

Section 42A report overview:

CHAPTER 12 GENERAL DISTRICT-WIDE PROVISIONS (excluding Financial Contributions)

1.0 Introduction

- 1.1 This report considers submissions regarding the provisions of Chapter 12 General District-Wide Provisions (excluding Financial Contributions). The scope of the report relates to submissions received on general/whole of Chapter 12 matters, temporary events, signs and noise.
- 1.2 The report excludes the consideration of submissions relating to the Financial Contributions provisions of Chapter 12. The hearing on this topic area is currently scheduled for early October 2016, by which time it is expected there will be more certainty in terms of the proposed resource management legislation amendments to the RMA's financial contributions provisions.
- 1.3 There were 90 submissions (from 24 different submitters) and 113 further submitters on Chapter 12 (excluding the submissions on Financial Contributions). The submissions seek a range of outcomes; including support for many of the chapter's provisions, as well as amendments to provisions, including changes to policies, to rules, standards and the activity status of specific activities, corrections of inaccuracies, and the removal of duplicated provisions.
- 1.4 The largest number of submissions received on Chapter 12 were in relation to the noise provisions.

2.0 Report structure

- 2.1 The first two sections of the report (Sections 1 and 2) provide an introduction to the report, its scope and key submission issues, and outline the key statutory and other relevant considerations.
- 2.2 Section 3 identifies matters raised by submissions, provides an assessment of these submissions, my recommendations to accept, accept in part, or reject each submission point (including further submissions), and outlines any recommended amendments to the PDP as a result of the submissions.
- 2.3 The assessment of submissions in Section 3 is structured around the four main topic areas identified above, being:
 - a. Section 3.3 - General/whole of Chapter 12 submissions
 - b. Section 3.4 - Temporary events submissions
 - c. Section 3.5 - Signs submissions
 - d. Section 3.6 - Noise submissions.

- 2.4 For efficiency, and in accordance with Clause 10(3) of Schedule 1 to the RMA, my evaluation of submissions under each topic area has been undertaken on both an issues and provisions-based approach, as opposed to a submission by submission approach. Under each main topic area, my assessment of submissions is therefore further broken down into sub-topics, structured around provisions – for example:
 - a. Definitions
 - b. Policies
 - c. Rules and standards
 - d. Plan maps.
- 2.5 Section 4 of the report contains a marked up version of recommended amendments to Chapter 12 provisions (as well as specific Definitions in Chapter 1). Section 5 contains a summary table of the submissions (including further submissions) and the recommendations in relation to each submission point considered as part of the report.
- 2.6 The report also has two appendices which contain expert advice relevant to the assessment and recommendations of submissions on the noise provisions within Chapter 12.

3.0 Relationship to PDP Chapters

- 3.1 Chapter 12 General District-wide Provisions contains provisions that apply across all zones in the District. The chapter, and therefore my report, has relationships with all the PDP chapters, particularly the zone-based chapters (eg, Chapters 5, 6, 7 and 8) in that the policies and rules for temporary events, signs and noise are relevant to activities across different zones.
- 3.2 The noise provisions in Chapter 12 also have a strong relationship with the transport and access provisions in Chapter 11 (Infrastructure). The provisions in these chapters are intended to work together to provide a framework for managing noise effects associated with key infrastructure. My report therefore refers to the relevant Chapter 11 provisions, and key relationships between provisions, where applicable.
- 3.3 My report also highlights relationships between the Chapter 12 sign provisions and other chapters, including for example Chapter 6 (Working Environment) and Chapter 10 (Historic Heritage).
- 3.4 Chapter 12 implements a number of objectives in Chapter 2, however key objectives include 2.11 – Character and amenity values, 2.3 – Development management, 2.14 – Access and transport, 2.16 – Economic vitality, and 2.19 – Urban Design. My report references key objectives where they are relevant to the assessment of submissions and recommendations.
- 3.5 My report also highlights a number of consequential amendments I have recommended to Chapter 12 as a result of amendments recommended (or to be recommended) in other Section 42A reports. These amendments are varied and can relate to plan-wide issues (such as the deletion of policy explanations and summary

rule tables), or are to help ensure consistency of policies, rules and standards between PDP chapters. These amendments are highlighted in the comments boxes in Section 4 of my report.

- 3.6 I note that one of the more significant consequential amendments I have recommended is to amend the name of Chapter 12 from 'General District-wide Provisions' to "General Provisions" in order to avoid any potential confusion with the new Chapter "2A" – District-wide Policies.

4.0 Key submission topics

- 4.1 I will briefly highlight the key submission issues raised within each of the topic areas in my report.

General/whole of Chapter 12 matters

- 4.2 Three submissions (and no further submissions) were received that were general in nature or related to the whole of Chapter 12. One submission generally supported the whole of chapter and sought that it be retained as written; one submission sought to renumber the overarching rule table headings and to add missing standard numbers in the rule tables; and one submission sought amendments to the chapter to give effect to the settled outcome of Plan Changes 78 and 81, or to enhance development opportunities for the land subject to Plan Change 81 (being the Otaki South Precinct).

Temporary events

- 4.3 Four submissions (and several further submissions) were received on the provisions for temporary events, including definitions in Chapter 1. In general, these submissions were in support of the temporary event provisions. One submission sought minor amendments to clarify the permitted activity rule for temporary events in all zones.

Signs

- 4.4 Twenty submission points (and a number of further submissions) were received on the signs provisions.
- 4.5 Without detracting from the details of these submissions, which are addressed in my report, key issues raised included:
- Minor amendments to the wording of several sign-related definitions, and to the sign policies;
 - Amendments to the permitted activity rule provisions for signs including:
 - an increase in the maximum number of signs permitted for temporary events
 - clarification of the controls related to free-standing signs
 - an increase in the amount and area (m²) of advertising signage provided for in the Working Zones, and
 - more generous provisions for supermarket signage;
 - Support for the restricted discretionary activity sign rules/standards;

- Amendments to the status of activities that cannot meet permitted activity standards (i.e. from discretionary to restricted discretionary).

Noise

4.6 As mentioned, the largest number of submissions received on Chapter 12 were in relation to the noise provisions – a total of 63 submission points (24 individual submitters), with numerous further submitters (in support and opposition).

4.7 Without detracting from the details of these submissions, which are addressed in my report, key issues raised included:

- Amendments to correct various inaccuracies and errors in the rules and standards (eg. correcting references to NZ Acoustic Standards and to permitted activity noise levels);
- Amendments to the provisions for Temporary Military Training Activities, including significant amendments to the permitted activity rule standards (Rule 12D.1.7), and an amendment to the status of activities that cannot meet permitted activity standards (from discretionary to controlled);
- Opposition to the provisions for managing reverse sensitivity effects on key infrastructure, particularly associated with State Highway 1 and the Kapiti Expressway, the railway corridor, and Kapiti Airport. This includes opposition to key terms and definitions eg, “excessive noise route”, policies, rules, and plan map information);
- Amendments to correct inconsistencies in the rules in relation to the status of noise sensitive activities, particularly between the air noise boundary and outer control boundary of Kapiti Airport; and
- Amendments to the permitted and restricted discretionary activity rule provisions to better provide for noise associated with rural and horticultural activities, including the use of mobile rural equipment, and the use and operation of audible bird scaring devices.

5.0 Matters resolved/Still to be resolved

5.1 No pre-hearings were held on the provisions of Chapter 12; however, through the PDP Submitter Engagement process there have been several planner drop-in sessions and targeted submitter meetings at which Chapter 12 submission issues have been discussed (including for example, NZTA, Kiwirail, Federated Farmers, Kapiti Airport). A number of amendments have been recommended in my report in response to submissions and submitter meetings, and these are reflected in the recommendations in my report.

Matters resolved

5.2 Several submitters, on reading my report, have advised in writing (copies of the emails/letters have been provided to the panel) that they support its recommendations in respect of their submission points and therefore have elected not to attend the hearing. These submitters include:

- **Submitter 404 – NZ Fire Service Commission** (re: the exemption of emergency warning devices from the permitted activity noise standards);
- **Submitter 255 – Progressives Enterprises Ltd** (re: rules for signs in Working Zones and for supermarkets);
- **Submitter 87 – Z Energy Ltd** (re: rules for signs in Working Zones);
- **Submitter 460 – Heritage New Zealand** (re: rules for signs on historic heritage items).

5.3 In their evidence for the hearing, **Submitter 457 NZ Transport Agency (NZTA)** have advised that there are several matters on which they agree with my report's recommendations. These include:

- In terms of **signs**:
 - My recommended amendment to the definition of 'sign' to include reference to 'roads or state highways';
 - My recommendation to accept the support they provide for the definition of 'Community purpose event/charity event signs';
 - My recommended amendment to Policy 12.8B to include reference to 'state highways'; and
- In terms of **noise**:
 - My recommendation in terms of the definition of 'noise emission level' to not accept their request to amend this to 'noise imission level';
 - My recommendation in terms of Policy 12.13 to not accept their request given that the policy already refers to acoustic mitigation measures, not just acoustic insulation, as stated in their submission;
 - My recommendation to clarify the reference in the permitted activity rule to "altered" buildings by adding an explanation note to the end of the standards.

5.4 I also note that NZTA supports the wording amendments I have recommended to Policy 12.12 Transport network development in response to the submission by Kiwirail (although NZTA did not specifically submit on Policy 12.12).

5.5 During the engagement on the Submitter Engagement Version of the PDP, the **NZ Defence Force (Submitter 267)** provided Council officers with feedback on the changes being considered to the Chapter 12 provisions for temporary military training activities in response to their submission. Part of this feedback supported the amendments being considered (and now recommended as part of my report) to the permitted activity rule and standards (Rule 12D.1.7). I note that the evidence provided by NZDF (received on Friday 29 April) also largely supports the recommended amendments to the permitted activity rule and standards.

Matters still to be resolved

Temporary military training activities

5.6 In their evidence provided for the hearing, the NZDF have re-iterated the opposition expressed in their submission to the PDP's default Discretionary Activity status for

temporary military training activities that cannot meet the permitted activity standards in Rule 12D.1.7. They seek for these activities to be controlled activities. The discussion of this matter is in Section 3.6.3.12 of my report (see paragraphs 449 and 450).

- 5.7 This issue remains an area of contention as I consider a discretionary status for activities unable to meet the permitted activity standards is appropriate, particularly given the detailed and specific performance standards recommended in my report to the permitted activity rule. If activities cannot meet the standards, I question whether the conditions able to be imposed under a controlled activity status could adequately address the potential adverse effects of the activity. I consider the approach proposed (including the recommended amendments in my report) provides a permissive regime for activities that are anticipated to have minor or less than minor adverse effects, whilst restricting regulatory intervention to matters that are likely to have adverse environmental effects. I have therefore not recommended any further amendments at this stage in response to the evidence provided.

Noise and reverse sensitivity issues – NZTA

- 5.8 A key outstanding matter is the PDP's approach regarding the management of reverse sensitivity effects on state highways. Whilst the Council and the NZTA agree reverse sensitivity effects are important and need to be managed, the NZTA disagree with the PDP's approach and implementation methods.
- 5.9 I note that a meeting between the noise experts representing Council (Mr Malcolm Hunt) and the NZTA (Mr Michael Smith) was held on 21 April 2016, following the release of my s42A report and the subsequent statements of evidence provided by NZTA for the Chapter 12 hearing. The purpose of the meeting was to discuss the respective positions, and differences of opinion, on the matter of reverse sensitivity and the regulatory framework for new noise sensitive activities in close proximity to the state highway. Both experts agree reverse sensitivity effects need to be managed effectively and efficiently; however, there are different opinions in terms of the method(s) to achieve this.
- 5.10 In their hearing evidence, the NZTA raise the following issues with the recommended approach:
1. The permitted activity rule structure does not account for the nature of transport noise reverse sensitivity effects, which are stated as being different from other typical noise generators;
 2. The permitted activity standards cap the extent of noise effects at 80m from the edge of the state highway, as opposed to the 100m requested in their submission; and
 3. The standards do not specify an internal noise level for new noise sensitive activities within this "effects" area.

- 5.12 They go on to request a different approach which involves:

1. Adding a new restricted discretionary rule for new noise sensitive activities located within 40m of the state highway, and for the NZTA to be specified as an affected party. The NZTA submission originally asked for these activities to be prohibited, however in their evidence they have stated this would be inappropriate as adverse effects are able to be mitigated;
2. Deleting standard 2 from Rule 12D.1.12 (as is recommended in my report, and which requires a higher insulation standard for new noise sensitive activities within 40m of the state highway), and replacing it with a new standard that provides for a maximum internal noise level for noise sensitive activities located in the “transportation noise effects area” (effectively the area between 41m-100m of the state highway); and
3. Deleting the black dashes representing the noise corridor from the PDP plan maps (and the associated definition recommended in my report) and inserting 2 new overlays onto the plan maps showing the:
 - “Transportation noise buffer area” (an area 40m either side of the edge of the state highway), and
 - “Transportation noise effects area” (an area effectively 41-100m either side of the edge of the state highway).

NB: the detail of the map overlays was not provided as part of the evidence submitted by NZTA for the hearing, only a summary overview.

5.13 As noted in my s42A report (para 402), the operative Plan and the PDP provide for new and altered dwellings/noise sensitive activities located within 80m of the state highway as permitted activities, subject to meeting acoustic standards. In my s42A report, and based on the advice provided by Council’s noise expert Mr Malcolm Hunt, I have recommended an amendment to the PDP approach in response to the concerns raised by NZTA in their submission. The amendment (which forms part of the standards for the new recommended consolidated permitted activity rule 12D.1.12) requires a higher level of acoustic insulation for new (and altered) noise sensitive activities within 40m of existing and future state highway alignments (i.e. over and above the standard required for activities located within 80m). However, I understand this amendment has not satisfied the NZTA’s concerns, hence the revised relief outlined in their evidence.

5.14 The key issues to be resolved in relation to this issue, as I understand them, are therefore:

- The activity status of new and altered noise sensitive activities located within 40m of the edge of the existing/future state highway (ODP/PDP = permitted subject to meeting standards; NZTA submission = prohibited; NZTA evidence = RD with NZTA specified as an affected party);
- The extent of the noise “effects” area each side of the existing/future state highway to which acoustic standards apply (ODP & PDP = 80m; NZTA submission/evidence = 100m);
- The acoustic compliance measure/tool applied to noise sensitive activities to mitigate noise effects (PDP as per expert advice and recommended

amendments in my report = performance standard of building façade; NZTA evidence = indoor design noise level);

- The notations/overlays used on the plan maps (if any) to depict these noise effects areas.

5.15 In terms of the activity status of new activities within 40m of a state highway(s), at the recent meeting between noise experts, one of the key concerns clarified by NZTA in terms of the PDP provisions is the potential for the creation of reverse sensitivity effects resulting from the subdivision of rural zoned land near the Expressway. As I understand it, this has become more of a concern to NZTA (since the submission on the PDP was lodged) in terms of reverse sensitivity than the existing State Highway 1, which is now the subject of a revocation process (and will eventually become local road managed by the Council).

5.16 I acknowledge the NZTA concern, however I also have a number of concerns with the management approach suggested by NZTA. These include:

- The NZTA's approach places the primary burden of noise mitigation onto private land and building owners;
- The addition of a restricted discretionary rule for new activities within 40m of the state highway/Expressway will directly impact on the use of a large area of privately owned land across the district, and will incur additional compliance costs for land/building owners (eg, resource consent and noise mitigation costs). In addition, affected owners have not been able to engage or participate in the development of the provisions being suggested by the NZTA, and I consider this at odds with the RMA's emphasis on participation where plan proposals directly affect land owners;
- The NZTA have a general duty under s16 of the RMA to adopt the best practicable option to ensure noise emitted from the state highway or Expressway does not exceed a reasonable level;
- The Expressway's designation conditions include the adoption of noise mitigation measures which I understand have been incorporated into the Expressway's design and construction in existing urban areas, and in rural areas where there are existing sensitive receivers, in order to ensure there are no more than minor effects. From the new rule wording suggested by NZTA, the approach appears to suggest these measures will now not be adequate to mitigate future reverse sensitivity effects from the Expressway in these areas.

5.17 In terms of the extent of the noise "effects" area, the NZTA seek that the 80m area identified in the PDP be extended out to 100m¹ either side of the state highway. Both Mr Hunt and myself question the necessity of the additional 20m being sought by the NZTA compared to the level of noise effects experienced beyond 80m. As Mr Hunt has stated in his advice, his research (which includes assessment of the noise effects and mitigation measures associated with the Expressway) indicates it is unlikely that any extra measures are needed in new or altered habitable rooms to address the level of noise effects found beyond 80m of a state highway.

5.18 In terms of the acoustic compliance measure/tool applied to mitigate noise effects, this is a technical issue which I will defer to Mr Hunt's expertise on. I do however note that this is a key area of contention with NZTA. Mr Hunt considers the method as

¹ discussed in s42A report, paragraph 402

recommended in his advice to Council (and as incorporated into the amended rule text in my report) to be superior; NZTA prefer the method presented in their evidence. Mr Hunt can provide elaboration on this matter if needed for the Panel. I note however that he has advised me that the NZTA method has significant disadvantages stemming from the fact it is a 'design standard' which cannot be checked, monitored or enforced. The NZTA method would also require the plan user to carry out a range of predictions and calculations, which will significantly add to compliance costs.

- 5.19 In terms of the plan maps, the NZTA's submission sought clarification of the black dashes around the state highway and whether they are "noise corridor". In my report I confirm that the black dashes represent the noise corridor. This map notation was carried over into the PDP from the operative Plan. Although not particularly clear in the notified provisions, the noise corridor notation relates to the rules for new noise sensitive activities in close proximity to the state highway (the black dashes are approximately 80m from the edge of the State Highway 1 designation). The main purpose of the notation is to signal to plan users where a property may be affected by the rule requirements. In response to the NZTA submission, I recommend clarifying the black dashes by moving the map legend reference to sit under the 'Miscellaneous' heading (instead of under the 'Airport' heading), and adding a definition of "noise corridor" which explains the term and links plan readers to the relevant rule provisions.
- 5.20 However, the NZTA now seeks that the black dashed lines be replaced with two new map overlays (outlined above). I have concerns regarding the scope provided by NZTA's submission for this change given there is no specific submission request to introduce new map overlays. However, as I understand it, the NZTA consider the overlays will support the revised package of reverse sensitivity provisions. This is a significant new addition to introduce into the PDP as a result of the hearings process, particularly as other submitters (and affected land/building owners) have not had an opportunity to view or comment on the new map information. In addition, officers (and Mr Hunt) have not yet had an opportunity to view or consider the overlays. I also understand the overlays will include the Expressway. In the PDP (as notified) the "noise corridor" only relates to the existing State Highway 1, therefore the request is introducing material which did not form part of the PDP as notified.²
- 5.21 NZTA state that the overlays will make it easier for plan users to determine if the rules apply to them (as opposed to specifying distances that need to be measured). Whilst I acknowledge this point, I also note that this is the key purpose of the "noise corridor" notation as per the notified PDP. I also have a concern that the overlays will add to the complexity of the plan maps, and I understand this has been a key theme in the submitter concerns expressed in the hearings to date.
- 5.22 As part of the revised relief sought, NZTA's noise expert (Mr Smith) also requests that state highways be split out separately from the consolidated version of Rule 12D.1.12 (as is recommended in my report) as "the noise sources captured by the rule are different from traffic and they should not all be addressed within the same rule as traffic" (refer paragraphs 32-35 of Mr Smith's evidence). Although this issue is something I will consider further during the hearing, at this stage I am unsure of the necessity and value of such a change. I note that a key driver of the recommended

² Nb: at the time of notification of the PDP, the Expressway designation was not confirmed – the PDP maps therefore show the proposed designation (not the final approved designation)

consolidated rule for noise sensitive activities in my report was to reduce the number and complexity of permitted activity rules/standards for such activities.

- 5.22 Also of note in relation to this issue, in my report in response to the submission by **Submitter 447 Kiwirail Holdings Ltd**, I recommend an amendment to the plan maps to extend the “black dashes” representing the noise corridor, to include an area of 40m each side of the rail corridor designation (where it is not already included within the existing 80m area around the state highway). I note that if the relief sought by NZTA in terms of the new plan overlays is granted by the Panel, the treatment of the rail corridor on the plan maps will likely need to be revisited to ensure a consistent and integrated approach.

Reverse sensitivity terms and definitions

- 5.23 Related to the above issues, in their evidence the NZTA also seek to replace all references in the PDP to the terms:

- ‘noise corridors’
- ‘excessive noise route/s’, and
- ‘transportation noise effect routes’

to one of the following (as is appropriate):

- ‘state highway designations and the rail corridor’
- ‘state highway designations’ or
- ‘the rail corridor’.

The reasoning provided for this terminology change is that they are straightforward descriptions that do not require definitions and are applicable to both policies and rules.

- 5.24 Whilst I support the general intent to simplify terms used within the PDP, this request differs and goes beyond the request in the original submission. The only NZTA submission point related to a definition that is coded to Chapter 12 is “emission level”. However, Chapter 11 (Infrastructure) has two relevant submission points – these are Submissions 457.1 and 457.5 which oppose the term “excessive noise routes” and seek it be replaced with “transportation noise effects area” or similar.

- 5.25 The term “excessive noise routes” was carried over into the PDP from the operative Plan. However, as a result of submissions on Chapter 11, the chapter lead for that chapter is currently supporting the relief sought by NZTA in its submission and is recommending that the term “excessive noise routes” be amended to “transportation noise effects area” (whilst retaining the definition wording of “*means the existing alignment of State Highway 1 through the district, and includes any future route(s) identified within the Plan as an alternative route for this highway*”).

- 5.26 On consideration of the NZTA evidence, I do not support the request to replace the term “transportation noise effects area” with the words “state highway designations or the rail corridor”. This is primarily because I am concerned that the term “state highway designation” is limited and may not cover the future status of the existing state highway 1 that will eventually be revoked (and not considered “state highway” anymore). I consider it important for the noise provisions of Chapter 12, including the relevant

reverse sensitivity-related provisions, to continue to apply to these parts of the transport network into the future as they will still be subject to relatively high levels of traffic, and therefore, noise effects will need to continue to be managed.³

5.27 I also note that the term “noise corridor” is different in meaning from, for example, the term “excessive noise routes” (aka “transportation noise effects area”). ‘Noise corridor’ includes the “buffer” area that is subject to acoustic standards, and ‘excessive noise route’ refers only to the state highway route itself. I therefore do not support the replacement of the term “noise corridor” with “state highway designation” as the intended meaning of the terms is different.

5.28 I note that Ms Penfold further considers (paragraph 27 of her statement) that neither of the terms “noise corridor” or “excessive noise routes” are critical to the implementation of the PDP. As already outlined, whilst neither of the terms is perhaps “critical” for the plan’s implementation, I consider the terms are important for aiding interpretation of the plan.

Noise and reverse sensitivity issues – KiwiRail

5.29 **KiwiRail Holdings Ltd (Submitter 447)** provided the Panel with a memorandum of counsel (dated Friday 29 April, but received by Council on Monday 2 May 2016). The memorandum notes the original points included in their submission on the Chapter 12 noise, but then signals that on reading my report, they have some “residual” concerns regarding the ability of the provisions to adequately avoid, remedy of mitigate adverse effects, on both the Kapiti community, and on the rail network. From the information provided in the memorandum, KiwiRail now seems to be seeking an 80m noise “effects” area, similar to that provided for road traffic noise, rather than the 40m area currently provided for the rail corridor in the operative Plan and in the PDP. I note that KiwiRail did not request any amendments to the 40m distance in their original submission (the only amendment sought to the rules was to ensure the acoustic standards in Rule 12D.1.16 don’t just apply to ‘habitable rooms’).

5.30 I note that KiwiRail’s expert evidence was received by Council at 4pm yesterday (2 May) and as a result I have not had an opportunity to consider this as part of my opening statement. However, Council’s noise expert Mr Hunt has briefly reviewed the evidence and can provide comment today if required by the Panel.

Noise sensitive activities & Kapiti Airport – KCAHL

5.31 **Kapiti Coast Airport Holdings Ltd (KCAHL) (Submitter 276)** have provided the Panel with a letter dated 2 May 2016 outlining their general support for the s42A report recommendations, but requesting three minor additional amendments. In terms of the first bullet point regarding noise sensitive activities, I consider this concern is addressed by my further recommended amendment to Rule 12D.1.12 at the end of this statement. I have not however had an opportunity to consider the two other points raised by KCAHL.

³ Nb: in terms of the Expressway, the PA noise rules would apply (because of the use of term “excessive noise routes”/“transportation noise effects area”; however, the PDP plan maps as notified do not show a “noise corridor” around the Expressway (the Expressway was not confirmed at the time of notification)

Signs – Policy 12.9 ‘Assessment criteria’

- 5.32 I note that whilst NZTA accept my recommendations in terms of their submission points on the signs provisions, in their evidence they suggest an additional wording change to Policy 12.9 (Assessment criteria) to change the ‘Safety’ title, to ‘Transport’.

In terms of this request, I consider safety to be a key focus of the criteria under this heading, however I do acknowledge they are transport related, and clause ‘c’ is efficiency related rather than safety. This request is not part of the submitter’s original submission. NZTA suggest the change is for “plan navigation purposes” – however I do not consider this to be a critical issue, and am not convinced the change of title to “transport” adds much value to the policy’s interpretation. However, if the Panel are of a different mind, I would support an alternative wording amendment along the lines of “Transport and safety effects”.

6.0 Issues I would like to draw to the Panel’s attention

s42A report errors

- 6.1 In their evidence the NZTA (refer paragraphs 57-58 of Ms Penfold’s statement) have identified an error in my report in regards to the status of new or altered noise sensitive activities within 40 metres of a state highway. In paragraph 402 of my report, I state that these activities would be assessed as discretionary activities. However, I agree this is an error – if the activity meets the permitted activity rule acoustic standards, it would be a permitted activity. If the activity could not meet the permitted activity standards, it would be assessed as a discretionary activity under Rule 12D.4.1.
- 6.2 Further to this, in paragraph 405 of my report, I would like to clarify that wording of the sentence which begins “Therefore, the approach in the PDP to have higher insulation standards...” should more accurately read “Therefore, the approach in the amendments I have recommended to the PDP to have higher insulation standards...”. This is because the higher insulation requirements are in response to the NZTA submission concerns and were not included in the PDP as notified.

Noise from extractive industries (new permitted activity Rule 12D.1.7A)

- 6.3 In paragraphs 307 and 308 of my s42A report, I discuss the Winstone Aggregates submission request for specific permitted noise standards for extractive industries⁴. In paragraph 308 I refer to amendments being considered to the Chapter 7 (Rural) provisions for extractive industries as part of the Chapter 7 Section 42A report. At the time of writing my s42A report, a new rule for extractive industries was being considered for Chapter 7. However, as a result of further consideration, I now understand that a new rule is not being recommended, and instead there will be a recommendation to retain the restricted discretionary rule for extractive industries. As a result of this change of thinking, I recommend a further amendment to the new recommended noise rule for extractive industries (Rule 12D.1.7A) in order to provide alignment with Chapter 7 recommendations. However, I note that in the letter tabled for the hearing by Winstones, they request for the matters related to extractive

⁴ Sub# 92.149

industries (which would include the noise standards) to be considered in their totality in the Chapter 7 hearing.

7.0 Areas in which evidence has led me to recommend further changes

7.1 I have reviewed the evidence provided by submitters in advance of the hearings today, and I have the following comments to make.

Policy 12.11 – Noise sensitive activities

7.2 NZTA request adding a reference to “designated” within the policy wording, so that the wording of the policy would read:

“Community health and welfare will be maintained and enhanced through appropriate noise limits and through avoiding or managing the location of noise sensitive activities close to land zoned, designated, or used for noisy activities.”

7.3 I note that this relief wasn’t specifically requested in their original submission (NZTA did not specifically submit on Policy 12.11), but as Ms Penfold points out (see paragraph 31 of her evidence statement), I agree that the general comments in the introduction to their submission could provide scope for this change. I consider that this amendment helps increase the clarity of the policy for plan users and supports its effective implementation, so I support the wording amendment sought and therefore recommend the policy be amended to this effect.

Policy 12.13 – Noise from the transport network

7.4 In their original submission, the NZTA partially supported Policy 12.13, which included the explanatory text. In their evidence for the hearing, NZTA request that part of the policy explanation – which is recommended for deletion as a result of the plan-wide deletion of policy explanations – be added into the actual wording of Policy 12.13 because it provides a useful clarification. This clarification relates to building owners having the responsibility to protect new noise sensitive development from excessive traffic noise.

7.5 Given that the focus of this policy is to highlight the responsibility of land owners/private developers of new noise sensitive activities in close proximity to the state highway and rail corridor to protect these activities from the adverse effects of noise (in contrast to Policy 12.12, which is focused on responsibilities of the developers of transport networks), I would support the addition of “by the building owner” to the policy as requested. I therefore recommend that a consequential amendment to the policy wording to this effect.

Policy 12.13, as amended, would therefore read:

“All *noise sensitive activities* in close proximity to the *transportation noise effect route-network* and the rail corridor shall be protected by the building owner from adverse effects of noise, through the adoption of acoustic mitigation measures.”

Rule 12D.1.12 (new recommended consolidated permitted activity rule for noise sensitive activities)

7.6 After consideration of the NZTA evidence regarding the permitted activity rule and standards for noise sensitive activities, I consider that several further amendments to the new recommended consolidated permitted activity rule for noise sensitive activities (Rule 12D.1.12) would help address some of the submitter's concerns and improve its clarity. These additional recommended amendments include:

- Amending the recommended rule "title" wording so it just refers to "Noise sensitive activities" (i.e. delete the words "Acoustic insulation for" – as I consider these words to be unnecessary);
- Amending standard 5 to **delete the reference to the 55dB noise level for rail traffic noise** because, as NZTA highlight, this is not relevant as this standard only relates to road traffic; and
- Amend the wording of clause 'f' in standard 1, and standard 2, to **delete the words "carriageway of any formed State Highway, or any transport corridor designated for State Highway purposes that has yet to be formed"** to refer instead to the defined term of "transportation noise effect route". I consider this provides alignment with the amended policy wording, maintains the intent of the rule while simplifying its wording, and provides relief for the NZTA's original submission concerns re: terminology.

Noise from extractive industries (new permitted activity Rule 12D.1.7A)

7.7 As flagged, in order to maintain consistency with the recommended changes for extractive industries in the Chapter 7 s42A report, I recommend a further amendment to the new rule recommended in my report which provides specific permitted noise standards for extractive industries (Rule 12D.1.7A), to replace the rule reference from Rule 7A.2.5 to Rule 7A.3.4.

Rule 12D.1.7 – Temporary military training activities

7.8 In their evidence, the NZDF have requested some minor wording amendments to the revised permitted activity rule standards for temporary military training activities in rule Rule 12D.1.7, specifically clause 'c'.

I agree with the reasoning provided by NZDF in that this amendment improves the clarity of the standard and its requirements, and also provides helps consistency with the wording of Rule 12B.1 regarding noise management plans for temporary events. I would however prefer for the TMTA acronym used to be spelt out in full.

The revised standard would therefore read:

~~"The activity is undertaken in accordance with A~~ Noise Management Plan prepared by a suitably qualified expert ~~and approved by~~ shall be submitted to the Council not less than 15 working days prior to the ~~activity taking place commencement of the temporary military training activity, setting out the methods by which noise will be managed~~. The Plan shall, as a minimum, contain..."

7.9 At this stage I am not recommending any further changes to my report, however I maintain an open mind as I hear submissions during the course of this hearing.

7.10 Thank you Mr Chair and members of the Panel.