

Proposed Marlborough Environment Plan

Topic 18: Nuisance Effects, Temporary Military Training and Noise

Hearing dates: 12 – 14 November 2018

S42A Report Writer: Paul Whyte, Nevil Hegley

Conflicts of Interest: None

Interim decision: None

(Note: A list of conflicts of interest which arose during the process are available to view on the Marlborough District Council Website)

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List of Abbreviations

PMEP	Proposed Marlborough Environment Plan
MDC	Marlborough District Council
RMA	Resource Management Act 1991

Submitter abbreviations

MFE	Ministry for the Environment
NMDHB	Nelson Marlborough District Health Board
NZDF	New Zealand Defence Force
NZTA	New Zealand Transport Agency

Structure of Decisions

1. It is important that the topic decision is read as a whole together with the tracked change version of the Plan. The decision on each topic contains the reasons for the Panel's decisions. These comprise either adoption of the reasoning and recommendations of the original Section 42A Report or the replies to evidence, or a specific reasoning by the Panel¹.
2. The tracked change version of the relevant PMEP provisions forms an integral part of the decision. The source of the change in terms of the topic that the subject matter was dealt with is clearly identified in the track changes version of the plan. This records all amendments (additions and deletions) to the notified PMEP provisions made by the Panel.
3. Where the PMEP provisions **remain as notified**, it is because:
 - (a) The Panel has decided to retain the provision as notified for reasons set out in this decision; or
 - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to retain the provision as notified as recommended in the Reply to Evidence; or
 - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report to retain the provision as notified in the original Section 42A report.
4. Where there is a **change to a provision** within the plan it is because:
 - (a) The Panel has amended a provision for reasons set out in this decision in response to a submission point which the Section 42A report writer(s) does not recommend in their reports; or
 - (b) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the Reply to Evidence; or
 - (c) The Panel adopted the reasoning and recommendation of the Section 42A Report Writer to change the provision to that recommended in the original Section 42A report;
or

¹ (The only exception to that approach relates to the Noise section of the Nuisance topic where the reasoning and recommendations in the responses to Minutes 54 and 59 may have been adopted, rather than the reasoning and recommendations in the Section 42A Report or the Reply to Evidence report. The reasons for that difference in that topic are dealt with in detail at the commencement of the Noise section of the Nuisance topic decision. In respect of that topic the approach to understanding of the individual submission point decisions addressed in paragraphs 13.3 to 13.5 below should be adjusted accordingly to apply references to the Section 42A Report and/or Reply to Evidence in those paragraphs as being references to the responses to Minutes 54 & 59 for that Nuisance topic.)

- (d) A consequential change has been necessary following on from a decision in either a), b) or c).
5. Where there is a **different recommendation** between the Section 42A Report and the Reply to Evidence (i.e., the recommendation by the Section 42A report writer(s) has changed as a result of hearing the evidence of submitters), unless the Panel decision specifically adopts the original report's reasoning and recommendations, the reasoning and recommendations in the (later) reply to evidence has been adopted and it must be taken to prevail.
 6. There are limited circumstances where the Panel has taken the opportunity to give effect to national policy statements or implement national environmental standards. Where this occurs the relevant decision clearly sets out the nature of the change and the reason for the change.
 7. Finally, there are limited circumstances where the Panel has decided that **alternative relief** is more appropriate than that requested by the submitters, but still within the scope of the relief sought. This is recorded in the Panel's decision.

Nuisance Effects

Lighting

8. The effects of lighting are managed in the PMEP by general performance standards attaching to permitted activities in each zone.
 - NZTA seeks the phrase 'or any road' be added in respect of all residential and living zones or alternatively, that a new permitted activity standard applicable to all permitted activities in the Residential and Living Zones, Rural Environment Zone, Coastal Environment Zone, Coastal Living Zone, Coastal Marine Zone, Floodway Zone and the Lake Grassmere Saltworks Zone is added as follows: *All outdoor lighting and exterior lighting must be directed away from roads so as to avoid any adverse effects on traffic safety.*²

Section 42A Report

9. The existing standards are focused on zones likely to have significant outdoor lighting. The report writer does not consider it necessary to add the zones identified by NZTA, given the nature of the zones, but suggested the Panel could consider adding the standard to these zones as a 'backstop' in terms of road safety.³
10. The report writer clarified that except for Rule 12.2.3.2, the measurement of the light spill is taken at the boundary.⁴
11. The report implies that if the Panel decided it was appropriate, that the following standard is recommended to be added to 'Use of External Lighting' in Urban Residential 1 - 3 Zones, the Coastal and Rural Living Zones, Rural Environment Zone, Coastal Environment Zone, Coastal Marine Zone, Floodway Zone and the Lake Grassmere Saltworks Zone:⁵

Xxxx All outdoor lighting and exterior lighting must be directed away from roads so as to avoid any adverse effects on traffic safety.

Consideration

12. The Panel accepts the recommendation for the reasons that the report provides, but notes that in some of the zones referred to in the report the standard would be amended, whereas in other zones it would need to be inserted as new standard.

² NZTA (1002.192, .193, .215, .216, .218, and .219).

³ Section 42A Report, paragraph 33.

⁴ Section 42A Report, paragraph 44.

⁵ NZTA (1002.215).

Decision

13. The following standard is added to the Use of External Lighting in Urban Residential 1 - 3 Zones, Coastal Living and Rural Living Zones:

x.2.3.2 All outdoor lighting and exterior lighting must be directed away from roads so as to avoid any adverse effects on traffic safety.

14. In Rural Environment Zone, Coastal Environment Zone, Coastal Marine Zone, Open Space Zone, Floodway Zone, and the Lake Grassmere Saltworks Zone insert a new standard with identical wording under the heading as follows:

x.x.x Use of external lighting

x.x.x.x. All outdoor lighting and exterior lighting must be directed away from roads so as to avoid any adverse effects on traffic safety.

Odour

15. The effects are managed in the PMEP by general performance standards attaching to permitted activities in each zone. The standard for all zones is as follows:

The odour must not be objectionable or offensive, as detected at or beyond the legal boundary of the area of land on which the permitted activity is occurring.

16. The standard is supported by a number of submissions. Other submissions variously seek: that farming is excluded from the rule;⁶ the deletion of the standard;⁷ the addition of 'where practicable' to the standard;⁸ the addition of the 'most practicable option';⁹ the standard is amended to provide more certainty in terms of 'offensive and objectionable odours';¹⁰ that Rule 23.2.7.1 in the Airport Zone is drafted so that it is consistent with Ministry for the Environment guidance on the recommended form of consent conditions;¹¹ to ensure that where rules providing for odour associated with a specific activity have been included elsewhere in the plan these activities are excluded from the Industrial zones odour rule. It is submitted this could be achieved by making a change as follows: *The odour that is not specifically provided for by any other rule, must not be objectionable or offensive, as detected at or beyond the legal boundary of the area of land on which the permitted activity is*

⁶ Federated Farmers (425.515, 638, .721).

⁷ Murray Chapman (348.38).

⁸ Sanford Ltd (1140.66, .67).

⁹ M and K Gerard (424.143).

¹⁰ Fonterra (1251.132, .141).

¹¹ NZDF (992.74).

occurring;¹² the standard is amended to require a bond and notification to residents when spraying occurs.¹³

Section 42A Report

17. With regard to Federated Farmers' submission, the report writer considers it is not realistic to delete the standard as there would be no controls in place. Farming should be subject to some control, given its potential to generate adverse effects. However, some amendment is appropriate.¹⁴
18. The report writer noted that the proposed standard in the PMEP differs from the type of recommended standard in the MFE document 'Good Practice Guide for Assessing and Managing Odour' (2016), a matter which has been raised by some of the submitters, and agrees the standard should be amended to better reflect the MFE guideline. He also believes it is useful to generally refer to 'FIDOL Factors', as this provides some explanation in respect of 'objectionable and offensive' which is not found elsewhere in the PMEP and is consistent with the MFE guideline. However, he does not consider it necessary to exclude discharge permits that have been granted as this situation applies in respect of all permitted activity standards.¹⁵
19. With regard to the Oil Companies' submission points, the report writer notes that the General rules are generally prefaced by the words '*Unless expressly limited by a rule elsewhere in the Marlborough Environment Plan the following activities shall be permitted without resource consent ...*' which appear to indicate that the suggested words by the Oil Companies are not required, and at this stage a change is not required.¹⁶
20. The report writer considers the amendment sought by S and J Peoples is overly restrictive and would be difficult to administer, and should be rejected.¹⁷
21. The report writer recommends the standard for odour in the PMEP be amended as follows:¹⁸

There shall be no ~~The odour must not be~~ objectionable or offensive odours to the extent that it causes an adverse effect ~~as detected~~ at or beyond the legal boundary of the site area of land on which the permitted activity is occurring.

Note 1: For the purpose of this performance standard, an offensive or objectionable odour is that odour which can be detected and is considered to be offensive or

¹² Oil Companies (1004.68, .80, .96).

¹³ S and J Peoples (450.1).

¹⁴ Section 42A Report, paragraph 50.

¹⁵ Section 42A Report, paragraph 54.

¹⁶ Section 42A Report, paragraph 56.

¹⁷ Section 42A Report, paragraph 57.

¹⁸ Fonterra (1251.132).

objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the 'FIDOL' factors shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the 'site' comprises all that land owned or controlled by the entity undertaking the activity causing the odour.

Consideration

22. The Panel agreed with the reasoning provided by the report writer. However, for consistency, the word 'shall' in the report writer's recommendation is amended to read 'must'.
23. The Panel also noted that there are equivalent odour standards in 2.17.3.4 and 2.17.5.5.

Decision

24. The same change recommended for the standards in the zone chapters should also apply to these General Rules.
25. The standard for odour in the PMEP be amended in all zones as follows:¹⁹

There must be no ~~The odour must not be~~ objectionable or offensive odours to the extent that it causes an adverse effect ~~as detected at or beyond the legal boundary of the site. area of land on which the permitted activity is occurring.~~

Note 1: For the purpose of this performance standard, an offensive or objectionable odour is that odour which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the 'FIDOL' factors shall be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the 'site' comprises all that land owned or controlled by the entity undertaking the activity causing the odour.

26. Amend Standard 2.17.3.4 to read:

...(c) any emissions of objectionable odours to the extent that it causes an adverse effect.
27. Amend Standard 2.17.5.5 to read:

2.17.5.5 There must be no emission of objectionable odour to the extent that it causes an adverse effect.

¹⁹ Fonterra (1251.132).

Dust

(This is a common standard in every zone – the wording being as follows.)

The best practicable method must be adopted to avoid dust beyond the legal boundary of the area of land on which the activity is occurring.

28. There were a large number of submissions in relation to various aspects of the effects of discharge of dust in general terms and specifically particulate matter from the venting of stacks. The Panel accepted the recommendations of the report writer addressing all of those issues for the reasons set out in the Section 42A Report. However the Panel preferred to use the word ‘must’ instead of the word ‘shall’ and the decision reflects that change to the recommendations.

Consideration and decision

29. The Panel accepts the recommendations of the report writer, except for one small wording change. For consistency with the way in which standards are expressed in the PMEP, the ‘shall’ in the relevant recommended provisions is amended to ‘must’.
30. The standard for the discharge of dust is replaced in the relevant chapters to read:

There must be no objectionable or offensive discharge of dust to the extent that it causes an adverse effect (including on human health) at or beyond the legal boundary of the site.

Note 1: For the purpose of this performance standard, an offensive or objectionable discharge of dust is one which can be detected and is considered to be offensive or objectionable by a Council officer. In determining whether an odour is offensive or objectionable, the “FIDOL” factors must be considered (the frequency; the intensity; the duration; the offensiveness (or character); and the location). For the purposes of this performance standard, the “site” comprises all that land owned or controlled by the entity undertaking the activity causing the dust.

NZTA reverse sensitivity/cumulative effects

31. NZTA made a number of submissions relating to reverse sensitivity and/or cumulative effects in respect of the state highway network. It seeks new objectives and/or policies as follows:²⁰

A new RPS and regional objective and/or policy that will ensure an integrated planning approach is taken to managing the effects of growth and development on transport infrastructure.

Ensure noise sensitive activities are set back a sufficient distance from land transport network boundaries to avoid, remedy and mitigate effects.

²⁰ NZTA (1002.89 and .101).

Allow noise sensitive activities to be located near land transport networks only where they do not compromise or limit the existing or planned function of the land transport network.

32. NZTA also suggests adding buffer and effects areas adjacent to the state highway network in which particular activities would be regulated because of reverse sensitivity effects, for example, new residential buildings near the state highway could be affected by traffic noise which in turn leads to complaints about the operation of the state highway.²¹

Section 42A Report

33. The report writer noted that at the Transportation hearing, NZTA advised it no longer wished to pursue the implementation of transport cumulative effects areas as an overlay.²² However, he did recommend some minor changes including reference to cumulative or reverse sensitivity effects in the explanation to Policy 17.4.1.²³
34. The report writer did not favour the introduction of buffer and effects areas as he considers it would add unnecessary complexity to the PMEP. He believes there are sufficient provisions in the PMEP to control these matters including zoning, activity status and setbacks. Additional controls are therefore unnecessary and unjustified.²⁴

As recorded in the Section 42A Report for Topic 15: Transportation and Signage, the report writer advised that the previous “no build provision” within 40m of the state highway sought by NZTA was likely to be replaced by a provision allowing building within 100m subject to noise attenuation. NZTA advised that the provisions would be confirmed prior to the hearing on Nuisance Topic. The Panel did not have the benefit of any such evidence from NZTA.

35. The report writer recommended that Policy 17.4.1 is amended as follows:²⁵

Manage the density, scale and location of subdivision and/or activities to maintain the planned function of the ~~existing~~ land transport network.

A major method in the MEP for managing the efficiency of the road network is through identification of a road's function, which is established by the road hierarchy (set out in Appendix 17 and Policy 17.3.2). It is important that subdivision or and activities that generate traffic (whether on land or in the coastal marine area) are managed so that their location, density, design, and/or scale does not impair the function of a particular

²¹ NZTA (1002.272).

²² NZTA (1002.274).

²³ Section 42A Report (Transportation), Reply to Evidence, page 2.

²⁴ Section 42A Report, paragraph 99.

²⁵ NZTA (1002.89).

road, including as a result of cumulative or reverse sensitivity effects. Management will occur through district rules that describe where there is a need to consider the impacts of activities on the function of a road through the resource consent process.

Consideration

36. For the reasons outlined in the Section 42A Report for this topic, and also for the reasons set forth on similar issues in Topic 15 on Transportation, the Panel was not satisfied that the complexity required to meet the NZTA request is warranted in the Marlborough transport setting. The Panel was satisfied that the existing provisions as recommended to be amended appropriately address reverse sensitivity noise effects.

Decision

37. Policy 17.4.1 is amended as follows:

Manage the density, scale and location of subdivision and/or activities to maintain the planned function of the ~~road~~ land transport network.

A major method in the MEP for managing the efficiency of the road network is through identification of a road's function, which is established by the road hierarchy (set out in Appendix 17 and Policy 17.3.2). It is important that subdivision or and activities that generate traffic (whether on land or in the coastal marine area) are managed so that their location, density, design, and/or scale does not impair the function of a particular road, including as a result of cumulative or reverse sensitivity effects. Management will occur through district rules that describe where there is a need to consider the impacts of activities on the function of a road through the resource consent process.

Definitions

38. The Panel adopted the recommendation that a definition was inserted in to the PMEP of 'reverse sensitivity' for the reasons given in the report. However, the report recommended its insertion in Chapter 19 whereas the Panel directs that it is inserted in Chapter 25 of Volume 2, with all other definitions.

Temporary military training

39. Temporary military training activities are managed by General Rule Temporary Military Training Activity in which Rule 2.41-2.43 allows the activity as a permitted activity subject to standards that relate to:
- the activity not exceeding 31 days;
 - no permanent structures;

- noise limits.
40. 'Temporary military training' is defined in the PMEP as a temporary training activity undertaken for the defence purposes in accordance with the Defence Act 1990.
 41. NZDF seeks amending the introductory sentence in respect of which rules of the PMEP apply by the following: Temporary Military Training Activities are not required to comply with the requirements of any other part of the Plan except the provisions for earthworks and permanent structures, and any relevant regional rules.²⁶
 42. NZFS seeks that 'Emergency Management and Training Activities' be added to the Temporary Military Training Activity provisions, including a rule allowing the discharge of contaminants to land from the use of firefighting foam for training purposes.²⁷ NMDHB seeks to amend Rule 2.42.1.3 to provide for nationally consistent terms but retain the noise limit of 122 dBC in Rule 2.42.1.4.²⁸ NZDF seeks the deletion of Rule 2.24.1.4²⁹ and H Thomson seeks the limit of 122 dBC is increased.³⁰
 43. Transpower seeks that a standard be included regulating temporary military training activities in the National Grid Yard as it relates to buildings and explosives.³¹ However, NZDF opposes this submission, without giving a particular reason.³²
 44. NZDF seeks that Rule 2.42.1.1 be deleted as it considers it is inappropriate and inefficient to require a resource consent to be obtained for a permanent building or structure that complies with the building standards for the zone.³³ NZDF also considers Rule 2.43.2 should be a restricted discretionary activity because the potential effects relate to noise only.³⁴

Section 42A Report

- The report writer considers the existing wording of the definition of 'temporary military training' is satisfactory. He also agrees with NZDF that it is inappropriate to provide for emergency management and training activities within the same rule as temporary military training activities.

²⁶ NZDF (992.51).

²⁷ NZFS (993.23).

²⁸ NMDHB (280.96).

²⁹ NZDF (992.56).

³⁰ H Thomson (117.1).

³¹ Transpower (1198.77).

³² NZDF, further submission on 1198.77.

³³ NZDF (992.54).

³⁴ NZDF (992.57).

- The report writer asked S and J Peoples to clarify their submission which appears to query the status of temporary military training activities in the Open Space 3 Recreation Zone with reference made to the Conservation Zone of the WARMP.³⁵
- With respect to Transpower's submission, the report writer considers that, given Policy 10 of the NPSET and policies already within the PMEP, it is appropriate to include the standard requested by the submitter.
- He agrees that a time limit of 31 days (as in the WARMP and the MSRMP) for an activity to be considered 'temporary' is appropriate. And he agrees with NZDF there may be some instances where a permanent structure results from training activities, such as when NZDF personnel are involved in constructing a Habitat for Humanity home, however further details are required.

Consideration

45. The Panel agree with the report writer for the reasons given in the Section 42A Report.

Decision

46. Insert a new standard 2.42.1.5 as follows:

2.42.1.5 Within the National Grid Yard no explosives may be used.

47. The definition of 'temporary military training activity' is amended as follows:

Temporary military training activity means a temporary training activity undertaken for defence purposes in accordance with the Defence Act 1990.

³⁵ S and J Peoples (450.32).

Noise

48. In Topic 18: Nuisance Effects and Temporary Military Training, the Panel received a report from Mr Nevil Hegley which contained a number of ambiguities and inconsistencies. Amongst the problems the Panel faced was that recommendations made in respect of many submissions was not specific as to wording recommended, and in some cases either proved to be contradictory with other submissions also recommended for approval, or comments of approval would be inconsistent with wording changes recommended. In a number of cases incorrect references to Plan provisions were also given which caused delay and confusion.
49. Further, Mr Hegley had initially recommended changes to permissible noise standards. These recommendations appeared to be based primarily on his technical approach. The approach the Panel took in its consideration was that there needed to be an evidential basis linked to relief requested in submissions for there to be any change in noise standards.
50. As a consequence the Panel issued minutes numbered 43 and 54 seeking clarity. In Minute 54 addressed to Paul Whyte, Section 42 Report Writer (Nuisance Effects and Temporary Military Training), the Panel requested an agreed set of recommended changes by Mr Whyte having discussions with Mr Hegley to address all of the concerns raised in both minutes. On receipt of that agreed response the Panel still had a number of specific concerns which led to the issue of Minute 59 addressed to both Mr Hegley, and Mr Whyte.³⁶
51. In Minute 59 joint clarification was sought on the following issues:
- In relation to Rule 3.2.4.1, reductions are proposed in dB levels for two categories but the submission provided³⁷ does not appear to show any request to reduce the dB levels as recommended. The Panel queried that reduction and the scope for it. It could be that the difference between the two National Standards provides the answer but that is not clear to the Panel at the moment on the material it has.
 - The same issue arises in respect of the reductions recommended at Rule 4.2.3.1.
 - In relation to Rule 3.3.5.1, subclause (c) is recommended to be deleted. Again checking against the relief sought in the submission that is referred to³⁸ it does not appear to provide scope. The Panel sought reasons for the proposed deletion and for scope

³⁶ Minute 43 to Nevil Hegley (Noise Expert), 13 November 2018; Minute 54 to Paul Whyte (Section 42A Report Writer, Nuisance Effects and Temporary Military Training), 15 March 2019; Minute 59 to Paul Whyte (Planning) and Nevil Hegley (Noise), 10 April 2019.

³⁷ Pernod Ricard (1039.114).

³⁸ Horticulture NZ (769.98).

purposes, a submission reference to that specific relief sought in a particular submission.

- In many rules the A qualifier to the dB level is recommended to be removed and in other locations it is recommended to be inserted. The Panel sought an explanation as to why that occurred with appropriate references providing scope for those recommendations. An example of that contrast is found at Chapter 13 for the Port Zone and Chapter 14 for the Port Landing Areas. In the former, the A qualifier is recommended for inclusion while the latter is recommended for deletion. Another example appears at Chapter 22 in relation to the Lake Grassmere Salt Works Zone where at varying times of the day the A factor is recommended to be deleted or included.
52. The report writers jointly provided a tracked change response to Minute 54 with a further detailed reply on the issues raised in Minute 59.
 53. The Panel agreed with the tracked change recommendations for the reasons set out in the responses to Minutes 54 and 59 with amendments which this decision will now address.
 54. In this case of this topic, therefore, the general approach of the Panel's overall decision in respect of all other topics is not applicable, i.e. that the Section 42A Report reasons and recommendations were agreed with by the Panel and formed part of its decision process, unless the topic decision disagreed or provided further elucidation.
 55. In the case of this topic that approach relates to the responses provided to Minutes 54 and 59. The recommendations in respect of particular provisions in those responses can be taken as forming part of the Panel's reasons and decisions on the provisions dealt with in those responses, unless those provisions are further addressed in this topic decision document.
 56. The specific consideration of any of the provisions requiring further consideration is now set out below in this decision, or otherwise the recommendations are adopted from the responses to the later minutes 54 and 59.

Standard 3.2.4.1.

Any new noise sensitive activity located within 300m of any frost fan not within the same site must be designed and constructed so that within the external building envelope surrounding any bedroom (when the windows are closed), airborne sound insulation meets the following single-number rating for airborne sound insulation, determined in accordance with AS/NZS ISO 717.1:2004 Acoustics – Rating of Sound Insulation in Buildings and of building elements Part 1 – Airborne sound insulation:

Dwellings located less than 300m and more than 200m from the nearest frost fan $D_{nT,w} + C_{tr}50-3150 \geq 27$ dB

Dwellings located less than 200m and more than 100m from the nearest frost fan $D_{nT,w} + C_{tr}50-3150 \geq 32$ dB

Dwellings located less than 100m from the nearest frost fan $D_{nT,w} + C_{tr}50-3150 \geq 37$ dB

57. One submitter generally supported the rule and standard, adding: retain Rule 3.2.4 including any other measures as appropriate to manage reverse sensitivity effects.³⁹ Others sought extension of the rule relating to noise sensitivity effects to cover any existing commercial forest boundary sufficient to mitigate any temporary adjacency noise effects from normal rural activities;⁴⁰ reference to 2004 edition of ISO 717.1 is outdated and should be superseded here and in the two other instances in Volume 2 (4.2.3.1 and 8.2.3.1).⁴¹

Section 42A Report

58. The report writer agreed with the Pernod Ricard request. He did not support PF Olsen's submission to extend the existing commercial boundary as no credible reason to adopt such an approach was identified. In terms of amending the noise standards, the report writer agreed that the 2004 edition is superseded by ISO 717.1:2013.

Consideration

59. The Panel in Minute 59 raised issues relating to several particular matters in respect of the recommended amendments to these noise provisions.
60. The first matter raised was whether the Panel had sufficient scope to agree to the amendments in Standard 3.2.4.1. The wording concerned requested 'Retain Standard [*sic*] 3.2.4 including any other or additional measures as appropriate to manage reverse sensitivity effects'.
61. Mr Hegley advised that the proposed amendments to the respective decibel levels will improve the rule because the levels recommended better reflect the measured noise effects from frost fans as received within the dwelling. While there was no direct evidence on this matter Mr Hegley considers the amendments are appropriate having considered the overall

³⁹ Pernod Ricard (1039.115).

⁴⁰ PF Olsen Ltd (149.12).

⁴¹ NMDHB (280.130).

evidence on frost fans. In particular, the amended levels are considered to provide sufficient mitigation and do not require persons to invest in unnecessary noise control when establishing a noise sensitive activity (such as a dwelling) to manage reverse sensitivity effects.

62. While it is acknowledged the amendments are ‘replacing’ one figure with another one, it appears they can be considered as an “other measure” as requested in the submission that will better “manage reverse sensitive effects” as per the decision requested in the Rural Environment Zone. The report writer’s response to Minute 59 was:

If the Panel is comfortable with this, the amendment can remain. If it takes a more strict and narrow view that the amendment is not within the ambit of the submission, then the decibel levels should be retained as notified.⁴²

63. There is no detailed technical evidence to support the report writer’s recommendation and we have not heard other such technical evidence. The notified standards have been in operation in Marlborough for many years now and no change was notified in the plan which would have enabled submission by affected members of the public. The Panel is not comfortable with the recommendation of changes which appear on their face to lessen the protection of the noise amenity levels in dwellings nearby without there being a strong body of evidence to support the change and without opportunity for submission on that issue. The result is that the noise levels in Standard 3.2.4.1 should be retained as notified.
64. We concluded from this response to delete ‘any other or additional measures appropriate to manage reverse sensitivity effects’ is not precise enough and was too vague to provide certainty to enable cross submission.

Decision

65. Standard 3.2.4.1 is retained as notified with one minor amendment updating the standard referenced in the provision to read as follows:

Any new noise sensitive activity located within 300m of any frost fan not within the same site must be designed and constructed so that within the external building envelope surrounding any bedroom (when the windows are closed), airborne sound insulation meets the following single number rating for airborne sound insulation, determined in accordance with AS/NZS ISO 717.1:2004/2013 Acoustics– Rating of Sound Insulation in Buildings and of building elements Part 1 – Airborne sound insulation:

Dwellings located less than 300m

⁴² Report writer’s Response to Minute 59, 12 April 2019, paragraphs 3 and 4.

and more than 200m from the nearest frost fan $DnT,w + Ctr 50-3150 \geq 27 \text{ dB}$

Dwellings located less than 200m and more

than 100m from the nearest frost fan $DnT,w + Ctr 50-3150 \geq 32 \text{ dB}$

Dwellings located less than 100m from the

nearest frost fan $DnT,w + Ctr 50-3150 \geq 37 \text{ dB}$

66. As a consequence and to ensure consistency between provisions, Standards 4.2.3.1 and 8.2.3.1 are also amended as above.

Standard 3.3.5.1

3.3.5.1. A Category A or Category B device must not be operated:

- (a) between 8.00 pm and 7.00 am the following day if the device is within 2km of a noise sensitive activity;**
- (b) within 800m of any rest home, public or private hospital;**
- (c) within 160m of the boundary or notional boundary of the nearest dwelling, visitor accommodation or other habitable building (except a dwelling, visitor accommodation or other habitable building on the same property as the audible bird-scaring device);**
- (d) such that sound is emitted at a level greater than 65 dB LAE, measured at or within the boundary (Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 Zones, and Coastal Living and Rural Living Zones) or notional boundary (Rural Environment or Coastal Environment Zones) of the nearest dwelling, visitor accommodation or other habitable building (except a dwelling, visitor accommodation or other habitable building on the same property as the audible bird-scaring device).**
- (e) closer than 250m to any other audible bird-scaring device.**

67. Evidence presented by Horticulture NZ to Standard 3.3.5.1(c) relates to the distance to dwelling houses. The submitter considers that the proposed standard is arbitrary by using distances rather than being based on the noise emitted from the device. The measure LAeq is not defined while the SEL measure is more appropriate for measuring impulsive sound and therefore should be used in the bird-scaring role.⁴³

68. The submission reads:

Amend Standard 3.3.5.1 as follows:

A category A or Category B device must not be operated

a) After sunset and before sunrise

b) Exceed 65dB SEL when measured at the notional boundary of the nearest habitable building on a site other than on which the device is located or the zone boundary

⁴³ Horticulture NZ (769.98).

Section 42A Report

69. The report stresses it is apparent that this submission does not specifically refer to the deletion of subclauses (c) and (e) given that it relates to other subclauses. As a consequence, the report suggests it appears this submission cannot be relied upon to make the proposed changes. The report writer notes that CJ Smith does request amendment to (c) but does not appear sufficiently robust to allow for deletion of this subclause (or (e)). Accordingly, the report writer considers that there is not sufficient scope to allow deletion of the respective subclauses.
70. Mr Hegley advises that in the supplementary evidence of Ms Wharfe, she noted that dawn and dusk are periods when birds feed and asked for this period to be used rather than 8pm/7am to provide more flexibility, to which he agreed.
71. The Panel was advised that Standard 3.3.5.1 was also considered under the Rural Environment topic. The Reply to Evidence recommended a similar amendment whereas the original report had recommended the standard remain without amendment. The recommendation in the Rural topic in the Reply to Evidence accords with Mr Hegley's recommendation in this Topic in respect of 3.3.5.1(a) where he recommends that the '8pm/7am' is deleted and 'sunrise/sunset' substituted⁴⁴.

Consideration

72. We note in his comment in the Section 42A Report (Noise) that Mr Hegley states that Sound Expansive Level (SEL) is the same LAeq, and as only SEL is defined in Chapter 25 so it should be adopted.
73. The Panel agreed the current standard should be clarified in that respect and this has been done.⁴⁵ SEL means 'the A-weighted sound pressure level that, if maintained constant for a period of one second, would convey the same sound energy to the receiver as is actually received from a given noise event'.
74. We also note that the Panel had to resolve the different recommendations in respect of Standard 3.3.5.1(a), that is, retain the status quo or insert sunrise/sunset. There are strongly held opinions in the community of this issue as instanced by Mr Driver's evidence and his submission which actually sought prohibited activity status for this activity.
75. It is understood that in February and into March when 'bird bangers' begin and continue, sunrise occurs progressively at a later time. In early February that may be 6:30am but will be

⁴⁴ Reply to Evidence, pages 60 and 61

⁴⁵ Chapter 25 Volume 2 Definitions pages 25-31.

increasingly later each day. Moreover, the evidence of Ms Wharfe stressed that bird feeding commences at sunrise. The Panel has taken into account the policy approach in the plan of enabling primary production activities which include aspects of noise in rural zones while endeavouring to manage those effects reasonably.

76. We concluded that the standard is more effective if it is applied between sunrise and sunset rather than during specified hours.⁴⁶
77. The Panel concluded that the recommendation to delete subclauses (c) and (e) lacked scope from submissions for that to be done and therefore they are retained as notified.

Decision

78. Standard 3.3.5.1 is amended as follows:

3.3.5.1. A Category A or Category B device must not be operated:

- (a) *between ~~8.00 pm and 7.00 am~~ sunset and sunrise the following day if the device is within 2 km of a noise sensitive activity;*
- (b) *within 800 m of any rest home, public or private hospital;*
- (c) *~~within 160 m of the boundary or notional boundary of the nearest dwelling, visitor accommodation or other habitable building (except a dwelling, visitor accommodation or other habitable building on the same property as the audible bird scaring device);~~*
- (d) *such that sound is emitted at a level greater than 65 dB SEL LAE, measured at or within the boundary (Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3 Zones, and Coastal Living and Rural Living Zones) or notional boundary (Rural Environment or Coastal Environment Zones) of the nearest dwelling, visitor accommodation or other habitable building (except a dwelling, visitor accommodation or other habitable building on the same property as the audible bird-scaring device);*
- (e) *closer than 250 m to any other audible bird-scaring device.*

dB v dBA

79. NMDHB requested the noise limit references to dBA L_{Aeq} are amended to denote the appropriate format, dB L_{Aeq} .⁴⁷

Section 42A Report and Consideration

80. Minute 59 of the Panel sought clarification on the appropriate use of dB and dBA. This followed from recommendations from Mr Hegley to sometimes utilise dBA where it is not

⁴⁶ Section 42A Report, paragraphs 78-79; Reply to Evidence, pages 60-61.

⁴⁷ NMDHB (Multiple submission point)

used in the notified rules and sometimes remove dBA when it is included in the notified rules. This left the Panel confused as to when it was appropriate to use dB or dBA. Helpfully, in the response, the report writer clarified the issue, stating:

... “dBA” applies when the “ L_{dn} ” (average noise level) is being measured as set out in NZS 6809: 1999 Acoustics - Port Noise Management and Land Use Planning. Otherwise measurements relating to LF_{Amax} and L_{Aeq} are “dB” as adopted in NZS6802:2008 Acoustics – Environmental Noise.

Decision

81. That this drafting error citing the incorrect reference is amended throughout the plan.

Standards 3.2.4, 4.2.3 and 8.2.3

Noise sensitive activity

82. One submitter generally supported the standard as notified, and another requested the standard wording be amended to read ‘Noise sensitive activity and frost fans’.⁴⁸

Section 42A Report

83. Although the report writer agreed with both submitters despite the difference in relief requested, he appeared to favour the inclusion of reference to frost fans in the rule.

Consideration

84. The Panel agreed with the inclusion of the reference to frost fans on the basis that there are separate standards for noise sensitive activities in the context of port noise. However, the Panel did not agree with the proposed phrasing. In order to provide clarity, the Panel included the additional wording ‘in the context’ of frost fans.

Decision

85. Standards 3.2.4, 4.2.3 and 8.2.3 are amended to read:

Noise sensitive activity in the context of frost fans.

86. For the same reason (i.e. to distinguish the standards) the Panel has also decided to amend Standard 13.2.4 as follows:

Noise sensitive activity in the context of the port zone

⁴⁸ Pernod Ricard (1039.115) and Nelson Marlborough District Health Board (280.127)

Point of measurement issue

Standards 3.2.3.1, 4.2.2.1, 5.2.2.1, 6.2.2.1, 7.2.2.1, 8.2.2.1, 9.2.2.1, 10.2.2.1, 11.2.2.1, 14.2.3.1, 15.2.3.1, 17.2.2.1

(The following discussion relates to the above standards for different zones relating to particular descriptors such as ‘zone boundaries’, ‘notional boundaries’ and ‘within boundaries’. Separate decisions are made on each.)

An activity must not cause noise that exceeds the following limits at the Zone boundary or within the Zone: ...

87. Several submissions variously sought retention of the listed standard(s), as notified; multiple submitters suggested alternative wording for the point at which noise limits are measured; others requested the amendment of noise limits in the Port Landing and Marina zones; one sought ‘New Zealand Fire Service’ be amended to ‘emergency services’ where relevant.
88. The zone standards as notified commonly used the expression ‘at the zone boundary or within the zone’. Submitters highlighted practical issues with administering such a standard, especially as it implies that the noise standard is to be complied with at source. The evidence heard by the Panel confirmed that such a requirement is inappropriate.
89. The response to Minute 54 contained recommendations with respect to the point at which noise limits (set as plan standards) apply. In practice, this also determines the point at which noise levels would be measured and, depending on the noise reading and state of compliance/non-compliance, enforcement action taken. This matter is therefore of some significance and the Panel considered each recommendation carefully on its merits for that reason.
90. In summary, the recommendations normally included the use of the following in recommended standards:
 - (a) the notional boundary of any other property within the same zone;
 - (b) at any point within the boundary of any other property.

The notional boundary of any other property within the same zone

Section 42A Report

91. The Section 42A report writers have recommended that the above descriptor is utilised in the Rural Zone and the Coastal Environment Zone instead of noise limits applying at the zone boundary or within the zone. They consider that there is sufficient scope to consider this change provided by submission points 91.194 and/or 280.121.

Consideration

- 92. There is merit to considering the notional boundary of any other dwelling within the same zone because it is particularly noise level amenity within a dwelling that is important.
- 93. However, the Panel do believe that it is appropriate to use notional boundary *of the property* as the concept of a notional boundary relates to a dwelling. Properties have boundaries defined by survey.

Decision

- 94. Standards 3.2.3.1 (Rural Environment), 4.2.2.1 (Coastal Environment) and 14.2.3.1 (Port Landing Area) are amended as follows:

3.2.3.1 An activity must not cause noise that exceeds the following limits at ~~the Zone boundary of~~ any point within the notional boundary of any dwelling in the Rural Zone (other than on a property on which the activity occurs): ...

4.2.2.1 An activity must not cause noise that exceeds the following limits at ~~the Zone boundary of~~ any point within the notional boundary of any dwelling in the Coastal Environment Zone (other than on a property on which the activity occurs): ...

14.2.3.1 An activity must be conducted to ensure that noise when measured at any point at the boundary of, or within the notional boundary of a dwelling of any site zoned Coastal Living or Coastal Environment ~~the Port Landing Area Zone~~ does not exceed the following noise limits:

<i>7.00 am to 10.00 pm</i>	50 <u>55</u> dBA- L_{Aeq}
<i>10.00 pm to 7.00 am</i>	40 <u>45</u> dBA- L_{Aeq} 70 <u>75</u> dB L_{AFmax}

At any point within the boundary of any other property

Section 42A Report

- 95. The Section 42A report writers have recommended that the above standard is utilised in the remaining zones.

Consideration

In the case of residential zones (Urban Residential 1, 2 and 3, Coastal Living and Rural Living) and industrial zones (Industrial 1 and 2), the Panel believes that the noise limit should apply at the boundary of any other property within the zone. This is because in residential zones the density of housing is such that noise level amenity requires closer control at all points within a property within that zone.

- 96. For the remaining zones, the Panel has adopted the recommendation that the noise limit applies at the boundary of any other property regardless of its zoning.

97. However, the same case does not apply in the business zones (Business 1, 2 and 3) or the industrial 1 and 2 zones. This is because the amenity level sought to be protected in the business and industrial zones is not as sensitive as for the residential zones. The Plan rules and standards endeavour to ensure that within the business and industrial zones a lower level of amenity in respect of other properties in those zones is acceptable. However, on a zone boundary with a residential zone there are different standards requiring protection of residential amenity. That is provided for by standards 9.2.2.2, 10.2.2.2 and 12.2.2.4.

Decision

98. Standards 5.2.2.1 (Urban Residential 1 and 2), 6.2.2.1 (Urban Residential 3), 7.2.2.1 (Coastal Living Zone) and 8.2.2.1 (Rural Living) are amended to read:

The activity must not cause noise that exceeds the following limits at any point within the boundary of any other property within the zone: ...

99. Standards 9.2.2.1 (Business 1), 10.2.2.1 (Business 2) and 11.2.2.1 (Business 3) are amended to read:

An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property zoned Business 1, Business 2 or Business 3 ~~at the zone boundary or within the zone~~:

100. Standards 12.2.2.1 (Industrial 1) is amended to read:

An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property zoned Industrial 1 ~~the zone boundary or within the zone~~:

At any time 70 dBA LAeq 80dB LAFmax

Exception: This noise limit does not apply to the operation of helicopters using the established helicopter pad on Pt Sec 24 Blk III Taylor Pass SD.

101. Standards 12.2.2.3 (Industrial 2) is amended to read:

An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property zoned Industrial 2 ~~the zone boundary or within the zone~~:

At any time 75 dBA LAeq 85dB LAFmax

102. Standard 12.2.2.2 is amended to read:

12.2.2.2 An activity must not cause noise that exceeds the following limits at any point within the boundary with, or within of any adjacent Business 1 or 2 Zone:...

103. Standard 17.2.2.1 is amended to read:

17.2.2.1 An activity must not cause noise that exceeds the following limits at ~~the zone boundary or within the zone~~ any point within the boundary of any other property

Marina Zone

Standard 15.2.3.1

An activity must be conducted to ensure that noise when measured at the boundary of, or within, the Zone does not exceed the following limits:

7.00 am to 10.00 pm	60 dBA LAeq	
10.00 pm to 7.00 am	40 dBA LAeq	70dB LAFmax

104. AQNZ sought an amendment to the proposed standard so noise measurements could be taken at the notional boundary of a property rather than the noise source as its submission asserted the standard allowed to occur.⁴⁹ The relief requested was:

An activity must be conducted to ensure that noise when measured at the boundary of the Marina Zone does not exceed the following limits

105. PMNZ requested that there be no standard required in the Marina Zone on the basis that there were no noise sensitive activities adjacent.

Section 42A Report

106. The Section 42A Report agreed the measurement position requires to be clarified.

Consideration

107. The Panel accepts that the notified version of the Plan in many of these standards is worded in a manner which creates uncertainty as to the place of measurement of noise levels as it appears to leave open differing options e.g. in the case of this standard either at the boundary of the zone or within the zone. As this standards require compliance and have regulatory consequences for non-compliance there cannot be an uncertain location for measurement of the sound created by an activity. Sometimes it may be appropriate , for example at a Marina zone boundary to specify the zone boundary itself as other premises within the zone may be considered not to be so sensitive.

108. The PMNZ request overlooks the reality that residential zones exist next to the marina zones and also would leave noise amenity uncontrolled within the marina zone. The Panel does not agree with either of those outcomes. The Panel notes that there are already noise sensitive activities occurring in marina zones such as cafes and retail activities.

⁴⁹ 401.215

109. The Panel’s view is that the same consistent approach to standards and points of measurement should apply to the business, industrial and marina zones, i.e. a lesser level of protection is acceptable within the zone but at the boundary of residential zones the residential amenity must be protected.

Decision

110. Amend Standard 15.2.3.1 (Marina) as follows:

15.2.3.1 An activity must not cause noise that exceeds the following limits at any point within the boundary of any other property zoned Marina or be conducted to ensure that noise when measured at the notional boundary of any noise sensitive activity within the zone does not exceed the following limits:

<i>7.00 am to 10.00 pm</i>	<i>60dBA-L_{Aeq}</i>
<i>10.00 pm to 7.00 am</i>	<i>40-45dBA-L_{Aeq} 70-75 L_{AFmax}</i>

Recommendation of Consolidation of Industrial 1 & 2 Zone Standards

Standards 12.2.2.1 and 12.2.2.3

Standards for the Industrial 1 Zone only:

12.2.2.1. An activity must not cause noise that exceeds the following limits at the zone boundary or within the zone:

At any time	70 dBA LAeq	80dB LAFmax
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Exception: This noise limit does not apply to the operation of helicopters using the established helicopter pad on Pt Sec 24 Blk III Taylor Pass SD.

Standards for the Industrial 2 Zone only:

12.2.2.3. An activity must not cause noise that exceeds the following limits at the zone boundary or within the zone:

At any time	75 dBA LAeq	85dB LAFmax
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111. NMDHB opposed the reference to the phrase ‘within the zone’ and sought ‘at the boundary with’ to be replaced by ‘at any point within the...’ as well as seeking various other changes. Timberlink requested the removal of compliance for noise measurement onsite.⁵⁰

112. MDC sought the integration or consolidation of the two industrial zone standards and the amendment of 12.2.2.1 to read:

"An activity must not cause noise that exceeds the following limits at or within the boundary of any other property zoned Industrial 1 or Industrial 2 ~~at the Zone boundary or within the Zone.~~"⁵¹

⁵⁰ 280.191

⁵¹ 91.215 and .217

Section 42A Report

113. The Section 42A Report recommended that in 12.2.2.2 the words 'at the boundary with' be replaced by 'at any point within...' and that the relief requested by Marlborough District Council be accepted.

Consideration

114. Panel decided not to consolidate the standards in the industrial zones. The standards are retained as notified except for clarification as to the point of measurement as canvassed earlier in this decision and the dBA references being corrected as also earlier discussed.

Decision

115. The standards in the industrial zone are not consolidated.

Standard 3.2.3.3

The following activities are excluded from having to comply with the noise limits:

- (a) sirens and call out sirens associated with the activities of the New Zealand Fire Service;**
- (b) mobile machinery used for a limited duration as part of agricultural or horticultural activities occurring in the Rural Environment Zone;**
- (c) any fixed motors or equipment, frost fans or gas guns, milling or processing forestry activities, static irrigation pumps; motorbikes that are being used for recreational purposes.**

Standard 4.2.2.3

The following activities are excluded from having to comply with the noise limits:

- (a) mobile machinery used for a limited duration as part of agricultural or horticultural activities occurring in the Coastal Environment Zone;**
- (b) any fixed motors or equipment, frost fans or gas guns, milling or processing forestry activities, static irrigation pumps; motorbikes that are being used for recreational purposes.**

116. Various submitters (149.11, 167.26, 336.9, 425.514, 440.8, 962.147, 990.39) sought the inclusion of the phrase 'or forestry' to subclause (b) and another sought subclause (a) refer to 'emergency services' rather than 'New Zealand Fire Service' and supports that fire sirens are exempt; and 'recreational' in subclause (b) is amended to 'primary industries'.⁵² Marlborough District Council sought in its submission (91.195) that subclause (b) be amended by including reference to 'forestry' as well as the other activities; and further said (91.4) that subclause (c) of the exclusions in this clause had been inserted in error and requested that subclause be deleted.

117. A similar set of submissions related to Standard 4.2.2.3 which is the equivalent provision in the Coastal Environment zone.

⁵² Marlborough District Council (91.195), Nelson Marlborough District Health Board (280.123)

Section 42A Report

118. The report writer proposed the inclusion of the wording 'or forestry' in (b) as sought in various submissions and recommended deletion of subclause (c) as sought by MDC.

Consideration

119. Plainly sirens for emergency services should be exempt and are to be included in the exemption lists at (a) of this rule. Plainly they should also be exempt in Standard 4.2.2.3 in the Coastal Environment zone as well.
120. As the NES on forestry now addresses all forestry operational issues, the reference to forestry is no longer required as the NES fixes forestry noise standards.
121. The Panel was not surprised to read the MDC acknowledgment that subclause (c) was inserted in error because it would inhibit a range of primary production activities and agrees to its deletion on the basis that some level of noise control.

Decision

122. Standard 3.2.3.3 (Rural Zone) is amended as follows:

3.2.3.3 The following activities are excluded from having to comply with the noise limits:

(a) sirens and call out sirens associated with the activities of ~~the New Zealand Fire Service~~ emergency services;

(b) mobile machinery used for a limited duration as part of agricultural or horticultural activities occurring in the Rural Environment Zone;

~~(c) any fixed motors or equipment, frost fans or gas guns, milling or processing forestry activities, static irrigation pumps; motorbikes that are being used for recreational purposes.~~

123. Standard 4.2.2.3 (Coastal Zone) is amended as follows:

4.2.2.3 The following activities are excluded from having to comply with the noise limits:

(a) sirens and call out sirens associated with the activities of emergency services;

(b) mobile machinery used for a limited duration as part of agricultural or horticultural activities occurring in the Coastal Environment Zone;

~~(b) any fixed motors or equipment, frost fans or gas guns, milling or processing forestry activities, static irrigation pumps; motorbikes that are being used for recreational purposes.~~

Rural Zone

Standard 3.2.3.4

Noise emissions from any generator or wind powered equipment used solely for electricity generation must be operated so that noise emissions measured at the notional boundary of any dwelling in any zone must not exceed 55 dBA LAeq(15 min) at all times.

124. Nelson Marlborough District Health Board sought Standard 3.2.3.4 be divided in two to address electrical generators and wind turbines separately.⁵³

Section 42A Report

125. The report writer in his text recommended the deletion of this provision and its replacement with separate provisions for wind turbines that referred to NZS 6808:2010 Acoustics – Wind Farm Noise and a new standard for generators to be measured under NZS 6802:2008 Acoustics – Environmental Noise.

Consideration

126. The Panel accepted the logic of the submission by NMDHB and the wording recommended in the text of the Section 42A Report as to two separate replacement standards for wind turbines and generators.
127. The same provisions and considerations apply to the equivalent Coastal Environment Zone provision and the same consistent decisions are explained.

Decision

128. Delete the notified Standard 3.2.3.4 and replace with the following two standards:

3.2.3.4 Noise emissions from any generator used for electricity generation must be operated so that noise emissions at any point within the notional boundary of any dwelling in any zone must not at any time exceed 55 dB LAeq(15 min) when measured and assessed in accordance with Rule 3.2.3.5.

3.2.3.5. Wind turbine sound must be measured and assessed in accordance with NZS 6808:2010 Acoustics - Wind Farm Noise and the noise at any point within the notional boundary of any residential Dwelling must not exceed 40 dB LA90(10min) or the background sound level LA90(10 min) plus 5dB, whichever is higher.

129. Delete the notified Standard 4.2.2.4 and replace with the following two standards:

4.2.2.4 Noise emissions from any generator used for electricity generation must be operated so that noise emissions at any point within the notional boundary of any dwelling in any zone

⁵³ (280.124)

must not at any time exceed 55 dB LAeq(15 min) when measured and assessed in accordance with Rule 4.2.2.5.

4.2.2.5 Wind turbine sound must be measured and assessed in accordance with NZS 6808:2010 Acoustics - Wind Farm Noise and the noise at any point within the notional boundary of any residential Dwelling must not exceed 40 dB LA90(10min) or the background sound level LA90(10 min) plus 5dB, whichever is higher.

130. Insert as a consequential change a new definition for wind turbine in Chapter 25 as follows:

Wind turbine device used to extract kinetic energy from the wind for electrical generation and includes any wind farm

Coastal Environment Zone & Urban Residential Zones 1 & 2

[New] 4.2.2.X and 5.2.2.X

131. Port Marlborough sought the inclusion of two new noise standards to control activities within the outer control noise boundary.⁵⁴

Section 42A Report

132. The report writer proposed:

Port Noise

- (a) *Any new noise-sensitive activity, or alteration or addition to an existing building used for a noise sensitive activity within the Outer Noise Control Boundary at the port in the Coastal Environment Zone shall be adequately insulated from port noise.*
- (b) *Adequate sound insulation must be achieved by constructing the building to achieve a spatial average indoor design sound level of 40dBA Ldn in all new habitable spaces and buildings used for noise sensitive activities. The indoor design level must be achieved with all windows and doors open unless adequate alternative ventilation means is provided, used and maintained in operating order. The sound insulation design must be certified by an acoustic engineer. The completed construction must be certified by the builder as built in accordance with the design.*

133. The report writer recommended the same standard be inserted in the Urban Residential 2 Zone, with subclause (a) referencing the Urban Residential 2 Zone in place of the Coastal Environment Zone. The same issue was also raised by PMNZ in relation to Standard 13.2.4.2 which is the existing standard addressing these insulation requirements on new buildings within the Outer Noise Control boundary.

⁵⁴ (1284.10)

134. The original Section 42A Report referred to the submission by PMNZ as follows:

PMNZ considers that it is appropriate to control activities that are sensitive to noise in order to manage the potential for reverse sensitivity effects.

Some amendments to this rule are suggested to provide additional certainty as to the standard of noise insulation required.

It is noted that the standard should be referred to in this rule (13.2.4 -Noise sensitive activity). This standard specifies an indoor design requirement of 45dB Ldn. However, PMNZ considers that a more stringent indoor design requirement of 40dB Ldn is preferable to ensure improved amenity for residents and to manage potential reverse sensitivity effects.

40 dB Ldn is the internal standard required for noise sensitive activities within the airport noise boundary. Further, additional information can be provided to support this standard, such as a standard design spectrum and standard minimum construction options that, if adhered to, may alleviate the need for certification from an acoustic engineer.

Consideration

135. The Panel decided earlier that the title should be amended to clarify this standard was “in the context of port noise”.
136. However, the Panel was uncertain which ‘standard’ the Section 42A Report was referring to as the notified standard 13.2.4 does not appear to specify a limit. It states:

13.2.4. Noise sensitive activity.

13.2.4.1. A new noise-sensitive activity, or alteration or addition to an existing building used for a noise sensitive activity between the Inner and Outer Noise Control Boundaries at the port in Picton and Shakespeare Bay and at Havelock are adequately insulated from port noise.

13.2.4.2. Such insulation must be certified by an acoustic engineer as adequate to achieve the design standard.

137. The report further did not assist when in the recommendations at page 72 as to standard 13.2.4 the report stated:

It is agreed the Noise Sensitive Activity provisions as notified are retained unless there is credible information to warrant a change.

138. But then at page 75 it stated:

The recommended amendment to Rule 13.2.4.2 is agreed with.

And recommended those changes at page 77.

139. The Panel did not agree with the inclusion of the statement ‘The indoor design level must be achieved with all windows and doors open unless adequate alternative ventilation means is provided, used and maintained in operating order.’ The building code requires double glazing be fitted to all new builds and that any house designed in such a way that windows and doors to the exterior may be closed need an alternative means of ventilation. In this context, where a person building a new house is aware of port noise as an issue (as signalled by the noise exposure overlays) the noise standard requiring that measurement occur with doors and windows closed is not unreasonable, given those building code requirements.

140. The Panel was also uncertain if these new standards were recommended to be included in the Plan why Standard 13.2.4 is needed at all. This is because management applies to noise sensitive activities that may be established on adjoining zones to the Port Zone, which include Coastal Environment Zone, Urban Residential 1 and 2 Zone and Business 1 Zone. These are the zones in which there is land within the Outer Noise Control Boundary. The provision in the Port Zone seems to be made redundant by the incorporation of these new provisions. Within the Port Zone, the port company is the landowner controlling the types of activities that can establish through its own leasing mechanisms.

Decision

141. A new standard is inserted as 4.2.2.X as follows:

Noise sensitive activity in the context of port activities

(a) Any new noise-sensitive activity, or alteration or addition to an existing building used for a noise sensitive activity within the Outer Noise Control Boundary at the port in the Coastal Environment Zone shall be adequately insulated from port noise.

(b) Adequate sound insulation must be achieved by constructing the building to achieve a spatial average indoor design sound level of 40dBA Ldn in all new habitable spaces and buildings used for noise sensitive activities. The sound insulation design must be certified by an acoustic engineer. The completed construction must be certified by the builder as built in accordance with the design.

142. For consistency, a new standard is also inserted as 5.2.2.X as follows:

Noise sensitive activity in the context of port activities

(a) Any new noise-sensitive activity, or alteration or addition to an existing building used for a noise sensitive activity within the Outer Noise Control Boundary at the port in the Urban Residential Zone shall be adequately insulated from port noise.

(b) Adequate sound insulation must be achieved by constructing the building to achieve a spatial average indoor design sound level of 40dBA Ldn in all new habitable spaces and buildings used for noise sensitive activities. The sound insulation design must be certified by an acoustic engineer. The completed construction must be certified by the builder as built in accordance with the design.

143. A new standard is inserted as 9.2.2.X as follows:

Noise sensitive activity in the context of port activities

(a) Any new noise-sensitive activity, or alteration or addition to an existing building used for a noise sensitive activity within the Outer Noise Control Boundary at the port in the Business 1 Zone shall be adequately insulated from port noise.

(b) Adequate sound insulation must be achieved by constructing the building to achieve a spatial average indoor design sound level of 40dBA Ldn in all new habitable spaces and buildings used for noise sensitive activities. The sound insulation design must be certified by an acoustic engineer. The completed construction must be certified by the builder as built in accordance with the design.

144. Standard 13.2.4 is removed from the Plan

Rural Environment Zone and Coastal Environment Zone

Standard 3.2.4.2 and 4.2.3.2

3.2.4.2. For the purposes of Standard 3.2.4.1, "external building envelope" means an envelope defined by the outermost physical parts of the building, normally the cladding and roof.

4.2.3.2. For the purposes of Standard 4.2.3.1, "external building envelope" means an envelope defined by the outermost physical parts of the building, normally the cladding and roof.

Section 42A Report

145. The report referred to submission 592.12 by CJ Smith as providing scope for an amendment to these standards.

146. The report writer recommended:

For the purposes of (Standard 3.2.4.2/4.2.3.1), "external building envelope" means an envelope defined by the outermost physical parts of the building, normally the cladding and roof and has a bedroom window facing towards one or more frost fans.

Consideration

147. The Panel noted that the submission by CJ Smith was very general and did not seek the specific relief that was recommended by the report writer.
148. In any event, the Panel took note of the fact that the notified text has previously gone through a First Schedule process and to the Environment Court. Practical experience has not shown the existing standard adequate. The recommended wording involves judgement as to whether a bedroom is ‘facing towards one or more frost fans’. It is inappropriate to have such a discretion as part of a permitted activity standard

Decision

149. Standards 3.2.4.2 and 4.2.3.2 are retained as notified.

Business 1 Zone and Business 2 Zone

Standard 9.2.2.2

An activity must not cause noise that exceeds the following limits at the boundary of, or within, any land zoned Urban Residential 1, Urban Residential 2 (including Greenfield) or Open Space 1: ...

Standard 10.2.2.2

An activity must not cause noise that exceeds the following limits at the boundary of, or within, any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3 or within the notional boundary of a dwelling within any other zone: ...

150. NMDHB supported the provisions in part but sought “at the Zone boundary or within the Zone” be amended to read “at any point outside the Zone or on another site within the Zone”.⁵⁵

Section 42A Report

151. The report writer recommended

An activity must not cause noise that exceeds the following limits at any point within the boundary of, or at any point within, any land zoned Urban Residential 1, Urban Residential 2 (including Greenfield) or Open Space 1

Consideration

152. The Panel considered the wording ‘at the boundary of, or within’ from the notified text uncertain and imprecise. It preferred to identify with precision the point of measurement in a clear manner by reference to “any point within” the adjacent sensitive zones or at any point within the notional boundary of a dwelling within any other zones.

Decision

153. Standard 9.2.2.2 is amended as follows:

⁵⁵ 280.102 and .105

9.2.2.2 *An activity must not cause noise that exceeds the following limits at any point ~~the boundary of, or within,~~ any land zoned Urban Residential 1, Urban Residential 2 (including Greenfield) or Open Space 1 ...*

154. Standard 10.2.2.2 is amended as follows:

10.2.2.2 An activity must not cause noise that exceeds the following limits ~~at the boundary of, or at any point~~ within, any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3 or at any point within the notional boundary of a dwelling within any other zone:

7.00 am to 10.00 pm 50dBA L_{Aeq}

10.00 pm to 7.00 am 40dBA L_{Aeq} 70dB L_{AFmax}

Industrial 1 & 2 Zones

Standard 12.2.2.4

An activity must not cause noise that exceeds the following limits at or within any adjacent land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3, or within the notional boundary of a dwelling in any adjacent zone (except Industrial 1 or 2 Zones):

7.00 am to 10.00 pm 50 dBA LAeq

10.00 pm to 7.00 am 40 dBA LAeq 70dB LAFmax

Exception: Where Lots 16 to 20 DP 348832 and Lot 2 DP 352510 adjoin Urban Residential 2 Zone, the noise limits for Industrial 1 in 12.2.2.1 and 12.2.2.2 apply.

155. One submitter sought the removal of the requirement for compliance within a site. Another submitter sought the removal of the phrase ‘Standards for the Industrial 2 Zone only’ from above the provision.⁵⁶ The Marlborough District Council and the NMDHB sought changes to ensure that the point of measurement was not at source. Other submitters sought an increase in permissible noise levels essentially by 5dBA.⁵⁷

Section 42A Report

156. The s.42A report agreed with the requests and reasons for identifying a point of measurement which was not at source, and also agreed with the increased noise levels sought.

157. Another recommendation was to change the word at the foot of this standard from ‘Exception’ to ‘Note’.

⁵⁶ Timberlink (460.6) and MDC (91.215)

⁵⁷ MDC (91.216), NMDHB (280.110). Others are Timberlink (460.7), Z Energy Limited, Mobil Oil New Zealand Limited and BP Oil Limited (1004.67) & Fonterra Co-operative Group Limited (1251.140).

Consideration

158. The Panel was also in agreement as to the need to specify a point for measurement to avoid ambiguity and provide certainty at a location related to the impact of the noise and not at source.
159. The Panel also accepted the recommendation of a 5 dBA increase in noise level as it accepted that from the acoustic experts Mr Hunt and Mr Hegley there was expert evidence that should not affect residential amenity.
160. The Panel did not agree though, with the suggested amendment of the word 'Exception' to read 'Note'. That is a specific exception of importance – it should not be downgraded and left ambiguous in its intent by being described as a 'Note'. It is specifically in the Plan to provide for a situation where it is known the requirements of Rule 12.2.2.4 could not be strictly met, and where there is an added separation distance created by a setback between dwelling and the residential zone boundary as shown in Appendix 19. That means residential amenity can be provided by applying the rules for Industrial 1 Zone.

Decision

161. Standard 12.2.2.4 is amended as follows:

Standards for the Industrial 2 Zone only

12.2.2.3 An activity must not cause noise that exceeds the following limits at ~~or~~ any point within any adjacent land zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3, or at any point within the notional boundary of a dwelling on any property zoned Rural Living, Coastal Living or Rural Environment in any adjacent zone ~~(except Industrial 1 or 2 Zones):~~

7.00 am to 10.00 pm ~~50~~ 55dBA LA_{eq}

10.00 pm to 7.00 am ~~40~~ 45dBA LA_{eq} ~~70~~ 75dB L_{AFmax}

Exception: Where Lots 16 to 20 DP 348832 and Lot 2 DP 352510 adjoin Urban Residential 2 Zone, the noise limits for Industrial 1 in 12.2.2.1 and 12.2.2.2 apply.

Port Zone

Standards 13.2.3.1 and 13.2.3.2

For port operations in Picton and Shakespeare Bay, an activity must be conducted to ensure that noise when measured at the boundary of, or within, the Port Zone does not exceed the following noise limits:

Location	Day-night (Long term)	Night-time (Short term)
At any point on land at, or beyond, the Inner Noise Control Boundary.	65 $L_{dn(5 \text{ day})}$	60 dB $L_{Aeq(9 \text{ hours})}$
	68 $L_{dn(1 \text{ day})}$	65 $L_{Aeq(15 \text{ min})}$
		85 dB L_{AFMax}

13.2.3.2. For port operations in Havelock, an activity must be conducted to ensure that noise when measured at the boundary of, or within, the Port Zone does not exceed the following noise limits:

Location	Day-night (Long term)	Night-time (Short term)
At any point on land at, or beyond, the Outer Noise Control Boundary.	55 $L_{dn(5 \text{ day})}$	50 dB $L_{Aeq(9 \text{ hours})}$
	58 $L_{dn(1 \text{ day})}$	55 $L_{Aeq(15 \text{ min})}$
		75 dB L_{AFMax}

162. One submitter requested these provisions are amended to clarify that the noise measurement is taken from the notional boundary of the property and not the noise source.⁵⁸ Another submitter sought the rewording of Standard 13.2.3.2 to read:

~~For port operations in Havelock, an activity must be conducted to ensure that noise when measured at the boundary of, or within, the Port Zone does not exceed the following noise limits:~~

Location

*At any point on land ~~at, or~~ beyond, the Outer Noise Control Boundary. ...*⁵⁹

Section 42A Report

163. The Section 42A Report, consistent with other recommendations for other standards, recommended for certainty and to remove ambiguity that a point of measurement was fixed which was not at source, and in the case of Havelock was fixed at the Outer Noise Control Boundary. The wording recommended under the heading 'Location' was:

"At any point on land at any point beyond, the Outer Noise Control Boundary".

Consideration

164. The Panel agreed with the recommendation in the response to Minute 59 as to place of measurement with the exception of the inclusion of the additional unnecessary phrase 'at any

⁵⁸ AQNZ (401.189)

⁵⁹ PMNZ (1284.2)

point' within the location description as that phrase already exists in the location description recommended.

165. In the recommendations made in the response to Minute 59 the point of measurement in Rule 13.2.3.2 read as to location any point 'beyond the Inner Noise Control boundary'. The Panel has decided that at Havelock there is only an Outer Noise Control Boundary in the Plan – see later decision on the overlay maps. The Panel has retained the notified plan to read 'beyond the Outer Noise Control Boundary'.

Decision

166. Standard 13.2.3.1 is amended to read:

13.2.3.1 ~~For port operations in Picton and Shakespeare Bay, an activity must be conducted to ensure that noise when measured at the boundary of, or within,~~ from the Port Zone does not exceed the following noise limits:

Location	Day-night (Long term)	Night-time (Short term)
At any point on land at, or beyond, the Inner Noise Control Boundary.	65 dBA $L_{dn}(5 \text{ day})$	60 dB $L_{Aeq}(9 \text{ hours})$
	68 dBA $L_{dn}(1 \text{ day})$	65 dB $L_{Aeq}(15 \text{ min})$
		85 dB L_{AFMax}

167. Standard 13.2.3.2 is amended to read:

13.2.3.2. ~~For port operations in Havelock, an activity must be conducted to ensure that noise when measured at the boundary of, or within,~~ from the Port Zone does not exceed the following noise limits:

Location	Day-night (Long term)	Night-time (Short term)
At any point on land at, or beyond, the Outer Noise Control Boundary.	55 dBA $L_{dn}(5 \text{ day})$	50 dB $L_{Aeq}(9 \text{ hours})$
	58 dBA $L_{dn}(1 \text{ day})$	55 dB $L_{Aeq}(15 \text{ min})$
		75 dB L_{AFMax}

Marina Zone

Standard 15.2.3.2

An activity undertaken within the Marina Zone must be conducted to ensure that noise when measured within an Urban Residential 2 or Open Space 1 Zone does not exceed the following limits:

7.00 am to 10.00 pm	50 dBA LAeq	
10.00 pm to 7.00 am	40 BA LAeq	70dB LAFmax

168. AQNZ requested a technical correction seeking the noise measurements were ‘at or’ within the zone boundary not at noise source.⁶⁰This was a similar issue to that in other provisions.
169. PMNZ and other submitters sought that the noise levels in various of these rules be increased.⁶¹

Section 42A Report

170. The report agreed clarification was needed and recommended use of the phrase “at or within”.
171. The text of the original report did not recommend changes to the noise limits in standard 15.2.3.2 stating:

There is no supporting information to increase the noise levels so it is not agreed there should be any increase to the noise levels. Any increase to the noise would also be incompatible to the aims of the Plan.

172. However, in the reply to evidence the report writer stated that he considered sufficient evidence had been produced to support the noise level changes requested and he recommended those changes.

Consideration

173. the Panel agreed with the recommendations by the report writer, consistently with earlier recommendations, to provide a more precise point of measurement which was not at source, but the Panel also included the words ‘the notional boundary of any dwelling’ in relation to other adjacent zones.
174. The Panel was not persuaded that the evidence produced at the hearing was sufficient to increase the noise levels as recommended. The Panel agreed with the original report views that the Plan aims to set noise levels which protect residential amenity. Those residential amenity standards need to be consistent throughout the plan. The noise levels are to remain as notified.

⁶⁰ 401.215

⁶¹ Section 42A Report (Noise), page 84

Decision

175. Standard 15.2.3.2 is amended to read:

15.2.3.2 An activity undertaken within the Marina Zone must be conducted to ensure that noise when measured at any point within an Urban Residential 2 or Business 1 Zone or at any point within the notional boundary of any dwelling of any site zoned Open Space 1, Coastal Living or Coastal Environment does not exceed the following limits:

<i>7.00 am to 10.00 pm</i>	<i>50 dBA-L_{Aeq}</i>
<i>10.00 pm to 7.00 am</i>	<i>40 dBA-L_{Aeq} 70 dB L_{AFmax}</i>

Open Space 2 Zone

Standard 18.2.2.1

An activity must not cause noise that exceeds the following limits at the zone boundary or within the zone:

7.00 am to 10.00 pm	50 dBA L_{Aeq}
10.00 pm to 7.00 am	40 dBA L_{Aeq} 70dB L_{AFmax}

This standard does not apply to sirens and call out sirens associated with the activities of the New Zealand Fire Service.

176. MDC requested modification of the provision to clarify the intention of the standard, and the inclusion of a phrase that had been omitted from the notified plan. They sought the provision read:

The An activity must not cause noise that exceeds the following limits at or within the boundary of any other property at the zone boundary or within the zone.

*This standard does not apply to sirens and call out sirens associated with the activities of the New Zealand Fire Service, or noise associated with recreational events or special events provided the noise does not exceed a level of 60 dBA L_{eq} between the hours of 11.00 pm and 9.00 am at the boundary of any property zoned Urban Residential 1, Urban Residential 2 (including Greenfields) or Urban Residential 3.*⁶²

Section 42A Report

177. The report writer recommendations also included amendment for consistency with similar noise standards at 3.2.2.3 and 5.2.2.1.

178. The report’s recommendation was for an amended wording as follows:

18.2.2.1 An ~~The activity must not cause noise that exceeds the following limits at the zone boundary or within the zone~~ any point within the boundary of any other property:

7.00 am to 10.00 pm 50dBA L_{Aeq}

⁶² 91.127 and 91.235

10.00 pm to 7.00 am 40dBA LAeq 70dB LAFmax

This standard does not apply to sirens and call out sirens associated with the activities of emergency services ~~the New Zealand Fire Service~~, or noise generated by temporary activities in the Open Space 2 Zone which may exceed the noise rules between the hours of 7am and 11pm for 12 days every calendar year but not being more than 3 consecutive days provided that noise does not exceed a level of 60 dB LAeq at the boundary of any Urban Residential Zone or dwelling.

Consideration

179. The Panel agreed with the reasons for the amendments sought but instead of the Section 42A Report recommended text the Panel amended the text after the phrase ‘this standard does not apply to’. The Panel decided that the exceptions would be clearer if set out as a list.

Decision

180. Standard 18.2.2.1 is amended to read:

18.2.2.1 An ~~The~~ activity must not cause noise that exceeds the following limits ~~at the zone boundary or within the zone~~ any point within the boundary of any other property:

7.00 am to 10.00 pm 50dBA LAeq

10.00 pm to 7.00 am 40dBA LAeq 70dB LAFmax

This standard does not apply to:

(a) sirens and call out sirens associated with the activities of emergency services ~~the New Zealand Fire Service~~, or

(b) noise generated by temporary activities in the Open Space 2 Zone ~~which may exceed the noise rules between the hours of 7am and 11pm for 12 days every calendar year but not being more than 3 consecutive days provided that noise does not exceed a level of 60 dB LAeq at the boundary of any Urban Residential Zone or dwelling.~~

In the case of (b), temporary activities may exceed the standards in X between the hours of 7 and 10 for 12 days every calendar year provided:

(i) the temporary event is not more than 3 consecutive days;

(ii) the noise does not exceed a level of 60dB LAeq at the boundary of any urban residential zone or the notional boundary of any dwelling in any other zone

Open Space 3 Zone

[New] Standard 19.2.2.4

181. Federated Farmers sought a new standard in the Open Space Zone to reflect maximum noise limits that apply in the Rural Environment and Coastal Environment zones. They also requested further exemptions to the noise limits.⁶³

Section 42A Report

182. The report agreed but recommended a wording as follows:

19.2.2.3 The following activities are excluded from having to comply with the noise limits:

(a) mobile machinery used for a limited duration as part of agricultural or horticultural activities occurring in the Rural Environment Zone;

Consideration and decision

183. The Panel agreed with the recommendation of the report writer, however noted a drafting error as to the zoning referred to. The provision was accepted with 'Rural Environment' being amended to 'Open Space 3' as follows:

19.2.2.4 The following activities are excluded from having to comply with the noise limits:

(a) mobile machinery used for a limited duration as part of agricultural or horticultural activities occurring in the Open Space 3 Zone;

Lake Grassmere Salt Works Zone

Standard 22.2.2.2

Noise from salt harvest operations, when measured at or beyond the Lake Grassmere Salt Works Noise Control Boundary, which is a distance of 500 metres from the 'outside' edges of the salt crystallising ponds, must not exceed the following standards:

7.00 am to 10.00 pm Monday to Sunday	55 dBA L_{Aeq}
At all other times	45 dBA L_{Aeq} 75dB L_{AFmax}

184. NMDHB requested the phrase 'when measured at or' is replaced with 'when assessed'. They also sought consistency in wording for the point at which noise limits can be measured.

Section 42A Report

185. The Section 42A Report proposed replacing the phrase 'at the boundary' with the phrase 'at any point within the boundary' and agreed with other technical aspects requested by the submitter.

⁶³ (425.720)

Consideration

186. The panel amended the wording for noise limits for clarity to be measured outside of the Salt Works Noise Control boundary but did not agree with the change from 'measured' to 'assessed'.

Decision

187. Standard 22.2.2.2 is amended to read:

Noise from salt harvest operations, when measured at any point ~~or~~ beyond the Lake Grassmere Salt Works Noise Control Boundary, which is a distance of 500 metres from the 'outside' edges of the salt crystallising ponds, must not exceed the following standards:

7.00 am to 10.00 pm Monday to Sunday 55 dBA L_{Aeq}

At all other times 45 dBA L_{Aeq} 75dB L_{AFmax}

Documents incorporated by reference.

188. On several occasions, submitters and/or Section 42A report writers recommend the use of alternative standards. Consideration of these issues is set out in the Introduction section of the decision and where relevant in other parts of the decision. For the avoidance of doubt, the Panel wishes to make it clear that where alternative standards are utilised, these documents are incorporated by reference in accordance with Part 3 of the First Schedule.

Overlay maps – Noise control boundaries

189. Port Marlborough sought amendments to the noise control boundaries in Picton and Havelock to reflect the modelling completed by the acoustic consultants Marshall Day.

Section 42A Report

190. In his response to Minute 54, the report writer agreed with the evidence presented by Mr Fitzgerald of Marshall Day for Port Marlborough.
191. The Panel noted that the evidence of Craig Fitzgerald and Louise Taylor highlighted that remodelling of noise contours had occurred since Port Marlborough lodged its submission. In particular, the evidence of Mr Fitzgerald identified that:

The noise modelling software and quality of available geospatial information have improved significantly since our model was first prepared in 2013/2014. To ensure the model is up-to-date, and to improve the information displayed in the figures, we have updated underlying information, such as the cadastral boundaries, aerial photos and zone boundaries.

192. Mr Fitzgerald has recommended the following:

- *We recommend that NCBs be expanded to align with the outer extents of the Port Zone boundaries where the noise contours do not extend beyond. This as a practical simplification with no material change to the noise effects or applicable controls. With reference to Figure 2E, there are six locations in Picton and Shakespeare Bay where proposed NCB's are positioned within the proposed MEP Port Zone.*
- *The revised future contours extend beyond the proposed MEP Outer NCB in six locations in Picton. However, no changes to the NCBs are recommended in Picton because changes in predicted noise levels are within the tolerance of the model and not significant.*
- *The Havelock rules relate to the Outer NCB. Therefore, we understand that the Inner NCB serves no purpose and has been removed for simplicity (note if retained it would be unchanged).*

Consideration

193. The Panel adopted the revised boundaries based on Marshall Day remodelling. This reflects both accurate and up-to-date information but also a degree of practicality where the noise control boundaries do not extend to the Port Zone boundary. As the purpose of the noise control boundary, and associated rules, is to manage adverse noise effects beyond the port, the Panel agrees that in this situation the noise control boundary should be located at the zone boundary.

Decision

194. The Picton port noise control boundaries are amended to reflect those shown on Figure 2E: Noise Control Boundaries, attached to the evidence of Port Marlborough and shown below.
195. The Havelock port noise control boundaries are amended to reflect those shown on Figure 4E: Noise Control Boundaries, attached to the evidence of Port Marlborough and shown below.



