced with "incompatible use and development". Moreover, Kāinga Ora seeks that the title of the objective is replaced with "Incompatible use and development". | Mr Ashby's evidence does not support the removal of the words "reverse sensitivity" from NOISE-O2. | No change in position. |
| 391.289 & 391.290 | General District wide Matters / Noise / NOISE-P1 | Support in part. Kāinga Ora sought amendment, so NOISE-P1 does not require amenity values to be maintained. | Section 42A report rejects the submission point and notes that the RMA require all persons exercising functions and powers under it to maintain and enhance amenity values (s.7(c)). | Kāinga Ora seeks the word "maintain" is replaced with "are compatible with" in Policy NOISE-P1, as sough in its submission. | Mr Ashby's evidence supports replacing the word "maintain" however, prefers the phrase "is consistent with" the amenity values of the receiving environment – as NOISE-P1 is the foundation policy for permitted activities in the Noise chapter. Further, My Ashby notes in his evidence that this wording also echoes the use of "consistent with" in objective NOISE-O1. | No change in position. |
| 391.291 | General District wide Matters / Noise / NOISE-P2 | Supportive of NOISE-P2. Kāinga Ora sought for NOISE-P2 to be retained as notified | Section 42A report accepts the submission point to retain Policy | Kāinga Ora still seeks NOISE-P2 be retained as notified. | | |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | | NOISE-P2 as notified - no changes made in section 42A report. | | | |
| 391.292 & 391.293 | General District wide Matters / Noise / NOISE-P3 | Support in part. Kāinga Ora sought amendment to clarify what direction and outcomes are sought. | Section 42A report rejects the submission point stating the exact amendment sought is unclear. | Kāinga Ora supports the recommended amendments to NOISE-P3. | | |
| 391.294 & 391.295 | General District wide Matters / Noise / NOISE-P4 | Oppose in part. Kāinga Ora sought amendment. | Section 42A report rejects the submission and notes that it is considered essential Policy NOISE-P4 apply to noise sensitive activities within all high noise and moderate noise areas. Moreover, the Reporting Office rejects softening of this policy from 'require' to 'encourage and promotes'. The Reporting Officer considers it is essential that this policy require sound insulation and mechanical ventilation for a new noise sensitive activities locating within zones and areas within which NOISE-P1 allows higher than normal levels of outdoor noise. | Kāinga Ora seeks the title of Policy NOISE-P4 is replaced with "Acoustic treatment for buildings containing noise sensitive activities" to improve clarity as to the intent of the policy and align with the amendments sought to Objective NOISE-O1. | | No change in position. |
| FS89.134 | Part 2 / General District Wide Matters / Noise / NOISE-P4 | Oppose. Kāinga Ora opposed the original submission from WIAL to clarify that it is buildings that contain noise sensitive activities rather than the noise sensitive activity itself that can be acoustically treated. | Section 42A report rejects the submission point. Specifically, in relation to the WIAL submission, the Section 42A report accepts, in part, the submission to clarify that sound insulation and ventilation requirements apply both new and altered habitable rooms within the defined list of zones, areas and overlays. Further, the Reporting Officer notes that the definition of 'Air Noise Overlay' is now clarified to include both the Inner Air Noise Overlay and Outer Air Noise Overlay. | | | |
| FS89.135 | Part 2 / General District Wide Matters / Noise / NOISE-P4 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete NOISE-P4. | Section 42A report rejects this submission point. The Section 42A reports notes that the definition of 'air Noise Overlay' is now clarified and includes both the Inner Air Noise Overlay and Outer Air Noise Overlay. | | | |
| 391.296 & 391.297 | General District wide Matters / Noise / NOISE-P6 | Oppose in part. Kāinga Ora sought amendment to enable noise sensitive activities within the Inner Air Noise Overlay where appropriate ventilation and acoustic insulation can be achieved. | Section 42A report accepts, in part, the submission point, except to the extent that modifications are introduced by decisions on other submissions. | Kāinga Ora seeks the word "restrict" is replaced with "manage" in Policy NOISE-P6. Moreover, Kāinga Ora seeks that the phrase "restrictions on" is deleted and replaced with "of" within the title of the Policy. | Mr Ashby's evidence supports replacing the word "restrict" with "manage" as this better reflect the nature of the subsequent rules – in which 'restricting' is but one component of the approach. | No change in position. |
| FS89.136 & FS89.137 | Part 2 / General District Wide Matters / Noise / NOISE-R3 | Oppose. Kāinga Ora opposed the original submission from WIAL to require all new sensitive activities in the Air Noise Boundary areas to obtain a resource consent even where acoustic | Section 42A report accepts the submission point, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL, the Section 42A report rejects the submission point | Kāinga Ora seeks a suite of amendments to NOISE-R3 to reduce ambiguity of the rule and improve clarity around the cascade in the activity status for non-compliance with the permitted activity criteria, as follows: | Mr Ashby's evidence agrees with multiple submitters opinions that the Rule has been drafted in an overcomplicated or unclear way and that this needs to be remedied. Mr Ashby's evidence recommends a | Kāinga Ora proposes the following amendments to the matters of discretion recommended by the Council in their rebuttal evidence:<br><br><u>Matters of discretion are:</u> |

Sensitivity

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | insulation and ventilation is proposed or alternatively, to delete the rule. | which proposes to introduce two new acoustic insulation performance standards for aircraft noise insulation purposes only. The Reporting Officer concludes that adopting this approach is inappropriate and not recommended due to:<br>(a) the requested aircraft noise terminology for describing noise areas adopts terminology inconsistent with terminology already adopted; and<br>(b) acoustic performance standard is specified using "Ldn levels of aircraft noise measured indoors" as opposed to the recommended approach adopted with NOISE-S4 and NOISE-S6 whereby the outdoor-to-indoor sound isolation level s prescribed. | • delete the inclusion of the words "for one residential unit on a site" [NOISE-R3.1]<br>• delete the inclusion of the words "for up to three residential units on a site" [NOISE-R3.2]<br>• delete references to the 'default distances' (as well as the accompanying note) for State Highway and rail corridors<br>• include reference to "NOISE-S5" in clause (a) [NOISE-R3.3]<br>• remove the qualifier "two residential units on a site listed by NOISE R3.1" from clause (a) [NOISE-R3.3]<br>• insert a new clause for non-compliance with NOISE-R3.3, as follows: "Compliance with the requirements for NOISE-R3.1 for the Courtenay Place Noise Area is not otherwise achieved"<br>• delete the note pertaining to consideration of WIAL as an affected party for applications within the Inner Air Noise Overlay [NOISE-R3.3]<br>• delete references to any activities now proposed to be included / captured within NOISE-R3.3 from NOISE-R3.4<br>• delete the clause requiring consideration of WIAL as an affected party for applications within the Inner Air Noise Overlay [NOISE-R3.4] | variety of amendments to Rule NOISE-R3, as follows:<br>• The Rule adopts the structure of the Operative District Plan with regard to activity status, number of dwellings, and requirements for compliance with acoustic insulation (that is, 1 x dwelling is permitted, 2 x dwellings are restricted discretionary and 3 x dwellings or more are discretionary).<br>• The Rule is more effective and efficient by placing limits on the number of dwellings in High Noise Areas (rather than no activity status thresholds based on the number of dwellings and, instead, reliance on 'default distance' setbacks proposed by KiwiRail / Waka Kotahi).<br>• Clarification on the activity status of alterations / additions to habitable rooms (adopting Mr Hunt's recommendations re 10% or less to the gross floor area).<br>• The Rule clarifies the activity status of noise sensitive activities other than dwellings – that is, they are not permitted in the High Noise Area, however, are permitted in the Moderate Noise Area subject to compliance with the acoustic insulation and ventilation standards.<br>• The Rule adopts two of the proposed matters of discretion proposed my Ms O'Sullivan (that are the same or similar to assessment criteria under NOISE-S4 and NOISE-S5).<br>• The Rule does not need to identify WIAL as an affected party throughout the entire Air Noise Overlay – rather, only providing a note to the effect of a signal to district plan users (including the Council) that effects on operators of regionally significant | 1. The matters of assessment in NOISE-S4, NOISE-S5 and NOISE-S6.<br>2. The ability to achieve acceptable outdoor amenity.<br>3. Any proposed mitigation of noise, in accordance with a best practicable option<br>approach (e.g., site layout and design, design and location of structures and buildings and outdoor amenity areas).<br>4. Sensitivity of the activities activity to current and predicted future noise generation<br>from authorised compliant emitters of noise.<br>5. The ~~risk of reverse sensitivity~~ potential for adverse effects on the ongoing operation of regionally significant infrastructure.<br>6. The extent and effect of non-compliance with any relevant standard as specified in<br>the associated assessment criteria for the infringed standard. |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | | | | infrastructure should be taken into account in forming a judgement on affected person status under RMA 95E).<br><br>In addition, Mr Ashby's evidence agrees with the evidence of Mr Liggett regarding NOISE-R3 – that is, as notified, NOISE-R3 would limit residential development in the Courtenay Place Noise Area. In response, Mr Ashby's evidence recommends that NOISE-R3 be amended to not restrict residential development in non-residential zones on the basis of noise – provided that acoustic insulation and ventilation standards are met. | |
| FS89.138 | Part 2 / General District Wide Matters / Noise / NOISE-S3 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | Section 42A report accepts the submission point, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejects the submission point noting that while largely retaining the existing approach sees the Noise Chapter duplicate most noise related provisions found within the WIAL designation, Council needs to retain district plan tools that facilitate ease of abatement and enforcement. | Kāinga Ora still supports the retention of NOISE-S3, as notified. | Mr Ashby's evidence supports the deletion of the ANMP section of NOISE-S3 as WIAL has now finalised production of the ANMP and it has been uploaded to the WIAL website (and therefore is unnecessary and can be deleted from NOISE-S3). However, Mr Ashby's evidence considers it useful to maintain some PDP references back to the ANMP, where they inform Council's consideration of discretion under rules or compliance with standards. | |
| 391.298 & 391.299 | General District wide Matters / Noise / NOISE-S4 | Oppose in part. Kāinga Ora sought amendment so that any mitigation measures and/or Quieter Homes Programme applies to properties under both the inner and outer air noise overlay, and clarify the Standard after having reviewed the different insulation requirements for the inner and outer air noise overlay between the Plan and the Quieter Homes Programme<br>Oppose in part. Kāinga Ora sought amendment so that | Section 42A report rejects the submission point on the basis that there is no linkage between NOISe-S4 acoustic insulation standards and the amount oof acoustic treatment provided under the Quieter Homes programme. The Reporting Officer notes that this divergence already occurs under the operative plan whereby new or altered habitable rooms are required to be treated to achieve not more than Ldn 40 dB indoors whereas the Quieter Homes programme has Ldn 45 dB as its design target. These differences reflect the difficulties in achieving higher levels of acoustic insulation by retrofitting measures into existing dwellings. Further, the Reporting Officer notes that acoustic standards implemented under the Quieter Homes | Kāinga Ora seeks a suite of amendments to NOISE-S3 and NOISE-S4 to:<br>• provide for an alternative pathway for any alteration, addition or change of use of an existing building (rather than the current approach to group such activities with new buildings housing noise sensitive activities)<br>• delete reference to "suitably qualified acoustic engineer" and replace the phrase with "suitably qualified acoustic expert" in clause 3(b) and clause 5 of NOISE-S4 and NOISE-S5<br>• Include an additional assessment criterion regarding the adverse effects on health and amenity indoors to both NOISE-S4 and NOISE-S5 – noting the management of such potential effects is a specific focus of the proposed | Mr Hunt's evidence agrees that some exclusion for minor additions or alterations should be provided to address the possibility of stalling 'normal' urban renewal and renovation of existing dwellings (due to costs imposed on homeowners to undertake these minor works in compliance with NOISE-S4 and S5). However, Mr Hunt has not adopted the wording proposed and considers 25m$^2$ "too generous". Mr Hunt therefore proposes the following amendments to provide for minor upgrades or extensions to habitable rooms:<br>• Insert a new clause (2) in NOISE-S4 and NOISE-S5, as follows: | No change in position. |
| 391.300 & 391.301 | General District wide Matters / Noise / NOISE-S5 | | | | | No change in position. |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | | programme are not mandated by the district plan but are the result of the deliberations of the ANM and WIAL as funder of these works. | policy framework (in particular, NOISE-O1 and NOISE-P1). | *Any alteration or addition to a habitable room used by a noise sensitive activity within an existing building, which does not increase the gross floor area of the affected room by more than 10%, providing that the addition or alteration does not increase the number of bedrooms or sleeping rooms.*<br>• Insert the words "Except as provided in (2)" at the commencement of NOISE-S4(1) and NOISE-S5(1) to give effect to the new provisions NOISE-S4(2) and NOISE-S5(2).<br><br>In addition, Mr Hunt's evidence supports the deletion of reference to "suitably qualified acoustic engineer" and its replacement with the phrase with "suitably qualified acoustic expert" in clause 3(b) and clause 5 of NOISE-S4 and NOISE-S5, as sought.<br><br>Moreover, Mr Hunt's evidence supports the continued use of the 'standardised level difference' approach in the PDP (compared to the 'indoor Ldn' method).<br><br>Mr Syman's evidence, supports the position of Kāinga Ora with regard to:<br>• the concerns raised regarding road and rail vibration, as well as rail noise.<br>• the use of spatial noise modelling than "blanket" setback distances ('default distance') currently used.<br>• the appropriateness of the phrase / qualifier "suitably qualified and experienced person" (rather than "acoustic engineer") | |
| FS89.141 | Part 2 / General District wide Matters / NOISE / NOISE-S8 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | Section 42A report accepts these submission points, except to the extent that modifications are introduced by | Kāinga Ora still supports the retention of NOISE-S8, as notified. However, Kāinga Ora supports the recommended | | |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| | | | decisions on other submissions. Specific to the WIAL submission, the Reporting Officer shares the same conclusions as those noted in the previous row in relation to these submission points. | amendments to the standard as per the Section 42A report. | | |
| FS89.142 | Part 2 / General District wide Matters / NOISE / NOISE-S9 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | | Kāinga Ora supports the deletion of NOISE-S9 – supporting the conclusions reached in the Section 42A report. | | |
| FS89.143 | Part 2 / General District wide Matters / NOISE / NOISE-S10 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | | Kāinga Ora still supports the retention of NOISE-S10, as notified. However, Kāinga Ora supports the recommended amendments to the standard as per the Section 42A report. | | |
| FS89.144 | Part 2 / General District wide Matters / NOISE / NOISE-S11 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | Section 42A report accepts these submission points, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejects the submission point noting that while largely retaining the existing approach sees the Noise Chapter duplicate most noise related provisions found within the WIAL designation, Council needs to retain district plan tools that facilitate ease of abatement and enforcement. | Kāinga Ora still supports the retention of NOISE-S11, as notified. However, Kāinga Ora supports the recommended amendments to the standard as per the Section 42A report. | | |
| FS89.145 | Part 2 / General District wide Matters / NOISE / NOISE-S12 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | | Kāinga Ora still supports the retention of NOISE-S12, as notified. However, Kāinga Ora supports the recommended amendments to the standard as per the Section 42A report. | | |
| 391.302 & 391.303 | General District wide Matters / Noise / NOISES13 | Oppose in part. Kāinga Ora sought amendment so that the dwellings identified in Attachment 2 of designation WIAL5 which are eligible for mechanical ventilation prior to construction activity in the East Precinct are also provided with acoustic insulation in accordance with the standards identified in NOISE-S4 | Section 42A report accepts the submission point, except to the extent that modifications are introduced by decisions on other submissions. | Kāinga Ora supports the deletion of NOISE-S13 – supporting the conclusions reached in the Section 42A report. | | |
| FS89.146 | Part 2 / General District wide Matters / NOISE / NOISE-S13 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | Section 42A report accepts this submission point, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejects the submission point noting that while largely retaining the existing approach sees the Noise Chapter duplicate most noise related provisions found within the WIAL designation, Council needs to retain district plan tools that facilitate ease of abatement and enforcement. | | | |
| FS89.147 | Part 2 / General District Wide Matters / Noise / NOISE-S14 | Oppose. Kāinga Ora opposed the original submission from WIAL to replicate the aircraft noise management obligations inherent in Designation WIAL4 and WIAL5 in the noise chapter. | Section 42A report rejects the submission point noting that there are no relevant guidelines that recommend setting night-time type noise limits in residential areas. | Kāinga Ora still supports the retention of NOISE-S14, as notified. However, Kāinga Ora supports the recommended amendments to the standard as per the Section 42A report. | | |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
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| FS89.148 | Part 2 / General District Wide Matters / Noise / NOISE-S14 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard. | Section 42A report accepts this submission point, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejects the submission point noting that while largely retaining the existing approach sees the Noise Chapter duplicate most noise related provisions found within the WIAL designation, Council needs to retain district plan tools that facilitate ease of abatement and enforcement. | | | |
| FS89.140 | Part 2 / General District wide Matters / NOISE / NOISE-S15 | Oppose. Kāinga Ora opposed the original submission from WIAL to remove reference to the Airport Management Plan. | Section 42A report accepts these submission points, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Section 42A report rejects the submission point requesting complete deletion of all standards that cross refer to WIAL designation conditions. | Kāinga Ora still supports the retention of NOISE-S15, as notified. However, Kāinga Ora supports the recommended amendments to the standard as per the Section 42A report. | | |
| FS89.149 | Part 2 / General District Wide Matters / Noise / NOISE-S15 | Oppose. Kāinga Ora opposed the original submission from WIAL as it does not provide sufficient control over noise from airport activities. | | | | |
| FS89.150 | Part 2 / General District Wide Matters / Noise / NOISE-S15 | Oppose. Kāinga Ora opposed the original submission from WIAL to delete the standard | | | | |
| FS89.151 | Part 3 / Part 3 General / Part 3 General / Part 3 General | Oppose. Kāinga Ora opposed the original submission from WIAL to prohibit noise sensitive activities within zones where such activities are not generally anticipated (i.e., the general industrial and Open Space Zones) are a prohibited activity | Section 42A report accepts the submission point, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Reporting Officer rejected the submission point noting that given the approach of the PDP NOISE chapter of providing adequate acoustic protection and alternative ventilation to habitable rooms in buildings housing noise sensitive activities, it is not considered necessary from an effects perspective to prohibit noise sensitive activities…[remainder of text cut off in formatting]. | Kāinga Ora still opposes the original submission from WIAL to prohibit noise sensitive activities within zones where such activities are not general anticipated (supporting the Section 42A recommendation to not prohibit these activities, as proposed by WIAL). | | |
| FS89.111 | Part 1 / Interpretation Subpart / Definitions / New Definition | Oppose. Kāinga Ora opposed the original submission from WIAL to introduce a new definition for Air Noise Boundary. | Section 42A report accepts these submission points, except to the extent that modifications are introduced by decisions on other submissions. Specific to the WIAL submission, the Reporting Officer accepts, in part, the submission noting that definitions have now been clarified and terminology has been refined inline with PDP terminology including the use of the term 'Air Noise Overlays'. | Kāinga Ora seeks the retention of the definition for "Air Noise Overlay", subject to the inclusion of the following phrase "exposed to noise levels greater than 65 dBA" to clause (a). It is considered that this addition will provide clarity for plan-users as to the anticipated noise levels arising within this overlay. | Mr Ashby's evidence supports the evidence of Ms O'Sullivan (planning expert on behalf of WIAL) to include two new definitions for 'high Noise Area' and 'Moderate Noise Area' – effectively relocating the description of said areas from NOISe-R3 to the Definitions section of the chapter. Moreover, Mr Ashby's evidence supports the retention of the 'default distances' from State Highways and railways in the definitions of 'High | No change in position. |
| FS89.112 | Part 1 / Interpretation Subpart / Definitions / New Definition | Oppose. Kāinga Ora opposed the original submission from WIAL to introduce new definition of 60db Ldn Noise Boundary. | | | | No change in position. |
| FS89.113 | Part 1 / Interpretation Subpart / Definitions / AIR NOISE OVERLAY | Oppose. Kāinga Ora opposed the original submission from WIAL to delete Air Noise Overlay in its entirety. | | | | No change in position. |

| Submission Number | Plan Provision | Submission summary | Section 42A report position | Kāinga Ora position following section 42A report | Council rebuttal evidence | Kāinga Ora position following Council rebuttal |
|---|---|---|---|---|---|---|
| | | | | | Noise Area' and 'Moderate Noise Area' until such a time that KiwiRail and Waka Kotahi provide peer reviewed noise contours (that would eventuate as noise overlays for inclusion I the district plan mapping similar to the process already undertaken by WIAL with respect to air noise contours). | |
| FS89.116 | Part 1 / Interpretation Subpart / Definitions / WELLINGTON AIR NOISE MANAGEMENT COMMITTEE (WANMC | Oppose. Kāinga Ora opposed the original submission from WIAL to delete definition of Wellington Air Noise Management Committee in its entirety. | Section 42A report rejects the submission point noting that there is no value in retaining the definition. | Kāinga Ora supports the deletion of the definition – supporting the conclusions reached in the Section 42A report. | | |
| FS89.110 | General / Mapping / Mapping General / Mapping General | Oppose. Kāinga Ora opposed the original submission from WIAL to retain Air Noise Boundary, and considers it should be renamed 'Inner Noise Overlay.' | [unclear due to formatting – assuming accepted, in part, given WIAL submission is accepted to the extent that it seeks to retain the location of the Air Noise Boundary] | Kāinga Ora supports the conclusions reached in the Section 42A report. | | |