BEFORE THE PROPOSED KAPITI COAST DISTRICT PLAN HEARINGS PANEL

IN THE MATTER OF **The Resource Management Act 1991**

AND

IN THE MATTER OF **The Proposed Kapiti Coast District Plan**

RESPONSE BY REPORTING OFFICER TO MATTERS RAISED DURING CHAPTER 12: GENERAL DISTRICT-WIDE PROVISIONS (excluding Financial Contributions) HEARING
3 MAY 2016

1.0 Introduction

1.1 I have considered the evidence, summary statements and submissions of submitters during the course of this Hearing and make the following comments in response. I consider there are issues regarding scope for some of the matters raised in evidence , and I identify these issues where relevant in my discussion below.

1.2 Section 2 of this response focuses on the specific issues raised by submitters in relation to Chapter 12 provisions. To aid clarity I have grouped this section of my response into the key themes raised. Section 3 of this response responds to specific questions raised by the Panel that are not addressed in the responses under Section 2. Section 4 provides a summary of the key changes recommended after consideration of the evidence.

1.3 The submitters appearing at the hearing were primarily concerned with the noise provisions of Chapter 12, and in particular, the provisions (policies, rules and standards, and plan maps) concerning the management of:

- reverse sensitivity effects in relation to State highways (457 – NZ Transport Agency)
- reverse sensitivity effects in relation to the rail corridor (447 – KiwiRail Holdings Ltd)
- noise from rural activities in rural zone areas (250 – Federated Farmers of NZ)
- temporary military training activities (267 – NZ Defence Force).

1.4 Late evidence was provided for the hearing by NZ Defence Force (267) and KiwiRail Holdings Ltd (447). The evidence provided by NZ Defence Force was dated Friday 29 April but was received by officers on 2 May; in terms of KiwiRail, Dr Chiles evidence statement was received on 2 May and Ms Hewett's on 3 May at the hearing. This timing meant that I did not have sufficient time to consider or obtain expert advice on the evidence and issues raised as part of my opening statement for the hearing. As a result, and at the direction of the Panel, I include a response to the key issues raised in the evidence within Section 2 of this response. I also note that the map overlays which NZ Transport Agency (457) seek to add to the PDP plan maps (as part of their revised relief) were not provided as part of their evidence and were not tabled at the hearing. The overlay information was received by officers on 11 May.

1.5 The following submitters tabled summary statements and letters which I have also responded to in Section 2 of this response:

- Federated Farmers (250)
- Kapiti Coast Airport Holdings Ltd (KCAHL) (276)
- Winstone Aggregates (92).

1.6 I acknowledge and accept the support provided for my report recommendations on submissions in the correspondence provided for the Panel by:

- NZ Fire Service Commission (404) – support the s42A report recommendation to retain the exemption from the permitted activity noise standards for emergency warning devices;
- Progressives Enterprises Ltd (255) – support the s42A report recommendations regarding their submissions on the rules for signs in Working Zones and for supermarkets;
- Z Energy Ltd (87) – support the s42A report recommendations regarding their submissions regarding rules for signs in Working Zones;
- Heritage New Zealand (460) – support the s42A report recommendations regarding the amendments to the rules relating to signs on historic heritage items.

I do not propose any further amendments as a result of this submitter correspondence in support of the recommendations.

2.0 Issues Relating to Specific Provisions

2.1 This section deals with the specific issues raised by submitters. I have grouped the issues raised by theme where possible.

Reverse sensitivity and significant infrastructure

2.2 NZ Transport Agency (457) and KiwiRail Holdings Ltd (447) raised similar issues in their evidence for the hearing in terms of the Chapter 12 noise provisions related to reverse sensitivity effects. I comment on the matters raised by these submitters under separate headings below. I also note that at the request of the Panel, Council's noise expert, Mr Malcolm Hunt has provided further advice in a separate memo for the Panel on the matters raised by NZ Transport Agency and KiwiRail in regards to noise and reverse sensitivity. I have referred to this further advice in my response below.

2.3 Regarding scope, the submission by KiwiRail supports the PDP rule provisions as notified. The evidence provided for the hearing appears to contradict the position of Kiwirail in its submission. Therefore I consider there are significant scope issues in considering any amendments to the PDP in response to the evidence provided by this submitter for the hearing. Notwithstanding this, I do provide a full response to the matters raised within the evidence to assist the Panel in reaching its own position on scope.

NZ Transport Agency (457)

2.4 NZ Transport Agency raised several issues in regards to the provisions for the management of noise and reverse sensitivity effects on the current and future SState highway. Whilst the NZ Transport Agency acknowledges that the PDP appropriately recognises reverse sensitivity effects as important and as requiring appropriate management within the plan, they disagree with the PDP's implementation approach and methods, including recommended amendments in my Section 42A report. NZ Transport Agency therefore seeks a different approach/methods which involves:

1. Adding a new restricted discretionary rule for new noise sensitive activities located within 40m of a SState highway, and for the NZ Transport Agency to be specified as an affected party. The NZ Transport Agency submission requests these activities be classified as prohibited activities, however in their evidence they have stated this would be inappropriate as adverse effects are able to be mitigated – as a result, they now seek a restricted discretionary rule status;

   [Note: At the hearing, NZ Transport Agency suggested further revisions to the wording of the new restricted discretionary rule (as is sought in their evidence) to also include activities within the NZ Transport Agency's "transportation noise effects area" (an area within 100m of the SState highway designation) and that cannot meet the permitted activity standard 12D.1.12.2 (as amended by NZ Transport Agency). I consider this additional request goes beyond the relief sought in their original submission as it relates to the status of activities beyond 40m – this was not a matter raised by the submission. Under the PDP, activities that cannot meet the permitted activity standards would be assessed as full discretionary activities];

2. Deleting recommended standard 2 from amended Rule 12D.1.12 (as is recommended in my Section 42A report, and which requires a higher insulation standard for new noise sensitive activities within 40m of the SState highway), and replacing it with a new standard that provides for a maximum internal noise level of 40dB$_{LAeq}$ (24h) 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).

2.5 The key reasoning/general aims provided by NZ Transport Agency for their revised approach include:

- Ensure cohesive terminology
- Provide clear rules/standards that need to be met within specified distances of the State highway, and
- Provide for the relevant provisions to be clearly depicted on the plan maps in order to maximise usefulness to plan users.

I generally agree with these aims, and consider the intent to be consistent with the amendments recommended in my Section 42A report. However, I also acknowledge that further amendments could help refine and improve the cohesiveness and clarity of some of the relevant provisions. In my opening statement for the hearing I signalled some further amendments for the Panel's consideration as a result of the evidence provided. After further consideration of the evidence and statements made at the hearing, I have further refined these further amendments. These changes are discussed in the following sections and summarised in Section 4.

2.6 However, after considering the evidence presented by NZ Transport Agency and advice provided by Council's noise expert (Mr Malcolm Hunt), I continue to have concerns regarding several key aspects of the approach requested. The below tables summarise the key changes sought in the evidence and my concerns/issues for the Panel's consideration.

<u>NZ Transport Agency requested change:</u>
1. That State highways be split out separately from the recommended consolidated permitted activity rule for noise sensitive activities (Rule 12D.1.12).

Current approach & s42A recommendations	**Report writer comments/concerns**
• PDP contains separate permitted activity rules for: o for *residential activity* located within 80 metres of a *Strategic Arterial Route (Rule 12D.1.14)*; and o for *residential activity* or	• NZ Transport Agency states that the noise sources captured by the rule are different from traffic and they should not all be addressed within the same rule. • Malcolm Hunt has advised in his further advice (pg 2) that there is no technical justification for a separate noise rule for traffic noise/State highways. • After further consideration, I am unconvinced of the necessity and value of such a change, particularly given there is no

noise sensitive activities that are located within 80 metres of *excessive noise routes (Rule 12D.1.15).* • In response to multiple submissions concerning the number and complexity of permitted activity rules relating noise sensitive activities, the Section 42A report recommends simplifying and consolidating the rules into one rule.	technical basis. A key driver of the recommended consolidated rule for noise sensitive activities in my report was to reduce the number and complexity of permitted activity rules/standards for these activities.

NZ Transport Agency requested change:

2. Add a new restricted discretionary rule (with NZ Transport Agency identified as an affected party) for new noise sensitive activities located within 40m of the State highway.

Current approach & s42A recommendations	Report writer comments/concerns
• PDP provides for noise sensitive activities within 80m of the State highway as permitted activities, subject to meeting acoustic standards (similar to the operative Plan). • In response to NZ Transport Agency's submission, the Section 42A report recommends an amendment to the permitted activity standards in Rule 12D.1.12 to increase the level of acoustic insulation treatment required for noise sensitive activities located within the first 40m of the State highway.	• Although NZ Transport Agency no longer seeks a prohibited activity status for noise sensitive activities with 40m of a State highway, a restricted discretionary status requires resource consent. • A new RD rule approach places the primary burden of noise mitigation (outside of the mitigation works required to be completed as part of the Expressway conditions) onto private land/building owners. • A new RD rule applying to 40m within the existing and future State highway would create higher compliance costs for land/building owners (eg, resource consent costs, noise expert costs, noise mitigation costs) than the PDP approach, or the s42A report amended approach. • The recommendation within my Section 42A report to amend the permitted activity standards in Rule 12D.1.12 to increase the level of acoustic insulation treatment required for noise sensitive activities located within the first 40m of the State highway would ensure adequate noise mitigation to occupants resulting in no more than minor effects in accordance with the relevant NZ Standards. Given this level of mitigation, I do not consider an additional consenting process to be necessary, as given the RMA provisions against which consent applications are considered and decided, I believe such a consent process would likely result in the same level of mitigation. • I note the evidence provided by the NZ Transport Agency does not contain evidence (for example a complaints log) to support its position that reverse sensitivity effects on the State highway network within Kapiti is a resource management issue which requires management by the Council in a different way to that recommended in my Section 42A report. I am also not aware of any complaints logged with the Council regarding traffic noise from occupiers of properties adjoining the NZ Transport Agency's State highway.

	This leads me to the position that a major shift in rules and noise mitigation methodology is not justified in Kapiti. • Multiple further submitters oppose the NZ Transport Agency submission seeking introduction of new rules and standards that require consent or prohibit buildings within certain distances of the current and future State highway network. Submitters state that these are unreasonable restrictions on private landowners, and if the requested approach is necessary to implement a successful State highway network, NZ Transport Agency should purchase the properties as a true reflection of the impact on people. • Many affected land owners are unlikely to be aware of the revised approach sought by NZ Transport Agency. Although the PDP submissions process provided an opportunity for people to make further submissions on the NZ Transport Agency submission (which a number of people did do), it is likely many directly affected parties will consider they have not been appropriately or adequately involved in the revised plan provisions. I remain of the opinion that the resulting effect on these landowners in terms of costs is a matter about which the Council would wish to consult more directly with affected parties to ensure the full costs and benefits are understood, and that the approach can be justified in terms of the effect it intends on addressing within Kapiti. I remain unconvinced the NZ Transport Agency's requested approach is an efficient or effective method to achieve the purpose of the RMA in the Kapiti context. • In terms of the timing of the PDP submissions process and the RoNS designations, at time PDP was notified, the M2PP designation status was 'proposed' and subject to submissions. The M2PP decision was notified on 12 April 2013 (PDP submissions closed 1 March 2013; further submissions on non-coastal matters closed on 4 July 2013). • In terms of PP2O, the Notice of Requirement was publicly notified on 18 May 2013 (well after the PDP's notification and the close of submissions, and just prior to the close of non-coastal further submissions on 4 July 2013); the final decision was notified 14 Feb 2014. As a result, the PP2O designation was not shown on the notified PDP maps. • I question the necessity and appropriateness of an RD rule that applies to areas (i.e. urban areas and rural areas with existing sensitive receivers) where specific Expressway operational noise mitigation design measures are required to be implemented (as part of the designation conditions) in order to ensure there are no more than minor adverse noise effects. The request by the NZ Transport Agency that a RD rule should apply in these circumstances appears to be an attempt to require the Council to address operational noise effects on existing sensitive receivers arising from the operation of the Expressway, and therefore shifting the NZ Transport Agency's on-going operational noise mitigation responsibilities (at least in part) onto the Council and private land owners. • The requested RD rule approach would mean the treatment of the State highway would differ to that for noise sensitive activities within 40m of the rail corridor designation (and I consider there to be no submission scope to introduce such

	provisions – see comments below re: KiwiRail). • In response to a question by the Panel Chair, NZ Transport Agency confirmed that no other district plan has adopted the approach being sought by NZ Transport Agency for the PDP. The revised approach is based on NZ Transport Agency's new guidelines (written by the NZ Transport Agency and published September 2015). I am therefore have concerned the proposed approach has not been tested, and is being introduced via submissions, rather than via a participatory planning approach, including reasonable resource management grounds for its requested introduction. The approach would also be quite different from that used in neighbouring district plans (eg. Horowhenua District Plan which became operative in 2015). • To reiterate my earlier comments, I am not aware of any complaints from occupiers adjoining the State highway within Kapiti which would lead me to believe the current approach, and the recommended revised approach within my Section 42A report are ineffective tools in addressing operational noise effects from the State highway network within Kapiti.

NZ Transport Agency requested change:

3. Extend the noise "effects" area either side of the State highway from 80m to 100m.

Current approach & s42A recommendations	Report writer comments/concerns
• PDP rules identify an 80m area each side of 'excessive noise routes' (the existing and future State highway) which is subject to permitted activity acoustic standards (similar to the operative Plan). • Section 42A report recommends retaining the 80m area as in the PDP.	• I question the necessity of the additional 20m being sought by NZ Transport Agency compared to the level of actual noise effects experienced beyond 80m. This comment applies to both the existing SH1 and the Expressway. • Malcolm Hunt has provided further comment on this matter in his memo (pg 6-7). Mr Hunt's own investigations indicate it is unlikely that extra measures are needed to address the level of noise effects found beyond 80m of a State highway. He points out that in terms of the Expressway, due to the mitigation measures required to be implemented as part of the consenting process there are very few (mainly rural) areas where the forecast future 57 dB LAeq(24 hour) contour would be likely to be exceeded at 80m from the carriageway edge. • In terms of existing SH1, I note that the 80m area subject to acoustic treatment has been in place for many years under the current operative District Plan, and as outlined above, I am not aware of any significant issues or complaints that would justify a change of this approach. • Under the NZ Transport Agency approach there would be additional compliance costs for land/building owners within the area between 80-100m of the entire extent of the existing State highway and the Expressway. • Multiple further submitters oppose the NZ Transport Agency submission as it relates to the imposition of additional noise standards on buildings within a certain distance of the current and future State highway network, stating that these are unreasonable restrictions on private landowners. • NZ Transport Agency stated that the extent of the 100m effects area would be based on assumptions they have made,

	for example, in terms of road surface, traffic/truck numbers etc. I note these assumptions are the Agency's, and they have not been able to be tested by any other party. Therefore I am of the opinion they can be given little weight in justifying a resource management approach which would potentially impact a large number of property owners in the district. • NZ Transport Agency indicated that the extent of the effects area could be reduced down from 100m over time in consultation with Council and landowners, however this would only likely apply to the PP2O designation. Any change to the district plan provisions would require a plan change process. I am of the opinion it is best practice to justify district plan provisions based on robust evidence wherever possible as opposed to inserting 'experimental' provisions which would need to be reviewed at a later date via a Schedule 1 process at the Council's (and therefore the community's) cost. • In my further consideration of these matters, several issues concerning the PDP approach and the NZ Transport Agency request have been clarified. This has led me to consider that some further amendments to the PDP provisions are required in response. • On the PDP plan maps as notified, the "noise corridor" was not depicted as applying to the Expressway however the wording of the permitted activity rule included both SH1 and the Expressway. The noise corridor was not identified on the maps due to the "proposed" status of the Expressway and the corresponding level of uncertainty in regards to the designation extent and corridor alignment. • The NZ Transport Agency submission provides scope to apply the "noise corridor" to the Expressway. • However, I consider that given the extensive noise effects mitigation treatment now ensured through the Expressway designation conditions (which apply to the extent of the corridor through existing urban areas), I do not consider it appropriate or necessary to apply the acoustic standards through these areas. This is because noise effects on existing sensitive receivers from the operation of the Expressway are already mitigated to level that is no more than minor and it would therefore be inappropriate to apply standards in these areas. • Further to this matter, with respect to operational noise arising from the MacKays to Peka Peka Expressway designation, in its final decision the Board concludes (my emphasis added): [502] Pulling together all of these area assessments, our summary of NZTA's assessment indicates that some 329 PPFs (or dwellings) within 100 metres of the proposed expressway will be affected by traffic noise. Of this total and with the BPO noise mitigation measures proposed, some 296 of these dwellings will receive Category A noise with the balance receiving Category B. <u>No dwellings are predicted to receive the highest Category C noise and on this basis no dwellings would be eligible for sound insulation.</u>

	[534] We accept that, <u>with the proposed noise mitigation measures in place, the predicted traffic noise levels will be mitigated to an extent which meets the requirements of the RMA.</u> • Further submissions to the NZ Transport Agency submission provide scope to exclude the application of the rules associated with the Expressway noise corridor through the urban area. • I do however acknowledge the need to apply the acoustic standards to any new development for noise sensitive activities in rural areas along the Expressway corridor that are not subject to any noise mitigation treatment (but only within an 80m area, not 100m as requested by NZ Transport Agency). • I consider that the specific details regarding this suggested way forward (which relates to both the rules and maps) could be refined through expert conferencing at the direction of the Panel.

<u>NZ Transport Agency requested change:</u>
4. Replace the façade performance standard in Rule 12D.1.12 with a maximum internal noise level for noise sensitive activities located in the "transportation noise effects area" (ie, within 41-100m).

Current approach & s42A recommendations	Report writer comments/concerns
• The PDP uses a performance standard for building façade (for activities within 80m); NZ Transport Agency seek a maximum indoor design noise level (to apply to activities with 100m). • S42A report recommends retaining the performance standard for building façade.	• Malcolm Hunt has provided further detailed comment on this matter in his memo, including outlining several disadvantages of the NZ Transport Agency method (pg 2-6). • Mr Hunt considers the PDP method to be the superior insulation standard for the purposes of the Council and plan users. • Key reasons include for example: o It is easy to understand; is a reliable and simple method for Council, building designers and users to use. o Integrates with existing Council building design checks and therefore, more workable and able to be effectively implemented. o Is consistent with the guidance in NZ Standards NZS6806:2010 and NZS6802:2008. o Is consistent with approach adopted in other district plans so there is a high level of understanding. o The NZ Transport Agency method is a design standard which cannot be checked, monitored or enforced (has impacts in terms of Council's compliance role and for the effective implementation of plan provisions). o The NZ Transport Agency method would require the plan user to carry out a range of predictions and calculations, which will significantly add to compliance costs (places burden on land owner to obtain necessary information, expert advice etc). The predictions required and the uncertainty for plan users outweigh any advantages of the method. o The NZ Transport Agency method primarily benefits the NZ Transport Agency as the noise-maker (i.e. indoor decibel requirement remains the same irrespective of increasing traffic levels).

	○ Rule 12D.1.12.1 is adequate to protect dwellings up to a 70dB LAeq(24 hour), which is unlikely to occur in practice beyond 40m from the highway. ○ There is insufficient evidence provided by the NZ Transport Agency to demonstrate that the traffic noise mitigation methods of Rule 12D.1.12.1 needs to extend to 100m from the highway.

NZ Transport Agency requested change:

5. Delete the black dashes representing the 'noise corridor' from the PDP plan maps (and the associated definition recommended in the s42A report) and insert two new map overlays showing the:

- **"Transportation noise buffer area"** (the area 40m either side of the edge of the State highway)**,** and
- **"Transportation noise effects area"** (the area effectively 41-100m either side of the edge of the State highway)**.**

Current approach & s42A recommendations	Report writer comments/concerns
• The PDP (similar to the operative Plan) uses a 'black dashed' notation on the plan maps to depict the "noise corridor" (= an area approx. 80m either side of existing SH1). • S42A report recommends a) clarifying the 'black dashes' on the maps by relocating the "noise corridor" notation from Airport Zone to Miscellaneous and adding a definition of "noise corridor" to Chapter 1 (in response to NZ Transport Agency submission); and b) extending the black dash notation to include the area 40m either side of the rail corridor designation where this is not already included in the 80m area identified around SH1 (in response to KiwiRail's submission).	• There are several issues at play in terms of the plan maps and the information depicted, and these issues are closely related to the relevant rule provisions discussed above. • I acknowledge that the look of the "black dash" notation could potentially be revised to refine the way the noise corridor/ 'effects' area is depicted on the maps. The appearance of this area could be refined by Council's GIS team if determined by the Panel. However, I consider the black dashes also have benefits in terms of simplicity. They act as clear visual triggers for plan users to make them aware there are plan provisions which need to be considered. This is a significant benefit for the Planning Information Memorandum process (PIM), Land Information Memorandums (LIMs) and general plan use when understanding which plan provisions apply when planning to construct a new dwelling or other new noise sensitive activity. For this reason, I prefer the use of simple dashed lines as opposed to adding another 'layer' to the maps which may sit over (and obscure) other relevant planning features, and in doing so complicate the PDP maps further. • In terms of the name of the notation on the plan maps, I prefer the "noise corridor" term as this also provides for the rail corridor effects area (as amended), rather than just relating to the State highway network as is the focus of the NZ Transport Agency request. I do not therefore recommend any further changes to this term beyond those recommended in the Section 42A report. • In terms of extent of the 'effects' area shown on the maps, NZ Transport Agency seek to extend the noise 'effects' area out to 100m either side of the existing & future State highway, in order to align with the rule changes requested. The extension of this area to 100m is not supported for the reasons outlined above. • NZ Transport Agency have confirmed through the map overlays they have now provided to the Panel, that they seek the identification of areas 40m & 100m either side of the Expressway designation and the existing SH1 (depicted by

	different coloured shading for 40m and 100m). • Further submitters, and affected land/building owners, have not had an opportunity to view or comment on the new map overlay information proposed by NZ Transport Agency. • NZ Transport Agency state that their overlay approach will provide more certainty for plan users than the combination of black dashes on the maps and the distances currently referred to in recommended Rule 12D.1.12. However I consider that plan maps have limitations in terms of accuracy (they are indicative and provide a trigger to look at specific rule provisions), and that specifying distances helps provide certainty. • As discussed above, in the PDP as notified the "noise corridor" is only identified around SH1, and not the Expressway alignment[1] as is requested by NZ Transport Agency. However the wording of the permitted activity rule included both SH1 and the Expressway. As a result, I acknowledge there is currently a mismatch in terms of the PDP's map provisions and the rules related to noise reverse sensitivity. • I therefore consider that further amendments could be made to the maps to better align the map information and rule provisions as they relate to the Expressway. However I consider that any changes need to take into account the Expressway mitigation treatment put in place within urban areas since the PDP was notified. I therefore do not consider it appropriate for the maps (and rules) to identify a noise corridor in urban areas where extensive mitigation measures will exist – rather, as outlined above, it would be more appropriate to limit the "noise corridor" to rural areas not subject to noise mitigation treatment. • As signalled above, I consider that the specific details regarding this suggested way forward (which relates to both the rules and maps) could be refined through expert conferencing.

2.7 Given these concerns, from my perspective the key issues remaining in contention in relation to the NZ Transport Agency submission issues are summarised as:

1. **Whether there needs to be a different mitigation rule for traffic noise**
   - Section 42A report recommends an amended consolidated permitted activity rule for noise sensitive activities;
   - NZ Transport Agency seeks a separate permitted activity rule for State highways;
   - *Reporting officer position: do not consider a separate traffic rule to be necessary or appropriate;*

2. **The activity status of new/altered noise sensitive activities located within the first 40m of the edge of the existing/future State highway**
   - Section 42A report recommends retaining PDP permitted activity status, but requiring a higher insulation standard within first 40m;
   - NZ Transport Agency seeks a new restricted discretionary rule and default affected party status;

[1] This is because the Expressway designation was not confirmed at the time of the notification of the PDP.

- *Reporting officer position: do not consider a new restricted discretionary rule to be necessary or appropriate;*

3. **The extent of the noise "effects" area each side of the existing/future State highway to which acoustic standards apply**
    - Section 42A report recommends retaining the PDP rule reference to 80m area either side of "excessive noise routes" being subject to acoustic standards;
    - NZ Transport Agency seeks a 100m area either side of a State highway;
    - *Revised reporting officer position: consider amendments could be made to the rules re: 80m effects area for the Expressway, however I do not consider it appropriate for the 80m area to be applied along the entire extent of the Expressway given noise effects are mitigated through the design and construction of the Expressway and designation conditions in urban areas.*

4. **The acoustic compliance method applied to noise sensitive activities to mitigate noise effects**
    - Section 42A report recommends retaining PDP performance standard for building façade consistent with NZS6806: 2010 and NZS6802:2008;
    - NZ Transport Agency seeks an indoor design noise standard of 40dBLAeq (24h) which is based on their own new standard;
    - *Reporting officer position: do not consider an indoor design noise standard to be an appropriate method for the PDP to adopt;*

5. **The form and extent of the notations/overlays used on the plan maps (if any) to depict the agreed noise effects areas around the existing and future State highway**
    - Section 42A report recommends retaining PDP black dashes around SH1, but correcting the map legend and adding a definition of "noise corridor" to explain the term & the link to the rules;
    - NZ Transport Agency seek two new overlays, applying to both the existing and future State highway, depicting the:
        i. "Transportation noise buffer area"
        ii. "Transportation noise effects area";
    - *Revised reporting officer position:*
        i. could consider amendments to improve the style of 'noise corridor' depicted on the maps, but consider black dashes have advantages therefore I prefer their retention;
        ii. consider amendments could be made to the maps to show an 80m effects area for the Expressway (in addition to that for SH1), however I do not consider it appropriate for the 80m area to be shown along the entire extent of the Expressway given noise effects are mitigated through the design and construction of the Expressway and designation conditions in urban areas.

2.8 NZ Transport Agency also raised several additional changes to support the relief sought, including:

- In order to promote clarity and consistency of terminology across policies, rules and maps, that definitions be provided for the following terms (as used in the relief sought by NZ Transport Agency):
    - Transportation noise buffer area

- Transportation noise effects area;

and that these terms be used consistently across the relevant plan provisions.

2.9 As indicated above, I generally support the NZ Transport Agency's aims of having more consistent and cohesive terminology. I am therefore supportive of terms and definitions being added to the PDP where they assist plan interpretation and help increase clarity. I do not however support the request as it currently stands and prefer to retain the terminology as recommended in the Section 42A in conjunction with the further changes recommended in Section 4 of this response. The terms requested by the NZ Transport Agency are tied to the changes sought to the map information and corresponding rule references. If the Panel are of a different mind, I consider that the addition of the two new terms above, and any corresponding definitions, needs to be considered within the context of:

- their necessity and the value added to the plan provisions (as stated, I consider references to distances help provide greater certainty than map overlay information)
- the impact on the usability of the plan (including visual complexity of maps)
- the PDP's existing defined term "excessive noise route" and its use in the plan provisions (including Chapter 11), which I note is currently recommended to be renamed "transportation noise effect route" (in response to NZ Transport Agency's submission), and
- the noise reverse sensitivity provisions as they relate to the treatment of the rail corridor.

KiwiRail Holdings Ltd (447)

2.10 In the evidence presented to the Panel, KiwiRail raised several issues in regards to the provisions relating to the management of noise and reverse sensitivity effects on the rail corridor.

2.11 Firstly, I note that in their evidence KiwiRail supports the consolidated version of the rules for noise sensitive activities as set out in the recommended amendments in my report[2]. I acknowledge and accept this support.

2.12 However, KiwiRail also seeks further amendments to the recommended approach to increase accuracy, reflect current practice, recognise the co-location and synergy between those corridors in the Kapiti Coast District, and to provide consistent standards. Before responding to the specific issues raised in the evidence, I would like to signal to the Panel my concerns in relation to scope. In my opinion, both of the evidence statements provided on behalf of KiwiRail raise issues in terms of a number of the requests within them being outside of the scope of KiwiRail's submission made on the PDP.

2.13 For ease of reference, the following table summarises the submission points made by KiwiRail in their original submission on Chapter 12 and the recommendations on each of these points in my Section 42A report:

KiwiRail (447) submission points on Chapter 12 provisions	Section 42A report recommendations
Delete Policy 12.12 (Transport network development) in its entirety **[Submission 447.28]**	**Accept in part** – consider it appropriate to retain the policy, however amendments are

[2] refer Statement of Evidence of Deborah Hewett (3 May 2016), pages 3 & 8

	recommended to clarify that the intention of the policy is to apply to new and/or changes/alterations to the transport network, which provides partial relief for the submission concerns.
Amend the Explanation of Policy 12.13 (Noise from the transport network) so the intent of the policy ensures development near the transport network has adequate acoustic attenuation to ensure new development is not subjected to noise effects from the existing transport network **[Submission 447.26]**	**Accept in part** – amendments are recommended to the policy wording which provide part relief for the submission concerns.
Support the acoustic treatment for new, relocated or altered buildings used for noise sensitive activities in Rule 12D.1.16, but amend this rule to make the standards applicable to all noise sensitive activities within 40m of the rail corridor by deleting the reference to "habitable rooms" **[Submission 447.27]**	**Accept in part** – accept support for acoustic treatment but retain reference to "habitable rooms" within the amended version of Rule 12D.1.12.
Amend the plan maps to show the 40m "buffer" for noise sensitive activities either side of the rail corridor designation referred to under Rule 12D.1.16, similar to the way the State Highway "buffer" area is delineated **[Submission 447.29]**	**Accept** – amendments recommended to extend the "noise corridor" notation on the plan maps to include the 40m area either side of the rail corridor (where this area is not already covered by the 80m area either side of the State highway).

2.14 However, in their evidence for the hearing, KiwiRail have raised a wider range of changes sought in relation to the Chapter 12 noise provisions. In my opinion, a number of these requests fall outside of the original submission requests (and in some cases conflict with the submission relief originally sought), and therefore present scope issues. I have summarised the key changes now requested by KiwiRail (as per the two sets of evidence presented), and provide corresponding comments on scope issues, from my perspective, in the following tables:

Request in Ms Hewett's evidence	**Officer opinion on submission scope**	**Revised officer position/ recommendations**
Policy 12.13 – further wording amendment to recognise the proposed arterial routes, the designated rail corridor and the Expressway.	In scope as a result of relief provided for Submission 447.26 regarding Policy 12.13.	Support addition of the word "designated" in front of the words "rail corridor" as it adds clarity to the policy.
Provide terminology link between recommended Rule 12D.1.12 and the annotated plan maps, but a Chapter 1 definition of "noise corridor" is not required.	In scope as a result of relief provided for Submission 447.26 & 447.29 regarding Policy 12.13 & plan maps.	Retain Section 42A recommendations but with the further amendments as recommended in Section 4 of this response.
Include noise overlay on relevant plan maps to depict extent of noise effects area, rather than the dashed lines on PDP maps.	In scope as a result of Submission 447.29 (<u>but only in relation to the notified 40m area, not 80m area as sought in evidence</u>)	Acknowledge that the current black dashes could be revised if considered necessary. However the black dashes provide some advantages so I prefer their retention.
Rule 12D.1.12 – delete the reference in the explanation of 'altered habitable room' (in	**Not in Scope** – consider this matter to be out of scope of the Kiwirail submission.	Retain wording as per s42A report recommendations. For the Panel's information, even

amended Rule 12D.1.12) to additions "up to 10% floor area" and replace with "with an area more than 5% of the floor area of the room".		if the requested relief was within scope, advice from Malcolm Hunt (pg 8 of his memo) considers the requested amendment to be unnecessary.
Rule 12D.1.12 – supports permitted activity status where acoustic standards are met, but support the NZ Transport Agency proposal in its evidence for a restricted discretionary status where there is non-compliance with the permitted activity standards.	**Not in scope** – KiwiRail submission supported permitted activity status and did not raise issues in terms of the activity status where those standards are not complied with. Kiwirail were not a further submitter on the original NZ Transport Agency submission.	No changes recommended

Request in Dr Chiles's evidence	**Officer opinion on submission scope**	**Revised officer position/ recommendations**
Acoustic insulation – Rule 12D.1.12:		
a) amend rule to also apply to habitable rooms within buildings that are relocated	In scope due to request being related to recommendations to revise/consolidate Rule 12D.1.12, which applies to rail corridor and as drafted in my s42A report, does not refer to relocated buildings, unlike the notified rule applying to the rail corridor did (Rule 12D.1.16).	Do not consider the addition of the word "relocated" as requested is necessary or appropriate. The recommended wording of the standard(s) in question is: "Any new or altered *habitable room* within a *building* that houses any *noise sensitive activity*…". The definition of building includes any relocated building.
b) amend the PDP standards to refer to use internal sound levels, rather than the performance standard approach	**Not in scope** – KiwiRail supported the notified standards in their submission which included reference to *external sound insulation level*.	No changes recommended
c) amend the standards to provide a higher standard of sound insulation for buildings within 40m of railways, commensurate with the approach for roads	**Not in scope** – KiwiRail supported the 40m area either side of the rail corridor and the associated acoustic insulation standards in their submission.	No changes recommended
d) amend the standards so the noise effects area from the rail corridor is extended out to 80m, rather than 40m as notified	**Not in scope** – KiwiRail supported the 40m area either side of the rail corridor and the associated standards in their submission. Not a further submitter on NZ Transport Agency submission.	No changes recommended
e) amend the plan maps with an overlay which shows the combined requirements of Rule 12D.1.12 for road and railway	In scope – <u>but only in relation to showing the 40m area</u>, not an 80m area which is not within scope of the original KiwiRail submission.	Acknowledge that the current black dashes could be revised if considered necessary. However the black dashes provide some advantages so I

		prefer their retention.
f) delete the reference in the explanation of 'altered habitable room' (in amended Rule 12D.1.12) to additions "up to 10% floor area" and replace with "with an area more than 5% of the floor area of the room".	**Not in Scope** – consider this matter to be out of scope of the Kiwirail submission.	Retain wording as per s42A report recommendations. For the Panel's information, even if the requested relief was within scope, advice from Malcolm Hunt (pg 8 of his memo) considers the requested amendment to be unnecessary.
g) amend standard 4 to include appropriate ventilation requirements, as per standard 6	Matter not specifically raised in original submission, but consider to be in scope due to it being part of the recommended wording of Rule 12D.1.12.	Malcolm Hunt has advised (pg 8 of memo) that the wording of standard 4 could be amended to provide relief for the matter raised – see recommended amendment in Section 4 of this response.

2.15 I therefore consider that several of the issues raised by KiwiRail are beyond the scope of their submission, and as a result, I do not recommend any changes in response to these matters. However, there are some further changes which I do consider to be appropriate as a result of consideration of the evidence presented – these are outlined in Section 4 of this response and include:

- amendment to the wording of Policy 12.13 to add the word "designated" in front of rail corridor;
- amend the wording of Rule 12D.1.12, standard 4, to address the concern regarding ventilation requirements.

2.16 I note that Ms Hewett's evidence (paragraph 4.2) refers to engagement during the SEV process and that she was not contacted in relation to Chapter 12 matters and therefore she did not anticipate the proposed changes. I would like to clarify for the Panel that during the SEV process, I was in communication with Ms Rebecca Beals, a KiwiRail planning advisor, in relation to KiwiRail's submission points on Chapter 12. These communications focused on the matters raised in the KiwiRail submission. I note that Ms Beals did not raise any of the additional issues (commented on above) that are now being requested by KiwiRail.

2.17 I also note that in their evidence, Kiwirail request clarification in terms of my recommended changes in response to their submission request to identify the extent of noise effects area around the rail corridor (i.e. the area 40m either side of the rail corridor identified in the permitted activity rules), on the plan maps. Kiwirail query's why the s42A report recommendations only identified some of the maps identified in their submission. Their submission requested changes to maps 3B, 7B, 9B, 10B, 12B, 14B, 16B, 17B, 18B, 19B, 20B. However, the report recommends changes to maps 3B, 9B, 10B, 12B, 17B, 22B, as on the remainder of the maps, the rail corridor falls within the SH1 dashed line corridor which is already identified. In my report, I considered that this provided adequate relief for the submission point.

2.18 However, in regards to plan map provisions, as a result of the further evidence provided by Kiwirail and NZ Transport Agency, I acknowledge that some further amendment could potentially be made to the look of the "noise corridor" depicted on the maps to help improve clarity, as well as to improve accuracy in terms of alignment with the related rule provisions in

the amended version of Rule 12D.1.12. However, I consider there are several key issues still in contention in regards to the extent of the information to be mapped, therefore I do not recommend any further specific amendments to the maps as part of this response.

Noise from rural activities

2.19 Federated Farmers (250) commented on the relationship of the Chapter 12 noise provisions for activities in rural zones to Objective 2.6 'Rural productivity' in Chapter 2. They stated that the objective paints a clear vision for the District, and particularly for the rural environment, of farming not only as a legitimate activity, but a valued activity, and that noise from farming activities should be anticipated in rural areas and be unrestrained by secondary activities, such as residential buildings. They stated it is therefore important that levels of noise that accompany permitted activities in the rural area are anticipated for in the rural zone, and are permitted in the district plan. In their view, rural production activities need to be allowed without undue regulation, and farming is a noisy business that needs to be acknowledged in the Chapter 12 provisions.

2.20 Therefore, whilst Federated Farmers have noted they are encouraged by the amendments recommended in the Section 42A report in regards to Rule 12D.1.2 and the exclusion for noise from "temporary mobile activities required by normal agricultural and horticultural practice, such as cropping and harvesting" from the Rural Zone noise limits, they seek that other farm noise also be exempted from the noise limits. This would include for example, noise from water pumps, dairy sheds, stock yards, shearing sheds or seasonal activities like docking lambs tails, and general livestock noise.

2.21 In terms of the Federated Farmers request, I consider that there is no basis for exempting all noise from primary production activities from the noise limits applying to the Rural Zone. To exclude the predominant activity in the rural zones from complying with the noise limits would undermine the objectives for the rural environment and could create significant adverse effects on amenity and conflict between activities. There are some activities associated with primary production activities which occur irregularly and which can cause louder noise. Generally, such irregular activities and louder noise are seen as part of the rural environment and are tolerated by most rural residents. However, if these irregular activities become more frequent or the noise is excessive, they can cause a nuisance or be unreasonable for rural residents. Therefore, the PDP contains specific noise limits applying to activities in the Rural Zone.

2.22 However, after further consideration of the Federated Farmers submission and hearings statement, I consider that the wording of the recommended exclusion for temporary and mobile activities could be refined to provide further relief for the submission concerns. The intention of the amendment was that activities involving farming transport machinery should not be included in the noise limits as they are transient and not regular, but that in terms of regular activities (although short term in nature) occurring in the same location (such as milking sheds or noise from fixed/stationary sources), it is appropriate for these to comply with the noise limits. I have recommended a further wording amendment to the exclusion to clarify that the exclusion applies to mobile sources associated with primary production activities (as well as temporary activities required by normal agricultural and horticulture practice). The exclusion recognises the use of machinery for primary production activities which occur only occasionally (e.g. silage making or harvesting crops), and that the temporary nature and time of this use is reasonable within the rural environment. In terms of the matter of noise from stock, it was intended that the exclusion recommended in the s42A report

would also apply to stock, however I accept this is not clear from the wording. Therefore, for clarity, I support a further amendment to also specifically exclude noise from livestock from the noise limits. I therefore recommend the wording of the exclusion in clause 'e' be amended as follows:

> e) In *Rural Zones*, livestock noise, mobile sources associated with *primary production activities* and temporary activities required by normal agricultural and horticulture practice, such as cropping and harvesting.

I consider these amendments address the submitter's concerns whilst still achieving the relevant objectives and policies.

2.23 In relation to this issue, I also note that the Rural Zone permitted activity standards (in Chapter 7) require a minimum distance from all boundaries for new buildings and structures, which is partly designed to mitigate reverse sensitivity noise effects. For example, Rule 7A.1.4 sets out the permitted activity standards for new buildings and structures in the Rural Zones (except for the Paraparaumu North Rural Precinct), including that:

- No sensitive activities shall be located within 50 metres of a building or enclosure containing a lawfully established intensive farming activity on an adjacent site (this wording of the standard reflects the Ch7 s42A report amendments); and
- In terms of side and rear yard requirements, all buildings shall be set back at least 5 metres from a side or rear yard boundary (except for buildings associated with intensive farming activities, which are recommended in the Section 42A report to be located 300 metres from the site boundary).

2.24 Federated Farmers also raised the matter of the increasing use of helicopters within the rural zones as part of farming/primary production activities and the noise provisions. I have specifically considered the PDP provisions for noise from helicopters (and fixed wing aircraft) in my Section 42A report (see paragraphs 428-431) in response to the submission by Horticulture NZ (219) and the advice provided by Council's noise expert. As a result, I have recommended several amendments to the PDP provisions which provide for some helicopter noise as a permitted activity. The key relief recommended is to add an exclusion to Rule 12D.1.2 (the permitted noise limits for rural zones) to exempt noise from helicopter landing areas and landing strips for fixed wing aircraft that are associated with primary production activities, and where a maximum of 10 flight movements take place in any calendar month, or where maximum Lmax sound levels at any rural dwelling or Living Zone boundary does not exceed Lmax 90 dBA for daytime Lmax 70 dBA at night time. This provides consistency with the noise exempted by NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas. I do not consider any further amendments to the rule provisions in regards to this matter are necessary.

2.25 I also note that Federated Farmers expressed support for the recommended wording amendment to Policy 12.11 to delete the word "discouraging" and replace it with "avoiding or managing". I acknowledge this support and do not recommend any further amendments.

Temporary Military Training Activities

2.26 Whilst supporting the s42A report recommendations to amend the permitted activity rule for temporary military training activities, the NZ Defence Force (267) re-iterated their opposition to the PDP's default full discretionary activity status for temporary military training activities

that cannot meet the permitted activity standards in Rule 12D.1.7. Their submission seeks a controlled activity status[3].

2.27 In my opening statement, I highlighted that this issue remained an area of contention as I considered a full discretionary status for activities unable to meet the permitted activity standards to be more appropriate than a controlled activity status. If activities cannot meet the permitted activity performance standards, I questioned whether the conditions able to be imposed under a controlled activity status could adequately address the potential adverse effects of the activity. I considered the PDP approach (including the recommended amendments in my report) to provide 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 more significant adverse environmental effects.

2.28 As a result of the NZ Defence Force's evidence (which helped clarify the types of temporary military training activities and possible locations, the likely effects that could be expected, and the usually long lead time in planning for these activities), I acknowledge the Defence Force perspective and the concerns they have with a full discretionary activity status applying to activities that do not meet the permitted activity noise standards. In response to this matter, I consider that a restricted discretionary status (and as was questioned by Commissioner McMahon) could be an appropriate middle ground which could adequately address any adverse effects and community concern, particularly in terms of larger scale temporary military training activities, whilst restricting the matters of Council's control to specific matters so the plan approach becomes more enabling. During the presentation by NZ Defence Force and the questions asked by the Panel, a number of potential matters for discretion for such a rule were identified for consideration by the Panel. However, I have not recommended any specific amendments in terms of rule provisions as part of this response.

Noise from extractive industries

2.29 In paragraphs 307 and 308 of my s42A report, I discuss the Winstone Aggregates (92) request for specific permitted noise standards for extractive industries[4]. 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 the 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 the restricted discretionary rule for extractive industries will remain. As a result of this change of thinking, I recommend a further amendment (outlined in Section 4 of this response) be made to the new recommended noise rule for extractive industries (Rule 12D.1.7A) to provide alignment with Chapter 7. However, I also note that in the letter tabled for the hearing, Winstones request for the matters related to extractive industries (which would include noise standards) to be considered in their totality in the Chapter 7 hearing.

Kapiti Airport and noise sensitive activities

2.30 Kapiti Coast Airport Holdings Ltd (KCAHL) (276) provided the Panel with a letter (dated 2 May 2016) outlining their general support for the s42A report recommendations, but requesting three additional amendments, as follows:

[3] The discussion of this matter is in Section 3.6.3.12 of my s42A report (see paragraphs 449 and 450).
[4] Submission 92.149

- **Amend Rule 12D.1.12** to clarify that noise sensitive activities are permitted between the air noise boundary and outer control boundary where the standards in 12D.1.12.1 are met (i.e. it is the noise sensitive activity rather than the acoustic insulation that is the relevant permitted activity);
- **Delete Rule 12D.1.19** to avoid duplication and allow for the focus to be on the noise contours (under Rule 12D.1.12) as opposed to the zone; and
- **Delete Rule 12D.6.3** to remove reference to prohibited activities in the Airport Zone (while also retaining Rule 12D.6.1 which ensures that noise sensitive activities within the air noise boundary are prohibited).

2.31 KCAHL state that the amendments are intended to ensure a consistent approach to noise sensitive activities located in close proximity to Kapiti Airport (i.e. restrictions based on the noise contours rather than zoning) and to ensure there is no ambiguity about what noise sensitive activities are "specifically provided for" (Rule 12D.6.3) in the Airport Zone given that Rules 12D.1.12 and 12D.1.19 provide for the buildings and alterations to buildings used for noise sensitive activities, rather than the activities themselves.

2.32 In terms of the first bullet point regarding noise sensitive activities, I consider this concern is addressed by my further recommended amendment to the wording of Rule 12D.1.12 (in Section 4 of this response) to delete the words "Acoustic insulation for".

2.33 In terms of the request to delete Rule 12D.1.19, I acknowledge the concern in regards to the duplication with Rule 12D.1.12 (as amended in my report recommendations) and KCAHL's point that both rules relate to the noise mitigation standards for buildings and alterations to buildings used for noise sensitive activities, rather than the establishment of the buildings themselves (controlled under other plan rules). The main point of difference between the rules is that they apply to slightly different areas – as amended in my report, Rule 12D.1.12 relates to standards applied to the area between the air noise boundary and the outer control boundary (identified on the plan maps), and Rule 12D.1.19 relates to the Airport Zone. After consideration of this point, I agree with KCAHL and consider that Rule 12D.1.12, which ties noise mitigation measures for noise sensitive activities to the air noise contours, is the most appropriate method for managing noise effects on these activities within close proximity to the Airport. I would therefore support the deletion of Rule 12D.1.19 as a further amendment consequential to the consolidation and simplification of the permitted activity rules for noise sensitive activities as recommended in my report. In a similar vein, I also support the deletion of Rule 12D.6.3, which is the prohibited activity related to noise sensitive activities not specifically provided for as a permitted activity (or non-complying activity) within the Airport Zone. I have noted these recommended rule deletions in Section 4 of this response.

3.0 Responses to specific questions from the Panel

Noise/reverse sensitivity issues

3.1 Commissioner McMahon asked for clarification in regards to the definition of 'noise sensitive activities' and the relationship to 'habitable rooms'.

The PDP definition of noise sensitive activities (as notified) is as follows:

> **Noise sensitive activities** means:
> 1. Buildings used for residential activities including:

(i) Boarding establishments
(ii) Homes for elderly persons
(iii) Retirement villages
(iv) In-house aged-care facilities, and
(v) Buildings used as temporary accommodation in residentially zoned areas, including hotels, motels, and camping grounds;

2. Marae buildings;
3. Spaces within buildings used for overnight patient medical care; and
4. Teaching areas and sleeping rooms in buildings used as educational facilities including tertiary institutions and schools, and premises licensed under the Education (Early Childhood Services) Regulations 2008 and playgrounds which are part of such facilities and located within 20m of buildings used for teaching purposes.

Noise Sensitive Activities do not include:

1. Residential accommodation in buildings which predominantly have other uses such as commercial or industrial premises;
2. Garages and ancillary buildings; and
3. Premises and facilities which are not yet built, other than premises and facilities for which a building consent has been obtained which has not yet lapsed.

I note that there are no amendments recommended to the definition of 'noise sensitive activities' as a result of submissions made on Chapter 12 provisions. However, I do note that the following minor amendments are being considered to the definition as provided for under clause 16(2) of the First Schedule to the RMA to improve its clarity (which will be addressed in the Chapter 1 hearing):

Noise sensitive activities means:

1. Buildings used for *residential activities* and includes~~ing~~:
   (i) *Boarding houses*~~establishments~~
   (ii) Homes for elderly persons
   (iii) Retirement villages
   (iv) In-house aged-care facilities, and
   (v) Buildings used as temporary accommodation in residentially zoned areas, including hotels, motels, and camping grounds;
2. Marae buildings;
3. Spaces within buildings used for overnight patient medical care; and
4. Teaching areas and sleeping rooms in buildings used as educational facilities including tertiary institutions and schools, and premises licensed under the Education (Early Childhood Services) Regulations 2008 and playgrounds which are part of such facilities and located within 20m of buildings used for teaching purposes.

Noise ~~S~~sensitive ~~A~~activities do not include:

1. Residential accommodation in buildings which predominantly have other uses such as commercial or industrial premises;
2. Garages and ancillary buildings; and
3. Premises and facilities which are not yet built, other than premises and facilities for which a building consent has been obtained which has not yet lapsed.

The PDP definition of habitable rooms (as notified) is as follows:

Habitable room means a space within a building that is commonly associated with residential activities, teaching or hospital recovery, but excludes any bathroom, laundry,

toilet, pantry, walk-in wardrobe, corridor, hallway, lobby, clothes-drying room, or other space of a specialised nature occupied neither frequently nor for extended periods of time.

3.2 Commissioner McMahon asked for clarification in terms of how the PDP, as notified, refers to the State highway in the key noise-related provisions (i.e. designation edge or something else?). In terms of this question, the key PDP references (as notified) to the State highway include the following:

- **Chapter 1 (Definitions): Excessive noise routes** means the existing alignment of State Highway 1 through the district, and includes any future route(s) within the Plan as an alternative route for this highway;

- **Rule 12D.1.14** – New, relocated or altered buildings for *residential activity* located within 80 metres of a *Strategic Arterial Route*; and

- **Rule 12D.1.15** – New, relocated or altered buildings for *residential activity* or *noise sensitive activities* that are located within 80 metres of *excessive noise routes*; …

Standard 1:

1. *Buildings* shall achieve a minimum *external sound insulation level* of the building envelope of $D_{\underline{nTw}} + C_{\underline{tr}}$ >30 dB for outside walls of any *habitable room* unless they are:
   a) Located further than 80 metres from the edge of the carriageway or designation where the carriageway does not yet exist; or …

Temporary military training activities

3.3 Commissioner Pomare asked whether there is any recorded justification for the change from controlled activity status in operative District Plan to discretionary in PDP. I have found no specific reference to the management framework for temporary military training activities in the Section 32 report for Chapter 12 (Noise). I note that a review of the noise provisions was completed by Malcolm Hunt Associates in June 2013 as part of the District Plan Review process. Whilst this report provides comment on permitted activity provisions for temporary military training activities, it does not comment on the activity status for activities not meeting the permitted activity rule and standards. However, in an earlier noise-related issues and options report completed in 2011[5] (also prepared for the District Plan Review process), the recommendations for PDP provisions, in addition to a permitted activity rule, also includes a recommendation that all activities do not complying with the permitted activity noise standards should be discretionary activities. There is no specific elaboration provided in terms of temporary military training activities, however the report did include within its scope a review of the noise provisions of nine other district plans, which included rules and standards for temporary military training activities. That report also assesses the options for rules in terms of how well they achieve the draft objectives and policies related to noise.

3.4 Commissioner Cardiff questioned whether there was any information provided by the Defence Force explaining the types of activities that are generally undertaken as part of temporary military training activities. I note that the hearings statement provided by Rob Owen (for the NZ Defence Force) provides a useful list outlining a range of potential activities, and as a result, I will not repeat that list here.

[5] Noise – Issues/Options Report. November 2011. K van Reenen and A Guerin (MWH).

3.5 Commissioner McMahon noted that the standards in the permitted activity rule for temporary military training activities (Rule 12D.1.7) relate specifically to noise. He asked for clarification on how other rules in the PDP relate with the permitted activity noise rule, and whether any rules take precedence. In terms of this question, I confirm that Rule 12D.1.7 relates only to noise from temporary military training activities. In terms of the relationship of Chapter 12 rules with other rules in the PDP, I note that Rule 12D.0 (located at the beginning of the noise rule tables) provides an explanation of the applicability of the noise rules in Chapter 12 as well as their relationship with other rules in the plan. A similar explanation of rule applicability is provided in the rule tables in other chapters of the PDP. It essentially means that there may be other rule provisions in the plan which identify an activity, or result in an activity being, a different activity category to that expressed in the rule table that follows. So whilst a temporary military training activity may meet the permitted activity noise standards in Rule 12D.1.17, it must also comply with all other relevant permitted activity standards, including those in other chapters. For example, this could include the permitted activity standards in Chapter 3 regarding ecological sites, or areas of high or outstanding natural character, or Chapter 10 regarding historic heritage features, or standards relating to new buildings and structures in zone-based chapters. I note that my s42A report recommends an amendment to Rule 12D.1.7 to clarify that as a result of the specific standards provided in Rule 12D.1.7, temporary military training activities are exempt from the other noise limit standards in Rules 12D.1.1-12D.1.6.

3.6 Of relevance to this matter, I note that amendments are recommended (across relevant PDP chapters and including Chapter 12) to the wording in the heading of the permitted activity rule table to provide additional clarity in regards to the relationship with other permitted activity standards in other chapters.

3.7 Commissioner McMahon also questioned whether, in terms of the activity status for activities not complying with the PA noise standards, if there was a middle ground that could be found between controlled and discretinary (i.e. could the activities be restricted discretionary instead of full discretionary, with identified matters of discretion?). I have commented on this matter as part of the response provided in paragraphs 2.26-27 of this report.

Noise from rural activities

3.8 As a result of the presentation by Federated Farmers, Commissioner McMahon requested clarification of the basis for noise controls for activities in the rural zone. I consder that I have addressed this question in the response provided to Federated Farmers in paragraphs 2.20-21 of this response.

3.9 Commissioner McMahon also asked whether compliance with the noise standards is measured at the boundary or the zone edge. In terms of this question, I note that the permitted activity rule standards in Rules 12D.1.1-12D.1.5 specify that the compliance locations in Rural Zones shall be at the notional boundary (a defined term) of any household unit (also a defined term). Compliance locations for all other zones are measured at or within the boundary of a site (I note that amendments are recommended in my report to clarify these standards).

3.10 Commissioner McMahon also asked for clarification as to the Council's role in the management of aircraft noise, specifically helicopters and fixed wing aircraft. The introduction to the noise provisions (Section 12.4.1 of the PDP), comments that noise from aircraft in flight (or immediately before or after flight) is addressed under other legislation, rather than the

RMA. During the hearing Mr Hunt provided further clarification for the Panel on this matter. He advised that section 9(8) of the RMA prevents any Council from prescribing controls for aircraft in the air, however Council does have the right and the responsibility under the RMA to prescribe controls for aircraft using landing areas, landing strips, or the airport. The New Zealand Standards guiding the management and assessment of these activities are:

- NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas noise provisions, and
- NZS6805:1992 Airport Noise Management and Land Use Planning.

Chapter 12 contains provisions controlling the noise effects of these activities whilst on the ground. I note that in terms of the noise provisions for helicopters and fixed wing aircraft, I have commented in paragraph 2.23 of this response on the amendments recommended in my report to provide relief for submission concerns.

3.11 The Chair questioned whether the noise controls in Chapter 12 apply to animal noise, as per the reference to noise from for example weaner calves and docked lambs referred to by Federated Farmers. In terms of this matter, I have commented in paragraph 2.21 of this response on the further amendments recommended to clarify that noise from livestock be excluded from the rural zone noise limts.

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

4.1 The amendments I recommend as a result of reviewing the evidence and statements provided by submitters prior to and during the hearing, are outlined/summarised below. For completeness, I have included the further recommended amendments signalled in my opening statement.

Policy 12.11 – Noise sensitive activities

4.2 NZ Transport Agency (457) 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."

Although this relief was not specifically requested in their original submission, I agree with Ms Penfold (paragraph 31 of her statement) in that the general comments in the introduction to their submission could provide scope for this change. I also consider this amendment would help increase the clarity of the policy for plan users, and would better support its effective implementation. I therefore support the wording amendment sought and recommend a further amendment to add the word "designated" as above.

Policy 12.13 – Noise from the transport network

4.3 NZ Transport Agency (457) and Kiwrail (447) both raised further amendments in relation to the wording of Policy 12.13.

4.4 NZ Transport Agency requested 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. Given that the focus of this policy is on 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.

4.5 Kiwirail requested that the wording of Policy 12.13 be amended, including adding reference to the "designated" rail corridor. I would support this change as it adds clarity to the policy.

4.6 I therefore recommend the following amendments to the wording of Policy 12.13:

> "All *noise sensitive activities* in close proximity to ~~the~~a *transportation noise effect route* ~~network~~ or the designated rail corridor shall be protected by the building owner from adverse effects of noise, through the adoption of acoustic mitigation measures."

Rule 12D.1.2 – Noise from activities located within the Rural Zones etc

4.7 In response to the concerns raised by Federated Farmers (250), I recommend a further wording amendment to the recommended exclusion provided in clause 'e' (discussed in paragraphs 2.18-22 of this response), as follows::

> e) In *Rural Zones*, livestock noise, mobile sources associated with *primary production activities* and temporary activities required by normal agricultural and horticulture practice, such as cropping and harvesting.

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

4.8 As discussed in paragraph 2.28 of this response, 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

4.9 In their evidence, the NZDF (267) requested minor wording amendments to the revised permitted activity rule standards for temporary military training activities in Rule 12D.1.7, specifically clause 'c'. I agree with the reasoning provided by NZDF in that the amendment improves the clarity of the standard and its requirements, and provides consistency with the wording of Rule 12B.1 regarding noise management plans for temporary events. I would however prefer for the TMTA acronym 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…"

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

4.10 After consideration of the NZ Transport Agency (457) and KiwiRail (447) evidence, 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 concerns and help improve clarity. The additional amendments I consider appropriate are:

- Amending the 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)[6];

- Amend the wording of clause 'f' in standard 1, and the wording in standard 2, to delete the words "*any formed State Highway, or any transport corridor designated for State Highway purposes that has yet to be formed*" and replace with the defined term transportation noise effect route. I consider this provides better alignment with the amended policy wording, maintains the intent of the rule whilst simplifying its wording, and provides relief for the NZ Transport Agency's original submission concerns re: terminology;

- Amending standard 4 to add reference to ventilation requirements as follows:

  4. Compliance with standard 1 above shall be achieved by either:
  a. a statement by Licensed Building Practitioner that the construction of the external building elements of the new or altered *habitable room* conform with Schedule 12.1 and that ventilation of these rooms conforms with the requirements of standard 6 below; or....

- Amending standard 5 to delete the words referring to the 55dB noise level for rail traffic noise because, as NZ Transport Agency highlight, this is not relevant as this particular standard relates to road traffic;

4.11 I also note that in his review of the rules, Malcolm Hunt has identified a typographical error in Rule 12D.1.12, standard 4 (b) where it refers to "a ventilation system installed as required under (f) below". There is no '(f)'; instead the rule is referring to the ventilation requirements set within Rule 12D.1.12, standard 6. I therefore recommend a further amendment to Rule 12D.1.12, standard 4 (b) to address this drafting error as follows:

> b. "....compliance with the specified performance standard for sound insulation with a ventilation system installed as required under ~~(f)~~ standard 6 below;"...

[6] This amendment also responds to one of the concerns identified in KCAHL's letter tabled at the hearing.

Rules 12D.1.19 and 12D.6.3 – new buildings or additions for noise sensitive activities in the Airport Zone

4.12 As outlined in paragraphs 2.29-32 of this report, in the response to KCAHL (276), I support the deletion of permitted activity Rule 12D.1.19 and prohibited Rule 12D.6.3 as further amendments consequential to the consolidation and simplification of the permitted activity rules for noise sensitive activities as recommended in my Section 42A report[7].

……..

Sherilyn Hinton
13 May 2016

[7] Refer Chapter 12 Section 42A report, Section 3.6.3.10, pages 89-101.