

Before the New Plymouth District Council

Independent Hearings Commissioners

IN THE MATTER of the Resource Management Act 1991 (“Act”)

AND

IN THE MATTER Resource consent application by the New Plymouth Pistol Club Inc for a land use resource consent for the use of a firearms range and associated facilities within the General Industrial Zone on the existing site at 228 De Havilland Drive & 1206 Devon Road (LUC24-48583)

**LEGAL SUBMISSIONS FOR THE
NEW PLYMOUTH PISTOL CLUB INC**

Dated: 18 May 2026

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MAY IT PLEASE THE COMMISSIONERS

1. The applicant seeks resource consent for the continued operation and upgrade of the New Plymouth Pistol Club (**Club**), a facility with eight outdoor ranges and one indoor range, at 1206 Devon Road, Bell Block¹ The application is in part retrospective.
2. The Club was established in 1964 and is New Zealand's oldest Pistol Club. It currently has 149 members. It began operating at the site at 228 De Havilland Drive/1206 Devon Road (State Highway 3) (**Site/Property**) - a former machine gun range² - in 1983. Mr O'Sullivan, current Club President, has been involved with the Club since 1983 (having attended its opening).
3. The Club is the only pistol club in North Taranaki, the closest other clubs being Hamilton or Whanganui, and a limited facility in Stratford – the Egmont pistol club. The Club has important positive effects - for the sport of pistol shooting, providing a venue for competitions (National, Island and local), a place to come together for members (and on some occasions non-members), and for training of NZ Police. Training at the Club is the only way to achieve a 'B' endorsement on one's firearms licence (meaning one can shoot pistols). Police use the facility for training and certification approximately 3 days per month and the Armed Offenders Squad approximately 5 times per year,³ including 'low light' training. The National Championships, required by the national body Pistol NZ, require the use all eight outdoor ranges and the ability to hold these competitions is vital for the Club.⁴
4. This case is unique in that the gun ranges are located adjacent to a very busy road, creating substantially different background noise levels to many other gun range cases that have come before the Environment Court. The Pistol Club says this is a

¹ Part 3 Assessment of Environmental Effects (the application form describes the proposal as 'Continued operation of the New Plymouth Pistol Club on the site at 1206 Devon Road'.

² The Preliminary Site Investigation (**PSI**) that is part of the Further Information package, notes (page 7) that a machine gun range is thought to have been present on the site since at least 1949 (Retrolens). Page 9 relays that this machine gun range is now range 5 (understood to have been used by the NZ Air Force). See also section 4.1, Appendix B Historical Aerial Imagery).

³ As stated in the AEE at page 22 (3.2.4 Range Use).

⁴ Evidence of Michael O'Sullivan states that members must participate in 12 organised shoots per year to show they hold guns for sporting purposes [5.3.7] and Pistol NZ requires clubs to host events from time to time [5.7]. All Pistol Clubs must be affiliated to Pistol NZ [5.3].

relevant consideration, when determining what is a 'reasonable' noise level for impulsive noise (gunfire), within the planning context.

COMPLIANCE HISTORY

5. The Council has acknowledged that the Club was lawfully established, involving 3 shooting ranges and approximately 30 members in 1983. For the purposes of this hearing, and without further information coming to light, the applicant acknowledges it does not hold existing use rights under the Act for the gun range activity.⁵
6. The Club was issued an abatement notice requiring reductions in the Club's operations from 2 December 2022 and requiring it to apply for an existing use rights certificate or resource consent. A copy of the abatement notice is attached to these submissions. It records that around August 2021, the Council began receiving regular complaints about firearm noise from the neighbouring site at 1222 Devon Road. (As the attached transfer instrument shows, Mr Phillips acquired the property in 2019.) Mr Phillips' property has two dwellings. The notional boundary of the closest dwelling (understood to be in the nature of a sleep-out) is approximately 100-110 metres from the closest range, Range 1.⁶
7. On 2 August 2024, the Club lodged an application for a resource consent to regularise its operation and on 15 October 2025 the Council cancelled the abatement notice under s325A of the Act.⁷
8. The Council has allowed the Club to operate on a restricted basis pending a decision on this application. The most recent agreement (28 April 2026) is attached to Mr O'Sullivan's evidence as Appendix B. In this Agreement, Club events are fixed dates, and Club activities are notified in advance to Mr Phillips through the Club's website calendar.

⁵ The Club applied to NPDC for an Existing Use Certificate for the activity in February 2023 (CRT23/44925). The application was refused on 22 June 2023 on the basis that the application did not satisfy the relevant tests under section 139A of the RMA

⁶ Evidence of Damian Ellerton at [17].

⁷ 15 October 2025 confirmation letter from Rice Speir Council's Solicitors to S Ongley, Club's Barrister.

9. Apart from the fundamental issue that the Club did not realise that it may not hold existing use rights, prompting the abatement notice, the Club does not have a history of non-compliance with environmental or any other legislation.⁸ Since that realisation, the Club has co-operated fully with Council.
10. The Club is committed to achieving the CNR 90, and a reasonable noise level at the neighbouring residential dwellings, through a combination of management measures and a programme of works with a total cost estimated at ~\$1.65 million.⁹

ACTIVITY STATUS

11. The Site sits at the crossroads of the General Industrial, Rural Production (**RPROZ**) and Special Purpose – Future Urban Zones (**FUZ**) of the New Plymouth Proposed District Plan (**PODP**).
12. The application is a non-complying activity due to the Club being a Sport and Recreation Activity in the Industrial Zone (Rule GIZ-R15). While that particular activity is non-complying within the Industrial Zone, it is notable that it is a restricted discretionary in:
 - the RPROZ (in which the Phillips dwellings are situated); and
 - the FUZ.
13. As a starting point, Mr Edwards considers the Site to be a location where an outdoor shooting range can reasonably be considered (i.e. a potentially compatible activity in the Industrial Zone, RPROZ and the FUZ).¹⁰

⁸ For example, it obtained all building consents needed for its buildings [2.2.1] AEE. Compliance history is relevant under section 104(2EA) of the Act, which provides:

“When considering a resource consent application, a consent authority may have regard to any previous or current abatement notices, enforcement orders, infringement notices, or convictions under this Act received by the applicant, if the applicant is not a natural person or, if the applicant is a natural person, received by the applicant within the previous 7 years.”

⁹ Evidence of Michael O’Sullivan at [11.6].

¹⁰ Evidence of Aaron Edwards at [144] – Mr Edwards notes that finding an appropriate zone to locate this Sport and Recreation Activities in the PODP is challenging – such Activities are permitted in some zones but of those only the OSZ (Open Space Zone) and SARZ (Sport and Recreation Zone) could realistically accommodate an outdoor shooting range, although these areas tend to be close to urban extents.

14. What is required is an *overall* assessment of whether the activity could be granted consent under the relevant objectives and policies. "*Contrary to*" means more than just non-complying.¹¹ On a fair appraisal of the objectives and policies as a whole, reached on the basis of the language expressed, the conclusions of Mr Edwards are that the proposal is *not contrary to* the objectives and policies.

CLUB OPERATIONS

15. At any one time, over all ranges, the most persons that can participate in shooting is 22.¹²
16. Club event or competition days are Wednesdays and Sundays, with Thursday evenings being important for inducting new members and training refreshers so members can attend competition days.¹³ Other days are important for practice.
17. As set out in Mr O'Sullivan's evidence, shooting of firearms does not occur at the Club except under an extremely controlled manner.

Potential for Ricochets

18. There are no ricochets. Mr O'Sullivan sets out how Pistol New Zealand and 'Clubs and Ranges'¹⁴ audit the Club's ranges and he attaches current Range Certificates (all expiring 29 June 2027)¹⁵ - all ranges are certified as 'No Danger Area' (**NDA**) (under the heading "Range Description"). NZ Police Shooting Range Manual Version 4.0 (2 April 2026), states for such NDA ranges:¹⁶

18.1. *"The shooting range danger area is the space where there may be a risk of injury to people or damage to property from a correctly aimed shot". [4.1]*

¹¹ *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* (2024) 25 ELRNZ 915 (Supreme Court), this case confirmed the s 104D gateway test requires a holistic assessment does not take place in the abstract but in the context of the particular project.

¹² Evidence of Michael O'Sullivan at [6.6].

¹³ Evidence of Michael O'Sullivan at [6.2] – [6.3].

¹⁴ Evidence of Michael O'Sullivan at [9.4] – 'Clubs and Ranges' is a body constituted under the Firearms Safety Authority New Zealand.

¹⁵ Appendix C to Mr O'Sullivan's evidence at page 34.

¹⁶ Also attached as Appendix C to Mr O'Sullivan's evidence, at page 34.

18.2. *“There are three types of range danger areas that may be applied to a shooting range (see figure 4.1). These are:*

a. No danger area (NDA).

b. Full danger area (FDA).

c. Reduced danger area (RDA)”.

[4.4]

18.3. *A NDA range is one where the range is designed to capture all direct shot, ricochet, backsplash or splatter within the active range area. Factors that must be considered in order to establish a no danger area range include: ... [type of firearm and calibre]”. [4.5]*

(Each Shooting Range Certificate sets out the restrictions or conditions of use, which includes type of firearm and calibre, and these are reflected in the Range Standing Orders for each range).¹⁷

18.4. *“If projectiles land in any place outside of the range danger area the Officer on Duty must immediately cease shooting activities on the range and investigate the cause. If any deficiencies in range design or construction are identified, the shooting range operator must contact Clubs and Ranges for advice.” [4.6]*

19. (Projectiles landing outside the range danger area requiring investigation has never occurred at the Club).

NOISE

20. Noise effects on amenity and potentially health are relevant considerations under both ss104 and 104D. Section 16 also applies (the BPO is discussed under the following section).

21. In New Zealand, there is no universal control adopted by the courts or councils to manage gunshot noise. As in other noise cases, here the noise experts agree that gunshot noise is outside the scope of NZS 6802:2008.

¹⁷ Range Standing Orders.

22. Dr Trevathan's evidence sets out predicted shooting noise levels received at 1222 Devon Road (notional boundary of second dwelling), and across Devon Road at the FUZ, before and after proposed mitigations (worst case scenarios).¹⁸ Dr Trevathan's modelling sees the LAF max levels reduced at the notional boundary of the 1222 Devon Road sleep-out/second dwelling from between 72-80 dB *LAFmax* to between 61-67 dB *LAFmax*, after mitigation - *"with the change for most ranges to be subjectively perceived as 'half as loud' or less"* following mitigation.¹⁹
23. Without mitigation, it is acknowledged noise from individual gunshots is too high at 1222 Devon Road.²⁰ The proffered conditions are based on extensive acoustic mitigations offered by the Club to reduce *LAFmax* levels, together with additional management options discussed below.

COMPOSITE NOISE RATING (CNR)

24. The original source for the CNR includes dose-response studies for tolerance to impulsive noises.²¹ Dr Trevathan has worked with Mr Ellerton for a considerable period of time, in an attempt to reach agreement on the appropriate noise control:
- 24.1. The use of a CNR was first proposed by Mr Ellerton in Memoranda dating back to 22 February 2022,²² where he stated *"[f]or the purposes of this exercise we suggest referencing the CNR=90-95 in the absence of better noise criteria"*.
- 24.2. In his 7 June 2022 Memo, Mr Ellerton's Table 1 showed a calculation of the existing CNR which ranged from 64 ('Tenant' - Police Training on Range 6 only 11.04.22) to 116 ('Near site' – IPSC Various firearms' 28.05.22 – assuming 5000 rounds fired in one day) and stated that a CNR of 90 *"could be used as a starting position for the purpose of this analysis"*.
- 24.3. While subject to expert conferencing (today):

¹⁸ Tables 3.2 ('Expected Shooting Noise Levels received at the notional boundary of the secondary dwelling at 1222 Devon Road'). See also 8.1 ('Expected Shooting Noise Levels received across Devon Road at the edge of the Special Purpose – Future Urban Zone') of Dr Trevathan's 'AENE' dated 6 December 2024.

¹⁹ Evidence of Jeremy Trevathan at [47].

²⁰ Evidence of Jeremy Trevathan at [79].

²¹ Mr Ellerton referencing "Community Reaction to Noise from Hornsby Rifle Range, NAL Report No 84, February 1981".

²² Marshall Day Memoandum attached to Mr Ellerton's evidence. See also Memoranda of 10 March 2022 *"we suggest referencing CNR=90-95 in the absence of better noise criterial"* and 7 June 2022 *"CNR criteria has been used in a number of Environment Court decisions using notional boundary assessment position"*.

- a) The experts appear to agree that a CNR at 1222 Devon Road should adopt the most conservative *community adaptation* factor.
 - b) There are minor areas of disagreement on the 'Y' and 'T' variables.²³
25. As noted below (under the heading 'Caselaw'), the Environment Court suggested that the community adaptation figure in the CNR could encapsulate some FIDOL factors - *intensity* and, potentially, *offensiveness/character*.²⁴ I return to these factors shortly.
26. The Pistol Club supports the CNR control except for up to two 3-day events per year, for National Competition events (as noted, a vital feature of the Club's operations).

AREA OF DISAGREEMENT (NOISE)

27. Notwithstanding the apparent agreement with a CNR control 'in principle', the primary area of disagreement (at the time of writing) appears to be the relevance of the ambient noise environment. Dr Trevathan considers higher gunshot levels would be more acceptable in this environment compared to other 'quieter' environments. Dr Trevathan's approach is supported by:

27.1. The PODP that states, in the Noise Chapter:

"... Noise is often identified as a nuisance and is a frequent cause of complaints. ... The background sound level in different environments (rural, residential, business and industrial areas) influences the level of acceptability or annoyance to noise and these vary throughout the district."

27.2. NZS 6802:2008.²⁵

28. Dr Trevathan never suggested gunfire noise would be 'masked' by traffic noise, or that it would be inaudible – that is not a requirement.

²³ Evidence of Jeremy Trevathan at [92].

²⁴ *Brooks v Western Bay of Plenty District Council* [2011] NZEnvC 216 at [51], noting however that the science behind the calculation was not made clear in that case.

²⁵ Evidence of Jeremy Trevathan at [22].

29. The fact that the character of gun noise differs from traffic noise, should not be a reason to decline the application.²⁶
30. The ‘background’ environment at Mr Phillips property, although zoned Rural, is not a typical quiet rural environment with occasional seasonal productive noises.
31. In the FUZ, the insulation requirements for the overlay area adjacent to SH 3, are not ‘mitigation’ for the Pistol Club’s activities – they are not held out as such – but:
- a) this is a further line of evidence that the FUZ is not an area where a high level of ‘quiet’ amenity is to be expected.
 - b) if dwellings in the FUZ within 80 m from the carriageway are required to have noise insulation, as a matter of fact that will have the co-benefit of mitigating noises other than State Highway noise, while persons are inside dwellings (even if such noises are of a different character).

FUZ – ‘AREA R’

32. Although the Objectives and Policies for the FUZ are clearly relevant, residential dwellings in the FUZ are not part of the ‘existing environment’ because future consent and/or planning processes are required (Mr Robinson notes that, rezoning of the FUZ land must be achieved through a public or privately initiated plan change process under Schedule 1 of the Act and “*the complexity of these processes creates some uncertainty as to when the area might be developed and what its end use may be e.g. employment use v residential*”²⁷). In addition, in relation to dwellings that may be permitted to be located directly adjacent to the road, a ‘real world’ analysis is required.²⁸ Nevertheless, Dr Trevathan has modelled Expected Shooting Noise Levels received across Devon Road at the edge of the Special Purpose – Future

²⁶ As suggested in Section 42A Report Campbell Robinson at [143]

²⁷ Section 42A report at [138].

²⁸ *Meridian Energy Ltd v Taranaki District Council* [2025] NZEnvC 44 - the Court distinguished between theoretical rights and practical development likelihood, maintaining the “real world” approach to considering whether permitted activities should constitute part of the receiving environment stating at [60] “*We are satisfied that Hawthorn and the body of caselaw which follows it, confirms that a decision-maker is entitled to consider the permitted uses which may occur in the future through a pragmatic or real-world lens. In our view, to do otherwise would be nonsensical given the range of permitted activities that exist within any given zone*”.

Urban Zone²⁹ because it is acknowledged that the FUZ is a physical resource that the PODP has earmarked for future urban or residential purposes (the PODP's Objectives and Policies are relevant).

33. Mr Ellerton states that 20m from the road edge in the FUZ, the ambient noise level may be around 60dB L_{Aeq} .³⁰ Dr Trevathan states the correct figure is 67dB L_{Aeq} .³¹ Whether future FUZ houses may be legitimately built 20m from the road edge is subject to a future planning mechanism.³²

34. The intent of the PODP's Objectives and Policies for the FUZ, can be summarised as ability to utilise that land in the future not being jeopardised, frustrated or prejudiced. This does not require that all development is on hold until decisions are made as to how the FUZ is to be developed. The PODP does not provide such extensive limitation on land use and development. Neighbours are entitled to make legitimate applications, which applications are considered on their merits against the FUZ Objectives and Policies - considered in the fair and reasonable appraisal.

35. In *High Quality v Auckland Council* [2022] NZEnvC 117 there was a question whether an industrial activity would be permitted in a FUZ, in light of a policy that stated:

“ ... The Future Urban Zone is transitional zone. Land may be used for a range of general rural activities but cannot be used for urban activities until the site is rezoned for urban purposes. ... ”

36. The Environment Court noted that the industrial activity was not forbidden, and the question was whether the activity would prevent or hinder future urban use of the land i.e. prevent future urban zoning. It was found it would not:

“[95] We have concluded that the buildings and structures in this application are not of a scale that would hinder or prevent future development, particularly as the structure plan currently shows the area

²⁹ Table 8.1 of Dr Trevathan's 'AENE' dated 6 December 2024.

³⁰ At [46].

³¹ Evidence of Jeremy Trevathan at [25]-[26].

³² The State Highway Noise Contour Boundary overlay that dictates insulation requirements operates 80m from the carriageway but does not prescribe a setback distance from the road. The FUZ rules currently retain rural zone setback standards which provide for a 30m road boundary setback (FUZ-S2).

as industrial. Even if the area was not industrial, we saw a number of buildings throughout the immediate rural area which had buildings of a similar size to that envisaged in this case.

[96] It is agreed that the application will not compromise the transport network nor wastewater, water supply or stormwater networks. Nor will it inhibit the efficient provision of infrastructure.

[97] Overall, we cannot see what reverse sensitivity effects might arise when the urban development occurs, and the planners agreed with this proposition.

...

As we have noted, the degree of consistency or inconsistency with all of these provisions must be examined in exercising discretion whether to grant consent.”

(Emphasis)

37. An argument by the Auckland Council that the FUZ ‘held the line’, was rejected.³³

38. Here, it is acknowledged that reverse sensitivity effects may arise and that notional boundaries for noise are ambulatory³⁴. The policy framework recognises that mitigation is a legitimate response.³⁵ The potential conflict must therefore be considered in light of:

38.1. The ability of the Pistol Club to mitigate noise effects should the FUZ be developed, as is confirmed by Dr Trevathan.

38.2. Noise expert evidence on the relevance of the existing ambient environment, in terms of what is a reasonable/acceptable level of mitigation.³⁶

³³ See also *Queenstown Central Ltd v Queenstown Lakes District Council* [2013] NZHC 817 (HC) regarding an application for Pac n Save and Mitre 10 at Frankton Flats - it was the adverse effect of the loss of land for industrial use as the activities were to be on the land that was zoned for this as future use, not neighbouring land as here (that case regarding the implications of allowing retail development on the site given the scarcity of industrially zoned land).

³⁴ *North Canterbury Clay Target Association Inc v Waimakariri District Council* [2016] 20 ELRNZ 175.

³⁵ The wording of Objective FUZ-04 is “do not compromise” the ability of the area for urban growth purposes, and Policy FUZ-P2 “may be potentially incompatible with...” having regard to whether a proposed activity “will limit, restrict or constrain the ability to develop and use the Future Urban Zone for future urban growth purposes” and having regard to whether “any potential conflict between activities can be appropriately managed...”. (Urban growth includes...).

³⁶ The existing noise limits in the FUZ are the Rural Production Zone limits (NOISE-S1)) and as stated above, the environment is subject to requirements for noise insulation of dwellings within 80m of the carriageway – that recognises this is not a ‘quiet amenity area’.

38.3. A 'real world' analysis as to setback distances from the road.

39. In *Brooks v Western Bay of Plenty District Council* [2011] NZEnvC 216, for a property on which a house was not yet built, nor consented, the Court said “we would recommend that bearing in mind our observations above, it would be sensible for the proponent to give some thought now as to how mitigation might be handled in the event that a house is constructed on the Cleveland site (as this is the Cleveland’s intention) so that the layout of the operation can address this control point” (the Court also recognising that unconsented or non-permitted dwellings are not part of the “existing environment”).³⁷ That is exactly what the Pistol Club has done here. It has considered further mitigations available for Range 7, to mitigate effects on the FUZ if needed.

40. Mr Robinson concludes that the southern portions of Area R would be adversely affected to an unacceptable level by firearm noise due to both the inappropriateness of the requested 70dB *LAFmax* limit, and further, doubt as to the applicant’s ability to meet that limit.³⁸ While ‘feasibility’ of mitigations is discussed below in these submissions, the Club submits the PODP’s Objectives and Policies do not constrain land ‘development’ to the degree outlined in the s42A Report.

CASELAW

41. Mr Trevathan has considered cases in which noise levels (limits) from firearm facilities have been set, against the ambient environment in those cases, and points out that the ambient environment here differs.³⁹ Ultimately, noise controls imposed are fact dependant, but I traverse some of these cases.

42. In *Nelson City Council Delaware Bay Residents Association Inc v Harvey* (“Harvey”) [2011] NZEnvC 48 (Interim Decision); [2011] NZEnvC 342 (Final Decision); [2012] NZEnvC 30 (Final Order) the issue for the Court was whether noise emanating from a rifle range was “reasonable” or “offensive” for the purposes of enforcement order

³⁷ At [77]. See also [80]-[81].

³⁸ Section 42A Report Campbell Robinson at [144].

³⁹ Dr Trevathan’s Figures A – C at his [103] are illustrative; Appendix 2 to Dr Trevathan’s evidence sets out an excerpt from a Marshall Day Report comparing other shooting ranges “*Peak View Range – Noise Emissions*” dated 13 June 2023.

proceedings - the noise controls in the Nelson Resource Management Plan being inadequate to manage noise from gunfire.

43. The environment was assessed, as “a quiet rural area with little intruding noise apart from an occasional vehicle on one of the roads below”.⁴⁰ A limit of 50dB LAFmax was imposed at notional boundaries of existing or approved dwellings, to come into force, after 6 months.⁴¹ The Court considered the FIDOL factors, used for assessing odour effects, a useful checklist:⁴²

- **F**requency
- **I**ntensity
- **D**uration
- **O**ffensiveness/character
- **L**ocation

(i.e. the *intensity* of noise emanating from a site being only one of the factors to consider).

44. While the Court accepted that the pre-existence of a noise-generating activity may be a relevant factor in determining questions of reasonableness, it is not necessarily a decisive factor.⁴³ Unlike in the case before you, there was evidence the noise had intensified after the residents moved to the area.

45. The Court in *Brooks v Western Bay of Plenty District Council* [2011] NZEnvC 216 referred to the FIDOL factors adopted in *Harvey*. It was the *location* factor i.e. characteristics pertaining to the existing amenity at the location, that remained in scope in that appeal, the experts having agreed on a CNR 80 at the notional boundary of dwellings (for the purpose of a claybird shooting operation).⁴⁴ The location was rural environs. Having noted that rural zones are not entirely tranquil but influenced by seasonal and ‘productive purpose’ noises (including, in that case, express recognition in the plan for audible bird scaring devices) the Court

⁴⁰ At [50].

⁴¹ At [148].

⁴² At [70].

⁴³ At [83].

⁴⁴ At [52].

recognised there was, in fact, little background non-seasonal noise in the location. With reasonably quiet background levels, the Court referred to whether⁴⁵ “*the impact on the proposal on the amenity experienced in this neighborhood meets the sustainable purpose of the Act given the baseline amenity expectations of this area*” (emphasis).⁴⁶

46. The noise standard itself having been agreed, the Court recognised that the character as well as loudness of the noise is relevant to the experience of whether noise is ‘intrusive’, and imposed hours of operation⁴⁷ and number of shots fired per day, to protect amenity. These controls were said to address matters that went beyond the loudness of gunfire.⁴⁸

47. That case refers to the CNR applying for the All Terrain Outdoor Park (ATP) consents in 2004 to serve a sports venue in Rotorua and Tauranga,⁴⁹ having a CNR of 90.⁵⁰

48. In *Auckland Shooting Club v Auckland Council* [2019] NZEnvC 57 the Environment Court, dealing with an application for a stay in enforcement proceedings, observed:⁵¹

“This court in the case of Loaded NZ Ltd D Brooks and Others v Western Bay of Plenty [2011] NZ ENC 216 indicated that LAmox can be a reasonable proxy for identifying percussive impacts. We understand other devices such as Composite Noise Rating (CNR) are also ways of measuring percussive noises. The parties are in dispute as to whether the New Zealand standards relied upon in the COC or district plan cover noise from gunfire. From our perspective the issue is one of effect not of standards.”

⁴⁵ At [41].

⁴⁶ At [54]-[55].

⁴⁷ At [68] “... based on the character of this neighborhood environment and the character of the proposed activity it is reasonable to provide residents with a certain period of quietness in the weekend and for certain holiday periods.” (Emphasis) See also [89]-[90] “... *this is a generally quiet area although usual rural industry noises are expected, the noise of gunfire would be intrusive such that the ambient amenity would be adversely affected if not appropriately managed. We have thus made additional operational controls to ensure the ambient amenity is protected to a degree generally acceptable to the rural zone in which the proposal is to be located.*”

⁴⁸ At [72].

⁴⁹ At [11].

⁵⁰ Recorded at [28].

⁵¹ At [21].

49. The Court was not able to reach conclusions as to whether there was an adverse effect on the environment as opposed to a particularly sensitive receiver.⁵² (Interim controls were placed on the operation while better information was obtained to “*more fully inform the substantive hearing*”.)
50. In a Council-level decision for the Auckland Unitary Plan for, another long-established gun sport activity, the CNR control was imposed for the Waitemata Gun Club – refer to material cited by both Mr Ellerton (Hegley council-level evidence) and Dr Trevathan (Styles council-level evidence).
51. In *Davis v Gisborne District Council* [2020] NZEnvC 74 it was accepted the *LAFMax* should be used, described as the maximum allowable sound level from each individual shot.⁵³ Background noise level was approximately 30 to 45 dB *L_{A90}* (the noise level present in between transient noises in the environment)⁵⁴ and the noise at dwellings was around 25 to 30 dB above background levels (the levels experienced at notional boundaries in that case being about 70 *LAFMax* as a mid-range).⁵⁵ The Court said “... *even if the residents came to an area where there was no expectation of residential development occurring in the locality of a noisy activity at the time consent was granted, the obligations of s 16 would apply and noise would have to be controlled at reasonable levels.*”⁵⁶
52. The Pistol Club agrees that pre-existence of the Club is not a decisive factor, and noise has to be controlled to a level that is reasonable.
53. The courts have also found that:

*“ultimately, consideration of noise effects must be based on normal physiological responses, and cannot seek to protect those whose sensitivities might be at the higher end of the scale”*⁵⁷

⁵² At [23].

⁵³ At [121]-[122].

⁵⁴ At [128].

⁵⁵ At [139]-[141].

⁵⁶ At [216].

⁵⁷ *Motorimu Wind Farm Ltd v Palmerston North City Council* W067/08 26 September 2008 at [327].

54. The above quote was cited in *Meridian Energy Ltd* [2013] NZEnvC 59 where the Court said:⁵⁸

“We agree with this approach, because the RMA is not a “no effects” statute. The 5% of the population who are either hyper or hyposensitive to noise may attract an individual assessment and arrangements to avoid a potential health effect, but any arrangements reached will need to be by agreement outside the requirements of the RMA.”

55. Also stating that annoyance is not itself a separate effect.⁵⁹

There are “ ... real difficulties in measuring annoyance with any degree of certainty given the subjective nature of it and the fact it is unable to be objectively assessed or measured and is unpredictable.”

And:⁶⁰

“It is difficult to see what measures outside declining consent outright could guarantee that annoyance is able to be avoided, remedied or mitigated.”

“In conclusion, we are not satisfied that annoyance can and should be taken into account by us as a separate effect. But if we are wrong on this issue, our determination on the facts of this case is that there is insufficient evidence to establish that annoyance could lead to an adverse health or amenity effect.”

56. In *Quieter Please (Templeton) Inc v Christchurch City Council* [2015] NZEnvC 167 the Court considered that legal submissions about annoyance were pertinent to two aspects: the extent to which Quieter Please members were outliers, in the continuum of how people experience noise, and the evaluation of lay witnesses' assessments of the reasonableness of noise levels.⁶¹

“That is not to say that some persons will not find noise at the described levels annoying, causing a reduction in their outdoor amenity. It is clear from the evidence that some residents are affected in this way. This is inherent in how noise is experienced by the population at large, and as Mr Ritchie and Mr Wright's evidence showed, noise effects can turn on factors other than level, for example, frequency, duration, and degree of respite.”

⁵⁸ At [299].

⁵⁹ At [287].

⁶⁰ At [288].

⁶¹ At [123].

(But the Court determined that it would not be a proportionate response to maintain a rule in an unamended form when the rule was concerned with reducing noise levels for a relatively small group of people who may experience amenity annoyance.)⁶²

57. Here, the appropriate intensity (loudness) of noise, will depend on your assessment of the noise expert evidence primarily, with evaluation of lay evidence subject to the cautions set out in the caselaw cited.

SECTION 16 - BEST PRACTICABLE OPTION (BPO)

58. The BPO does not require detailed evidence analysis and dismissal of all other potential options.⁶³ In the *Gisborne* case referred to above, the BPO was considered to involve assessment of:⁶⁴

- a) limiting the types of firearms that can be used at the Site;
- b) limiting the days and hours of use;
- c) limiting the number of rounds fired;
- d) limiting the number of ranges used at one time;
- e) physical noise mitigation methods such as covering ranges or shooting from insulated structures; and
- f) finding an alternative site.

59. Dr Trevathan states that, having spent many months working with the Club to investigate the effectiveness, practicality and cost of various physical mitigation options *"it is clear to me that the LAFmax levels ... (61 to 65 for Ranges 2 to 7, and 67 dBA LAFmax for Range 1) are the lowest levels which can be achieved. 'Limits' of 55 or 60 dB LAFmax are unachievable and essentially amount to a decline of Consent and closure of the Club at its current location"*.⁶⁵ He has made a transparent 'worst case' assessment of maximum dBA LAFmax levels predicted for Range 1, at the notional boundary of Mr Phillips dwellings, that is slightly higher than 65 dBA

⁶² At [152].

⁶³ In *Empire Entertainment Ltd v Auckland City Council* [2010] NZRMA 525, the High Court found that the Environment Court in *Vicki Vuleta Trust v Auckland CC* [2010] NZEnvC 119, [2010] NZRMA 463, had erred by invoking the best practicable option test at the resource consent application stage and by effectively requiring the applicant to demonstrate that no better alternatives existed, noting that this is not the purpose of s 16.

⁶⁴ At [246].

⁶⁵ At [76].

LAFmax, but states the difference will be typically indiscernible.⁶⁶ As described below, the Club proposes to restrict the use of Range 1 to twice per month.

60. Mr O’Sullivan’s evidence is that alternative sites were explored, but ruled-out by the Club, as non-viable for a sports club (that runs on a non-commercial basis).⁶⁷
61. The same or similar facts that are considered under the BPO, are also relevant to the functional and operational need policy, Policy WB-P3, referred to by Ms Williams giving evidence for Puketapu. The evidence of Puketapu Hapu questions whether the proposal is appropriate in this location, given the intrinsic values of the Mangaoraka, and the relationship the hapū hold with their tupuna awa. I submit that there is an operational need to establish at this site, because the Club’s facilities exist there.

CERTAINTY

62. At paragraph [115] of his Report Mr Robinson raises whether there are “*fundamental uncertainties around the scale and significance of effects or where compliance is ambiguous*” (emphasis). Firstly, the Club takes pride in meticulously following compliance obligations - as stated by Mr O’Sullivan - answering to bodies including Clubs and Ranges, Pistol New Zealand and the New Zealand Police.
63. Secondly, for noise, the physical mitigation options proposed, are practical and capable of implementation. As well as maximum noise levels being brought within a reasonable level, Dr Trevathan is confident the compliance with CNR can be consistently achieved with the mitigations.⁶⁸ Dr Trevathan has factored in the different firearms and their L_{peak} values when modelling expected CNR compliance.⁶⁹
64. In *Brooks v Western Bay of Plenty District Council* [2011] NZEnvC 216 it was the Environment Court’s view that the consent conditions set up the control, and it is up to the proponent to meet that noise control by adopting any one of a number of

⁶⁶ Evidence of Jeremy Trevathan at [44] “*I understand that use of Range 1 is relatively limited, and note a 2 dB difference in noise levels is typically indiscernible – so I do not consider this outcome to be problematic.*”

⁶⁷ Evidence of Michael O’Sullivan at [11.4].

⁶⁸ At [44].

⁶⁹ At [85].

options than need not be prescribed (including in that case relocating the noisiest shooting field, installation of acoustic barriers, making the shooting stalls to absorb some noise).⁷⁰ This is the traditional '*Turner v Allison* approach'. On the basis of more recent caselaw, it is acknowledged the Panel needs to have some evidence to satisfy itself that compliance can reasonably be achieved ('feasibility').⁷¹ There is not a lack of feasibility here. There are several permutations that the Club could employ to meet the CNR 90 and reasonable noise levels, from the date any consent is granted - including prohibiting louder firearm use. Some proposed amendments to conditions will be attached to Mr Edward's Addendum, including:

- 64.1. Limiting Club use to 0.22 calibre pistols (and suppressed centrefire only on range 8) until the necessary acoustic mitigations are in place, that can achieve noise levels of 65dBA Lmax and 67dBA Lmax on Ranges 2-8 and Range 1 respectively.
- 64.2. After mitigations are in place for Range 1, only use that Range twice per month.
- 64.3. As in the primary evidence of Mr Edwards, periods of low noise between noon and 3pm Monday to Friday and 5-9pm Saturday and no shooting after 5pm on Sundays (with an exception for Police and AOS training and up to four 2-day competitions per year).⁷²

65. Table 7.1 of the 6 December 2024 AENE states that, from the loudest firearms, with 3300 rounds the CNR may approach 87.⁷³ Mr O'Sullivan's evidence provides updated rounds-figures from January 2026 to date, showing that during ordinary 'practice' days, 2500 shots/rounds does not occur. The number of rounds that are now proposed (in the Noise Management Plan) is a maximum of 2700 per day Monday to Saturday, and on Sundays the CNR to be managed through regulating gun types, structured shooting and ranges. While this is to be discussed in conferencing, it can be seen in Mr O'Sullivan's evidence on records of rounds fired on week-days from January 2026 to current, and Sundays, that it is feasible to meet the CNR.

⁷⁰ At [76].

⁷¹ *Remediation (NZ) Limited v Taranaki Regional Council* [2026] NZHC 55 at At [107]: "*The existence of the enforcement regime cannot be used to pave over gaps in a consent proposal*" (non-compliance with conditions can cause harm before enforcement action is taken, and resource consent conditions are designed to prevent those effects).

⁷² The bi-annual exceedance of the CNR sought for National Competitions is additional.

⁷³ Table 7.1 – Calculated CNR's from examples of scheduled Club activities.

66. Retrospectively, the Council may verify the CNR (and dBA Lmax levels) independently by a Sensica HD2011 Class 1 Noise level Meter (or similar) such data being provided to the Council immediately upon request. The conditions also require a verification exercise to provide confidence in the effectiveness of the physical mitigations once they are constructed.
67. While Mr Edwards originally addressed the possible need for consents that may be needed for Range 7 mitigations (due to setback requirements), Mr Edwards responsibly raises the potential need for regional resource consents, following evidence from Puketapu hapū. Puketapu hapū have sought further surety in relation to potential effects on the Mangaoraka tributary. In response Mr Edwards agrees further consideration of regional consenting requirements is warranted. Such future consenting requirements can be progressed separately, and do represent a fatal flaw, given the availability of immediate operational controls while this is worked through. The potential need for further consents does not place such uncertainty on the proposal to provide a reason for decline. This matter will be discussed in Mr Edwards Addendum.

RELEVANCE OF THE EXISTING ESTABLISHED USE

68. The fact that the Club has been established at its current site since 1983 is relevant to:
- 68.1. The level of investment that the Club has put into the current buildings and facilities, over a number of years – this includes volunteer time and effort. This is not a mandatory matter because s124 is not applicable, however granting consent would clearly have a positive effects under s104 in utilising that investment. Mr O’Sullivan estimates that to commence again to build such assets, would cost in the order of \$5 million.⁷⁴
- 68.2. The existing membership base and services that the Club provides, and has done for some time, including to the NZ Police.

⁷⁴ Evidence of Michael O’Sullivan at [11.3] New buildings, range development, ablutions, all-weather carpark, club digital monitoring/wifi, installation of CRM/access cards etc.

68.3. That is not a change of land use for the purposes of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NESCS**). Neither is this “re-development” under NESCS or PODP Policy CL-P2. As discussed in the next section, that NESCS consenting framework is triggered due to the earthworks.

RESPONSE TO EVIDENCE OF PUKETAPU HAPŪ

69. Puketapu hapū has raised a number of issues in its evidence, including potential effects on the tributary to the Mangaoraka Stream that bounds the Site, and the potential for contamination in the whenua, groundwater and surface water. Hapū consider matters from an holistic perspective. While applications for regional resource consents alongside land use consents, would promote ‘integrated management’ and the objectives and policies in the Waterbodies (WB) Chapter of the POPDP are relevant, under section 30 of the Act the management of discharges falls squarely within the regulatory functions of Taranaki Regional Council (**TRC**).
70. TRC has undertaken site investigations and monitoring and has not raised the need for regional consents. Mr Edwards initially agreed with the s42A Report that no additional consents were required.⁷⁵ The Club is committed to obtaining all necessary approvals and will engage further with TRC to confirm whether any regional consents are required (this will largely depend on the assessment whether there is a real risk of contaminants entering the tributary.) Mr Edwards considers that further analysis on whether Rule 44 of the Taranaki Regional Freshwater Plan applies, would involve further consideration of potential contaminant pathways.
71. The activity for which consents are sought in this case, does not exacerbate the level of existing risk of contamination on the site, or interact with it, as in the *Remediation NZ case (Remediation (NZ) Limited v Taranaki Regional Council [2026] NZHC 55)*. This case involved applications for regional resource consents to enable the continued operation of a composting & vermiculture operation in North Taranaki. The operator there had allowed a large stockpile of contaminated material to build

⁷⁵ Evidence of Aaron Edwards at [73].

up and it was accepted that at least some remediation would need to occur, were operations be able to continue on the site. This was largely due to interactions between the contamination in the stockpile (and elsewhere on the site), and the continued operation. For example, a key feature of the proposal was the collection leachate for irrigation to land, and the stockpile contributed to the volume and characteristics of the leachate. While the operator (Remediation (NZ) Limited) argued that dealing with contamination was outside the scope of consents sought, the Court found that the “activity” for which consent was sought included discharging leachate from composting operations to land and the existing contamination of the receiving environment was integral to considering the potential effects of that activity.⁷⁶ There was also evidence of significant adverse effects on the waterbody. (The Court cited *Sustainable Ōtāriki Incorporated v Whakatāne District Council* [2025] NZSC 158⁷⁷ for the proposition that whether effects are relevant for the s104 assessment, depends on considerations of fact and degree.)

72. The following effects ‘interact’ with possible historical contamination on the Site, and these effects are managed:

72.1. Stormwater management:⁷⁸ Further advice has been prepared by BTW Company to prevent contaminants entering the tributary.⁷⁹ From an engineering and environmental perspective, the advice is that the Site should be treated as requiring a site-specific treatment train rather than reliance on generic stormwater management measures. The recommended stormwater design philosophy will be contained in amended consent conditions attached to Mr Edwards’ Addendum. Implementing these stormwater recommendations may also require some additional earthworks, that Mr Edwards considers are within the scope of the existing applications.⁸⁰

⁷⁶ At [73]-[74]. I.e. it was necessary for the Environment Court to consider how the proposed continued operation of the site could affect the risk of contamination at an already contaminated site.

⁷⁷ This was a case regarding whether disposal of plastic bottles was an effect of taking water for a water bottling operation.

⁷⁸ Evidence of Raukura Sainsbury at [58] refers.

⁷⁹ Attached as Appendix B to Mr Edwards Addendum (“Engineered Stormwater Treatment Options and Monitoring”).

⁸⁰ Mr Edwards Addendum.

72.2. Earthworks to create the acoustic mitigation and other upgrades (to the Clubrooms) must be undertaken in a careful manner and in accordance with best practice. The two contaminated sites experts giving evidence are of the opinion that the level of risk can be dealt with by management plans.

72.3. Mr O'Sullivan gives additional evidence (in his Addendum) on the recovery of metals from projectiles that occurs at the Site. This occurs as 'business as usual', and can also be conditioned.

73. This was (and is) not a case where the activity will interact with, or exacerbate, any historical contamination such that a deferral would have been warranted under section 91 (to enable to understand the proposed activity and its effects). However, to address Puketapu Hapū's concerns, the applicant is committed to working with the TRC to understand if further consents from that council would be required.

CONCLUSION

74. The Club submits that FIDOL factions including noise intensity, character, and reasonableness can be dealt with in both the CNR calculation and in proposed consent conditions, with mitigations set out the revised (proposed) consent conditions attached to Mr Edwards' Addendum.

75. With these mitigations in place, including restrictions that will apply until range mitigation works are in place, potential adverse in this environment are minor. The Applicant says that the activity passes both gateway tests in s104D, and that an assessment under s104 supports a grant of consent.

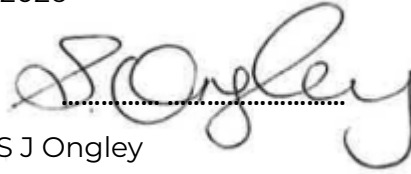
WITNESSES

76. The following witnesses will give evidence for the New Plymouth Pistol Club:

1. Mr Michael O'Sullivan, President New Plymouth Pistol Club.
2. Mr David Carl Bolger, Contaminated Land Scientist.

3. Dr Jeremy Trevathan, Acoustic Engineer.
4. Mr Aaron Edwards, Planner.

DATED this 18th day of May 2026

A handwritten signature in black ink, appearing to read 'S J Ongley'. The signature is written in a cursive style with a dotted line underneath it.

S J Ongley

Counsel for the New Plymouth Pistol Club

mailed: 5 December 2022
to Mark Utting.
+ 1400 hrs.
Rosa Hilling.
Pages: 1-17

FORM 48
ABATEMENT NOTICE

UPDATED AS AT 2 DECEMBER 2022

Sections 322 and 324, Resource Management Act 1991

To: **New Plymouth Pistol Club Incorporated**, 1220 Devon Road, Bell Block, 4312, New Zealand

The **NEW PLYMOUTH DISTRICT COUNCIL (the Council)** gives notice that:

- 1) Pursuant to ss 322(1)(b) of the Resource Management Act 1991 (**RMA**), you must reduce and limit the shooting of any firearms (including by the New Zealand Police) at the property at 1220 Devon Road and 1206 Devon Road Bell Block, New Plymouth, legally described as Lot 1 DP 19854 (**the property**) to the following dates and times:
 - a) Wednesday, between 9am and 4pm;
 - b) Thursday, between 5pm and 8pm club requests 9am to 5pm for Police;
 - c) Friday, between 9am and 4pm, however ranges 1 and 2 may not be used on this day;
 - d) Saturday, between 9am and 5pm; and
 - e) Sunday, between 9am and 4pm.

An exception to the date and time limits set out in 1) a) – e) above applies in respect of the following scheduled events at the property: 3 day events

- close Sat–Wed prior, practice
Thursday the 6th of November,
Fri is competition ceases Sund.
- Thursday the 20th of November

- Rifle Nationals on 24-26 February 2023;
- Police booking on 7-9 March 2023; and
- Speed Nationals on 10-12 March 2023.

You must comply with the restrictions in 1) above from Friday, 2 December 2022 and until 17 March 2023 (inclusive).

And

- 2) Pursuant to s 322(1)(a)(i) of the RMA, you must cease and not commence, nor permit any person to undertake, the shooting of any firearms on the property in breach of the New Plymouth Operative District Plan (**District Plan**)¹ noise standards 7.11 and 7.12² (**Noise Standards**);

You must comply with the restrictions in 2) above from 18 March 2023, unless you take one of the steps described in 3) and 4) below.

If you take one of the steps described in 3) and 4) below you must continue to comply with the restrictions in 1) above from 18 March 2023, until such time that an existing use rights certificate or resource consent has been granted that authorises the shooting of firearms at the property.

- 3) Pursuant to s 139A of the RMA, lodge with the Council an application for an existing use rights certificate;

¹ The New Plymouth Proposed District Plan is currently at further submission stage therefore the relevant rules in that Plan do not yet have legal effect.

² Contained in District Plan Appendix 12 – Noise, Table 12.1. A copy of the relevant District Plan provisions is attached to this notice as **Appendix 1**.

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You must comply with this by 17 February 2023.

Or alternatively,

- 4) Pursuant to s 322(1)(b) of the RMA, lodge with the Council an application for the requisite resource consent(s) to allow the Club to operate in breach of the Noise Standards (and any other relevant District Plan standards).

You must comply with this by 17 March 2023.

The location to which this abatement notice applies is: 1220 Devon Road and 1206 Devon Road Bell Block, New Plymouth, legally described as Lot 1 DP 19854.

This notice is issued under ss 322(1)(a)(i) and 322(1)(b) of the RMA.

The reasons for this notice are:

- a) The New Plymouth Pistol Club Incorporated (**Club**) operates a pistol club at the property. At the date of this notice, it is the Council's understanding that the pistol club operation involves the following activities:
 - i. Regular club nights are on Thursdays and usually begin at around 7pm and finish at around 9pm. Based on information provided to the Council on 31 March 2022 by Avin Panchorie (Club Secretary), the Council estimates that, if the ranges are full on these nights, there would be around 1000 rounds fired.
 - ii. Multi-day events, including:

- North Island Speed Championships (3 day event).
- Police Shooting – full range (3 day event).
- Taranaki IPSC Open (3 day event).
- NZ Pistol Championships (2 day event).
- 2022 IPSC 5th Shotgun Nationals (2 day event).
- Black Powder Shoot (2 day event).

iii. Police training, including:

- a. First responder training (12 days per year, in 3 day blocks); and
- b. Specialist Police training

iv. The use of various firearms and disciplines, including:

- IPSC – all shooting disciplines, handgun, rifle and shotgun
- CAS – Cowboy Action Shooting
- PNZ – Speed Steel Challenge
- Black Powder Muzzle Loading

b) The property is located in the Industrial C Environment Area under the District Plan.

c) The Club occupies the property pursuant to a lease agreement. There are, however no resource consents authorising the operation of the pistol club and, for the reasons explained below, the Council has reasonable grounds to believe that:

- i. The Club is not a permitted activity under the District Plan as the noise generated by the pistol club does not comply with the Noise Standards; and

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- ii. The Club does not enjoy existing use rights pursuant to s 10 of the RMA.
- d) The Noise Standards prescribe the following maximum noise limits, when measured at any notional boundary within the Rural Environment Area:
- i. Monday - Sunday between 7am -10pm: L₁₀ 50dBA
 - ii. Monday –Sunday between 10pm-7am: L₁₀ 45dBA and L_{max} 70dBA
- e) In or around August 2021, the Council began receiving regular noise complaints from the neighbouring site at 1222 Devon Road regarding firearm noise from the property.
- f) 1222 Devon Road is located in the Rural Environment Area under the District Plan.
- g) As the noise complaints have been received from a property within the Rural Environment Area in the District Plan, the noise *produced* by the Club's activities must comply with the following maximum noise limits, when measured at any notional boundary³ within the Rural Environment Area:
- i. Monday - Sunday between 7am -10pm: L₁₀ 50dBA and L_{max} n/a.
 - ii. Monday - Sunday between 10pm-7am: L₁₀ 45dBA and L_{max} 70dBA.

³ In this case, being a line 20m from, and parallel to, the residential dwellings at 1222 Devon Road.

- h) The Council engaged Marshall Day Acoustics (**MDA**) to assess the noise levels being received at the property 1222 Devon Road, and MDA undertook noise measurements at the notional boundary of that property on five (5) separate occasions between 20 February and 28 May 2022.

- i) The noise analyses undertaken by MDA are attached to this notice as **Appendix 2**. From the data collected, MDA concluded that the Club did not comply with the Noise Standards on any of the dates on which testing was undertaken.

- j) Additionally, as at the date of issuing this notice, the Club has not provided sufficient evidence that its current operations enjoy existing use rights under s 10 of the RMA.

- k) For the Club's operations to be occurring in reliance on existing use rights, the:
 - i. Use of the land must have been lawfully established before the relevant District Plan rule(s) that it breaches became operative; and

 - ii. Effects of the use must be the same or similar in character, intensity, and scale to those which existed before the rule became operative. In other words, the effects of the activity at the site cannot have increased over time since the Club first established at the property in 1983/1984.

- l) Information sourced by the Council suggests that the Club may have been lawfully established in 1983/1984. However, to date, the Council has requested, but has not been provided with, sufficient information to satisfy it that the effects of the Club's current operations are the same or similar in

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character, intensity, and scale to those which existed at the time the Club was lawfully established.

- m) To operate the pistol club at the property in breach of the Noise Standards, you require a resource consent for a discretionary activity under Rule Ind83 of the District Plan. In applying for that consent, you will also be required to demonstrate compliance with all other permitted activity standards relevant to the intended use (including, but not necessarily limited to, traffic, access, parking, and lighting), or to obtain additional resource consents for any other permitted activity standards (other than the Noise Standards) with which the activity does not comply.

If you do not comply with this notice, you may be prosecuted under s 338 of the RMA (unless you appeal and the notice is stayed as explained below). Section 340(3) of the RMA also provides that, if a person other than a natural person is convicted of an offence against the RMA, persons involved in the management of the convicted person will also be guilty of the same offence if:

- a) The act or omission that constituted the offence took place with his or her authority, permission, or consent; and
- b) He or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

You have the right to appeal to the Environment Court against the whole or any part of this notice. If you do wish to appeal, you must lodge a notice of appeal in form 49 with the Environment Court within 15 working days of being served with this notice.

An appeal does not automatically stay the notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under section 325(3A) of the RMA (see form 50). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.

You also have the right to apply in writing to the council to change or cancel this notice in accordance with section 325A of the RMA.

The Council authorised the enforcement officer who issued this notice. Its address is:

- 84 Liardet St, New Plymouth 4342.

The enforcement officer is acting under the following authorisation:

- Officer Name: Ross John Lilley.
- Warranted Enforcement Officer under s 38(1) of the RMA.



Signature of enforcement officer

Date: 2 December 2022

APPENDIX 1

12.1 Standards for the emission of noise generated from within any ENVIRONMENT AREA, when measured at any RECEIVING SITE

STD	ACTIVITY TYPE	TIME OF DAY	MAXIMUM NOISE LEVEL PERMITTED
from CONSTRUCTION WORK			
1.1	Maximum noise levels, measured at any point within the boundary of any RECEIVING SITE located within the RESIDENTIAL ENVIRONMENT AREA:	Monday to Friday: 7am-7pm Saturday: 10am-6pm excluding public holidays on any day	L ₁₀ 65dBA
1.2		at all other times (including all public holidays)	meets the underlying standards for the RESIDENTIAL ENVIRONMENT AREA as specified in standards 7.1 and 7.2 of this table
1.3	Maximum noise levels, measured at any point within the boundary of any RECEIVING SITE located within the BUSINESS, INDUSTRIAL or OPEN SPACE ENVIRONMENT AREAS, or at the NOTIONAL BOUNDARY of any RECEIVING SITE located within the RURAL ENVIRONMENT AREA	on any day: 7am-7pm	L ₁₀ 70dBA
1.4		at all other times	meets the underlying standards for the relevant ENVIRONMENT AREA as specified in standards 7.3 to 7.12 of this table
from AIRCRAFT OPERATIONS at New Plymouth airport			
2.1	Maximum noise levels from AIRCRAFT OPERATIONS (excluding unscheduled AIRCRAFT ENGINE TESTING) at New Plymouth airport over any period of 90 continuous days measured in accordance with NZS6805:1992 Airport Noise Management and Land Use Planning: At or beyond the OUTER CONTROL BOUNDARY (Diagram 12.2)		shall not exceed 55dBA L _{dn}
2.2		At or beyond the AIR NOISE BOUNDARY (Diagram 12.2)	shall not exceed 65dBA L _{dn}
2.3	Maximum noise levels from AIRCRAFT ENGINE TESTING measured in accordance with NZS6801:1991 Measurement of Sound and NZS6802:1991 Assessment of Sound at any point within the boundary of any RECEIVING SITE within an RESIDENTIAL ENVIRONMENT AREA or at any NOTIONAL BOUNDARY within the RURAL ENVIRONMENT AREA	on any day 7am-10pm	L _{eq} (9 hour) 55dBA
2.4		on any day 10pm - 7am	L _{eq} (9 hour) 45dBA L _{max} 75dBA with the exception that on any 12 nights between the hours of 10pm - 7am in any calendar year, the maximum noise levels from AIRCRAFT ENGINE TESTING shall not exceed: L _{eq} (9 hour): 50dBA L _{max} : 75dBA

STD	ACTIVITY TYPE	TIME OF DAY	MAXIMUM NOISE LEVEL PERMITTED
from PORT NOISE at Port Taranaki			
3.1	Maximum noise levels, when measured: At any point at, or landward of the PORT NOISE inner control boundary (Diagram 12.4)	day-night average sound level over a period of 5 consecutive days	65dBA L _{dn}
3.2		on any day between 10pm to 7am the following day	60dBA L _{eq} (9hr) provided that no single 15 minute sound measurement level shall exceed 65dBA L _{eq} 85dBA L _{max}
3.3	At any point at, or landward of the PORT NOISE outer control boundary (Diagram 12.4)	on any day between 10pm to 7am the following day	50dBA L _{eq} (9hr) provided that no single 15 minute sound measurement level shall exceed 55dBA L _{eq} 75dBA L _{max}
Note: For the purposes of assessing PORT NOISE, daytime is defined as 7am to 10pm on any day, and night time is defined as 10pm to 7am the following day. These times correlate to the definition of L _{dn} used for the prediction of day-night average sound levels in NZS 6809:1999.			
from wind turbines			
4.1	Maximum noise levels, measured at any point within the boundary of any RECEIVING SITE within the RESIDENTIAL, BUSINESS, INDUSTRIAL or OPEN SPACE ENVIRONMENT AREAS or measured at the NOTIONAL BOUNDARY within the RURAL ENVIRONMENT AREA	at any time	40dB L _{A90(1min)} or The background sound level L _{A90(1min)} plus 5dB when the background sound level is greater than 35dB L _{A90(1min)}
from helicopters operating from HELICOPTER LANDING AREAS			
5.1	Maximum noise levels, measured at any point within the boundary of any RECEIVING SITE within the RESIDENTIAL ENVIRONMENT AREA or measured at the NOTIONAL BOUNDARY within the RURAL ENVIRONMENT AREA	day-night average sound level over any period of 5 consecutive days	L _{dn} 50dBA
5.2		on any day between 10pm to 7am the following day	L _{max} 70dBA
Note: For the purposes of assessing noise from helicopters operating from HELICOPTER LANDING AREAS, daytime is defined as 7am to 10pm on any day, and night time is defined as 10pm to 7am the following day. These times correlate to the definition of L _{dn} used for the prediction of day-night average sound levels in NZS6807:1994.			

STD	ACTIVITY TYPE	TIME OF DAY	MAXIMUM NOISE LEVEL PERMITTED
from EMERGENCY SERVICES			
6.1	Maximum noise levels: from sirens or other emergency warning devices	at all times	no maximum noise levels – section 16 of the ACT applies
6.2	from other EMERGENCY SERVICES operations measured at any point within the boundary of any RECEIVING SITE located within the RESIDENTIAL ENVIRONMENT AREAS	on any day: 7am-10pm	L ₁₀ 55dBA L _{max} n/a
6.3		10pm-7am	L ₁₀ 45dBA L _{max} 75dBA
6.4	measured at any point within the boundary of any RECEIVING SITE located within the BUSINESS, INDUSTRIAL OR OPEN SPACE ENVIRONMENT AREAS	as per standards 7.3 - 7.10	as per standards 7.3 - 7.10
6.5	measured at the NOTIONAL BOUNDARY within the RURAL ENVIRONMENT AREA	as per standards 7.11 – 7.12	as per standards 7.11 – 7.12
from all other activities (*excluding noise emitted from agricultural vehicles, machinery or equipment used on a seasonal or intermittent basis, provided that the best practicable option of noise control is adopted to ensure that noise emissions are maintained at a reasonable level.			
7.1	Maximum noise levels, measured at any point within the boundary of any RECEIVING SITE located within the: RESIDENTIAL ENVIRONMENT AREAS	on any day: 7am-10pm	L ₁₀ 50dBA L _{max} n/a
7.2		10pm-7am	L ₁₀ 40dBA L _{max} 70dBA
7.3	BUSINESS A, B or C ENVIRONMENT AREAS	on any day: 7am-10pm	L ₁₀ 60dBA L _{max} n/a
7.4		10pm-7am	L ₁₀ 60dBA L _{max} 75dBA

STD	ACTIVITY TYPE	TIME OF DAY	MAXIMUM NOISE LEVEL PERMITTED
7.5	BUSINESS D ENVIRONMENT AREA	on any day: 7am-10pm	L ₁₀ 60dBA L _{max} n/a
7.6		10pm-7am	L ₁₀ 40dBA L _{max} 70dBA
7.7	INDUSTRIAL A, B or C ENVIRONMENT AREAS	on any day, at any time	L ₁₀ 60dBA L _{max} 75dBA
7.8	INDUSTRIAL D ENVIRONMENT AREAS	on any day, at any time	L ₁₀ 65dBA no L _{max}
7.9	INDUSTRIAL E ENVIRONMENT AREAS	on any day, at any time	L ₁₀ 70dBA L _{max} 80dBA
7.10	OPEN SPACE ENVIRONMENT AREAS	as per the adjoining ENVIRONMENT AREA*	as per the adjoining ENVIRONMENT AREA*
*Note: For the avoidance of doubt the less restrictive adjoining noise standard shall apply.			
7.11	Maximum noise levels, measured at the NOTIONAL BOUNDARY within the RURAL ENVIRONMENT AREA	on any day: 7am-10pm	L ₁₀ 50dBA L _{max} n/a
7.12		10pm-7am	L ₁₀ 45dBA L _{max} 70dBA
Note: The noise standards for the INDUSTRIAL F ENVIRONMENT AREA are set out in the National Development (Petalgas Chemicals NZ Limited) Order 1981/124 and the National Development (New Zealand Synthetic Fuels Corporation Limited) Order 1982/37.			

DL



View Instrument Details

Instrument Type Transfer
Instrument No 11317370.1
Status Registered
Date & Time Lodged 11 January 2019 11:17
Lodged By Van Dyk, Terri Maree

Affected Records of Title **Land District**
TNK1/528 Taranaki

Transferors

Kelvin Lyall Perry as Executor
Lester Adrian Perry as Executor
Maurice George Perry as Executor
Ross Angus Perry as Executor

Transferees

Bryan Robert Phillips

Transferor Certifications

I certify that I have the authority to act for the Transferor and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by Miranda Lee Matuku as Transferor Representative on 11/01/2019 09:22 AM

Transferee Certifications

I certify that I have the authority to act for the Transferee and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by Nikola Jure Marinovich as Transferee Representative on 10/01/2019 03:40 PM

*** End of Report ***