

SECTION 4C – AMENITY

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CONTENTS

Introduction.....	1
TOPIC 1 – Activity Performance Standard 4c.1.3.2 (c) – Noise Sensitivity.....	1
TOPIC 2 – Indoor Railway Noise and Vibration.....	3

INTRODUCTION

The purpose of this Section is to protect amenity values within the District by managing particular effects associated with subdivision and development. It contains a number of sub-sections relating to noise and vibration, disposal of solid waste, lighting and welding, offensive odours and screening. Plan Change 92 did not propose any changes to Section 4C – Amenity, other than to clarify the zones to which particular rules applied (including the Medium Density Residential Zone and new Natural Open Space Zone). The submission points for Topics 1 & 2 below are considered potentially out of scope of Plan Change 92 but they have been addressed below to provide information to the submitters and the Panel.

TOPIC 1 – ACTIVITY PERFORMANCE STANDARD 4C.1.3.2 (C) – NOISE SENSITIVITY

BACKGROUND

Rule 4C.1.3.2(c)(i) requires some noise sensitive activities to provide an acoustic design certificate at the time of building consent to show the building has been designed to meet internal noise limits. This includes commercial offices, places of assembly, veterinary facilities, medical or scientific facilities, dwellings and accommodation facilities. Plan Change 92 added a further noise sensitive activity being education facilities in the Ōmokoroa Mixed Use Residential Precinct.

SUBMISSION POINTS

One submission point was received. One further submission point was received. The submission points on this topic are summarised as follows:

Retirement Villages Association (34.6) acknowledge that acoustic insulation may be appropriate in some areas located within or adjacent to high noise areas with a purpose of providing protection and amenity to residents in such areas. They consider however that such requirements should not apply to residential zones, and in zones where they do apply, need to be determined on a case-by-case basis, with consideration given to the distance of noise sensitive activities from high noise areas.

Kāinga Ora (FS 70.20) generally supports the submission.

OPTIONS

Option 1 – Retain Rule 4C.1.3.2(c)(i) as notified.

Option 2 – Amend Rule 4C.1.3.2(c)(i) to remove its application to residential zones and for all other zones integrate consideration of individual site characteristics / circumstances and the distance of noise sensitive activities from high noise areas.

DISCUSSION

Retirement Villages Association generally support the need for noise sensitive activities to be designed to achieve internal noise limits by supporting the rule in part. There is no explanation given for why their support would not extend to Residential Zones (or Medium Density Residential Zones in the context of Plan Change 92). Many of the noise sensitive activities occur within such zones, in particular dwellings, accommodation facilities and places of assembly. The rule is in place to ensure that occupants are protected from unreasonable noise. These activities do not become less sensitive to noise if they are in Residential Zones and may still be in proximity of noisy activities within or near the Zone. There is no justification to remove these zones from the requirements.

Retirement Villages Association also see a need to specifically allow for the consideration of site characteristics and distances from high noise areas for other zones. This request is not explained further but it is understood this would be to avoid a requirement to provide an acoustic certificate in all cases even where it may be obvious that it is not needed.

In discussion with Council Consenting and Building Team staff, it is apparent that a pragmatic approach is taken toward applying this rule in the District. It is applied by the resource consents team on a case by case basis where it is considered necessary based on site characteristics and the surrounding environment. This means that the rule is not used to require acoustic certifications for all dwellings in all cases in a Medium Density Residential Zone which may be the concern of the submitter in relation to retirement villages.

As a recent example, the rule has been applied to the Ōmokoroa Town Centre resource consent where mixed use development is proposed. The use of the rule in the consent ensures noise sensitive activities meet internal noise standards and are protected from other potentially noisy commercial activities. The rule has also been applied through resource consents in the Te Puke Commercial Zone to dwellings which were located above potentially noisy commercial activities. The rule is also commonly applied where dwellings are adjacent or close to railway lines.

Rule 4C.1.3.2(c)(i) application to all zones has been in place and accepted for many years without issue and there is no need to make any changes. As the rule is considered to already provide the relief sought by the submitters, Option 1 is recommended.

RECOMMENDATION

That Option 1 be accepted.

Retain Rule 4C.1.3.2(c)(i) as notified.

The following submissions are therefore:

REJECTED

Submission	Point Number	Name
34	6	Retirement Villages Association

FS 70	20	Kāinga Ora
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SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.

TOPIC 2 - INDOOR RAILWAY NOISE AND VIBRATION

BACKGROUND

Rule 4C.1.3.2(c)(i) as discussed in Topic 1 above requires potentially noise sensitive activities to be designed to meet internal noise limits. The standards are not specifically protecting these activities from rail noise but are relevant.

The Explanatory Statement of Section 4C.1 (Noise and Vibration) explains that vibration from activities has not been an issue in the District and that in many cases Council can manage vibration effects through the management of noise emissions or through the provisions of the Health Act 1956. Specific standards to manage vibration are therefore not included in the District Plan or proposed in Plan Change 92.

SUBMISSION POINTS

Two submission points were received. Twelve further submission points were received. The submission points on this topic are summarised as follows:

KiwiRail (30.4 – 30.5) are concerned that with the increasing sensitive activities in proximity to the railway corridor, the risk of adverse health and amenity effects of higher density living in proximity to the railway corridor, along with reverse sensitivity effects, could constrain increased rail operations in the future. They seek additional noise and vibration controls to manage this interface as shown below.

Indoor Railway Noise

(1) Activity Status: Permitted

(a) Any new building or alteration to an existing building or structure for a noise sensitive activity within 100m of the legal boundary of any railway network

Activity Specific Standards:

(1) Any new building or alteration to an existing building that contains a noise sensitive activity where the building or alteration:

(a) is designed, constructed and maintained to achieve indoor design noise levels resulting from the railway not exceeding the maximum values in the following table; or

<u>Building Type</u>	<u>Occupancy/activity</u>	<u>Maximum railway noise level $L_{Aeq(1h)}$</u>
<u>Residential</u>	<u>Sleeping spaces</u>	<u>35 dB</u>

	<u>All other habitable rooms</u>	<u>40 dB</u>
<u>Education</u>	<u>Lecture rooms/theatres, music studios, assembly halls</u>	<u>35 dB</u>
	<u>Teaching areas, conference rooms, drama studios, sleeping areas</u>	<u>40 dB</u>
	<u>Library</u>	<u>45 dB</u>
<u>Health</u>	<u>Overnight medical care, wards</u>	<u>45 dB</u>
	<u>Clinics, consulting rooms, theatres, nurses' stations</u>	<u>45 dB</u>
<u>Cultural</u>	<u>Places of worship, marae</u>	<u>35 dB</u>

(b) is at least 50 metres from any railway network, and is designed so that a noise barrier completely blocks line-of sight from all parts of doors and windows, to all points 3.8 metres above railway tracks.

KiwiRail also seek that non-compliance with the permitted activity standards be assessed as a restricted discretionary activity with appropriate matters of discretion:

Council's discretion is restricted to the following matters:

- (a) location of the building;
- (b) the effects of any non-compliance with the activity specific standards;
- (c) special topographical, building features or ground conditions which will mitigate noise impacts;
- (d) the outcome of any consultation with KiwiRail.

Classic Group (FS 68.2), Kāinga Ora (FS 70.15), New Zealand Housing Foundation (FS 73.4), Retirement Villages Association (FS 76.3) and Ryman Healthcare (FS 77.3) all oppose or oppose in part the submission from KiwiRail. Reasons for opposition include:

- Additional noise provisions will affect affordability from increased insulation and foundation requirements.
- Acoustic and vibration controls sought by KiwiRail are not considered to be a qualifying matter.
- Acoustic and vibration controls are inconsistent with submissions seeking deletion of 10m setback from railways.
- Acoustic insulation may be appropriate but could be considered on case-by-case basis.

Indoor Railway Vibration

Kiwirail (30.5) seek the below vibration provisions:

1. Any new buildings or alterations to existing buildings containing a noise sensitive activity, within 60 metres of the boundary of any railway network, must be protected from vibration arising from the nearby rail corridor.
2. Compliance with standard 1 above shall be achieved by a report submitted to the council demonstrating compliance with the following matters:
 - (a) the new building or alteration or an existing building is designed, constructed and maintained to achieve rail vibration levels not exceeding 0.3 mm/s vw,95 or
 - (b) the new building or alteration to an existing building is a single storey framed residential building with:
 - i. a constant level floor slab on a full-surface vibration isolation bearing with natural frequency not exceeding 10 Hz, installed in accordance with the supplier's instructions and recommendations; and
 - ii. vibration isolation separating the sides of the floor slab from the ground; and
 - iii. no rigid connections between the building and the ground.

KiwiRail also seek that non-compliance with the permitted activity standards be assessed as a restricted discretionary activity with appropriate matters of discretion:

Matters of discretion

- (a) location of the building;
- (b) the effects of any non-compliance with the activity specific standards;
- (c) special topographical, building features or ground conditions which will mitigate vibration impacts;
- (d) the outcome of any consultation with KiwiRail.

Kāinga Ora (FS 70.16), New Zealand Housing Foundation (FS 73.5), Retirement Villages Association (FS 76.4) and Ryman Healthcare (FS 77.4) all oppose or oppose in part the original submission from KiwiRail. Reasons for opposition include:

- Do not consider acoustic and vibration controls sought by KiwiRail to be a qualifying matter.
- Acoustic and vibration controls are inconsistent with submissions seeking deletion of 10m setback from railways.
- Acoustic insulation may be appropriate but could be considered on case-by-case basis.

Definition of noise sensitive activity

KiwiRail (30.6) also seek a new related definition for "noise sensitive activity" to support the above railway noise and vibration rules as shown below.

"Noise sensitive activity" means any lawfully established: a) residential activity, including activity in visitor accommodation or retirement accommodation, including boarding houses, residential visitor accommodation and papakāinga; b) educational activity; c) health care activity, including hospitals; d) congregation within any place of worship; and e) activity at a marae."

New Zealand Housing Foundation (FS 73.6), Retirement Villages Association (FS 76.2) and Ryman Healthcare Limited (FS 77.2) oppose the proposed amendment.

OPTIONS

Option 1 – Status quo – no specific rules for managing indoor railway noise or vibration.

Option 2 – Insert indoor railway noise and vibration rules, matters of discretion and a definition of “noise sensitive activity” as requested.

DISCUSSION

KiwiRail has requested new railway noise and vibration provisions on the basis that the ongoing and efficient operation of the rail corridor be a qualifying matter.

Council’s Section 32 Addendum Report only identifies the rail corridor as an existing qualifying matter in the context of the 10m setback required from these in Section 13 – Residential and Section 14 – Medium Density Residential. This is deemed “a matter required for the purpose of the safe or efficient operation of nationally significant infrastructure” under Section 771(e) of the RMA. Council’s submission on Plan Change 92 also seeks to include this in a definition for a qualifying matter as “Land within 10m of a railway corridor or designation for railway purposes (for sites created by way of an application for subdivision consent approved after 1 January 2010)”. The purpose of identifying the rail corridor as a qualifying matter was therefore only to ensure that the existing 10m setback (which is less enabling than the 1m setback under the MDRS) would continue to have legal effect under Section 77K(2)(b) of the RMA.

KiwiRail are now requesting blanket district-wide rail noise controls to manage sensitive uses within 100m of the railway corridor in order to reduce adverse health and amenity effects. They also seek blanket district-wide vibration controls to manage sensitive uses within 60m of the railway corridor to ensure that vibration effects are appropriately managed. The submission points consider that the new rules would manage reverse sensitivity effects ensuring rail operations are not constrained once line use is significantly elevated in the future. The submission requests that the new acoustic and vibration rules be applied district-wide. However, as Plan Change 92 only relates to Ōmokoroa and Te Puke, the rules should only be considered in relation to those areas.

KiwiRail’s submission does not include any specific analysis of the rail corridor through Ōmokoroa and Te Puke, such as its distance to dwellings or whether the location of a corridor is in a cutting. It also does not provide details of the number of properties potentially affected by these new rules or the nature of noise or vibration complaints (if any) that KiwiRail have received along the relevant sections of the line in Te Puke and Ōmokoroa. Therefore, there is no specific justification as to why these new rules should be applied. It is also not clear if the 100m and 60m distances are generic distances applied throughout New Zealand or if this is based on specific site analysis in relation to the line through Ōmokoroa and Te Puke.

The Reporting Team does consider it appropriate to give a level of protection to the rail corridor, but not to the extent now sought by KiwiRail. The existing District Plan provides a building setback of 10m under Section 13.4.1(c) and this is carried through to Plan Change 92 – Section 14A.4.1(d). However, the requested noise and vibration controls (in particular the arbitrary distances) have not been justified. It is also noted that KiwiRail have given their written approval to landowners to establish dwellings within the 10m setback in Ōmokoroa recently despite concerns about reverse sensitivity. Council officers are also not aware of any complaints in relation to noise and vibration

from this reduced setback. New vibration controls would add further cost to building including the need for specific foundation design, noise barriers and vibration certification.

The submitter may have overlooked that Rule 4C.1.3.2(c) is already in place to protect noise sensitive activities in all zones which would include protection from rail noise. This rule, as discussed in Topic 1, requires noise sensitive activities to provide an acoustic certification with building consents to demonstrate how they meet internal noise levels. This may involve the need for acoustic insulation and ventilation where necessary. In practice, this requirement is regularly applied to activities when in proximity of railways.

Many of these same noise sensitive activities are repeated in KiwiRail's table and the noise limits are generally similar. There is no reason for a separate table for KiwiRail or for a change in approach to capture activities within a 100m area. This would also mean that a new definition of "noise sensitive activity" is not required.

RECOMMENDATION

That Option 1 be accepted.

Status quo - No specific rules for managing indoor railway noise or vibration.

The following submissions are therefore:

ACCEPTED

Submission	Point Number	Name
FS 68	2	Classic Group
FS 70	15	Kāinga Ora
FS 70	16	Kāinga Ora
FS 73	4	New Zealand Housing Foundation
FS 73	5	New Zealand Housing Foundation
FS 73	6	New Zealand Housing Foundation
FS 76	2	Retirement Villages Association
FS 76	3	Retirement Villages Association
FS 76	4	Retirement Villages Association
FS 77	2	Ryman Healthcare
FS 77	3	Ryman Healthcare
FS 77	4	Ryman Healthcare

REJECTED

Submission	Point Number	Name
30	4	KiwiRail
30	5	KiwiRail
30	6	KiwiRail

SECTION 32AA ANALYSIS

As no changes are proposed, no s32AA evaluation is necessary.