

Before the Independent Hearings Panel at Gore District Council

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing Submissions and Further submissions on the Proposed
Gore District Plan.

Hearing Stream 6

Response to Minute 32 – Aircraft and Helicopter Movements

From Victoria Woodbridge on behalf of Gore District Council

Date: 05 February 2025

Introduction:

1. My full name is Victoria Emily Jane Woodbridge. My Section 42A report sets out my qualifications and experience as an expert in planning.
2. I have prepared this further right of reply in respect of Hearing Stream 6 to respond to Minute 32 issued by the Panel on 11 December 2024.
3. I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's practice Note 2023, as applicable to this independent hearing panel.
4. Minute 32 seeks clarification on a number of matters relating to the aircraft and helicopter movements which were addressed within the Section 42A report for Noise and two right of reply documents in response to Minute 24.
5. The matters span the following chapters of the PDP:
 - a. General Rural Zone
 - b. Rural Lifestyle Zone
 - c. Settlement Zone
 - d. Airport Zone
 - e. Noise Chapter
 - f. Temporary Activities Chapter
6. The following responds to each matter raised in Minute 32. Any amendments to PDP Chapters are provided in full in Appendix 1.
7. For the sake of clarity where I have referred to a rule number i.e. NOISE-R10 the numbering is based on the latest amended version of the Chapter (generally as attached to this response at Appendix 1) rather than the notified version.
8. A draft of the report has been provided to Mr Michelle for feedback and comment. Mr Michelle and I met to discuss this response and recommended PDP amendments on 30 January 2025 and following this meeting some refinements were made to the provisions. A further copy of this response and PDP Chapters was provided to Mr Michelle who confirmed he had no further comments. I understand Mr Michelle will provide his own comment in relation to the provisions as he is entitled to do through Minute 32 direction.
9. The following documents are attached as appendices and are referred to within this response:
 - a. Appendix 1 – Noise Chapter, Temporary Activity Chapter, Airport Zone
 - b. Appendix 2 – Examples of other Council's district plan approach to exemptions

- c. Appendix 3 - s32AA evaluation report.

Structure of Rules Applying to Helicopters and Aircrafts

10. The Panel has identified that the following provisions apply to aircraft and helicopter movements, with some provisions being recommended for amendment through the Noise s42A report and / or right of replies to Minute 24, and others being recommended for retention as notified:
- GRUZ-R16 Agriculture Aviation Activity
 - GRUZ-S9 Rural Airstrips and Helicopter Landing Areas for Agriculture Aviation Activity
 - RLZ-R6 Agriculture Aviation Activity
 - GRUZ-S8 Rural Airstrips and Helicopter Landing Areas for Agriculture Aviation Activity
 - SETZ-S13 Helicopter Landing Area PREC8
 - Noise Advice Note 2 currently provides exemptions from the noise rules and standards (See comments below)
 - NOISE-R2 Noise from Construction Activities
 - NOISE-R8 Noise from Agriculture Aviation
 - NOISE-R9 Noise from Helicopters other than Agricultural Aviation
 - TEMP-R11 Aircraft and Helicopter Movements
11. The Panel has identified that “*each Zone contains a rule stating activities not otherwise provided for are a discretionary or non-complying activity. On that basis, within the General Rural and Rural Lifestyle Zones Rural Airstrips and Helicopter Landing Areas for other than Agriculture Aviation Activities are a non-complying activity.*” Clarification is sought as to whether this is intentional.
12. The PDP provides for the following:
- a. Aviation activity, which is defined as:

Means the use of land and / or buildings for commercial and non-commercial activities associated with aircraft operation, maintenance, navigation and / or education, including: aircraft landing, take off and taxiing; airport freight, luggage and passenger facilities; airport navigational, control and safety equipment; aviation education, training and recreational facilities and activities; maintenance, servicing and manufacturing of aircrafts and associated parts; refuelling of aircrafts; warehouse and storage.
 - b. Agricultural aviation activity, which is defined as:

Means the use of aircrafts or helicopters used ancillary to and in association with primary production and / or conservation activity.
13. The PDP also defines ‘aircraft’ as follows: “*has the same meaning as per the Resource Management Act - aircraft means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by reactions of the air against the surface of*

the earth.” However, as it is not explicitly clear that the definition includes helicopters, an approach has been adopted to refer to both aircraft and helicopters in the PDP in relation to noise and agricultural aviation. There is no definition of helicopters.

14. As identified in PDP Part 1 – Interpretation Chapter, agricultural aviation activity is a sub-set (sub-category) of aviation activity, which, as per the definition above, is a broad ranging activity intended to cover a wide range of tasks associated with aviation.
15. Within the PDP, aviation activity is enabled only within the Airport Zone and the Mandeville Aviation and Rail Precinct. This is intentional because these areas are best suited, by means of their purpose and existing arrangement, to cater for the broad nature of aviation activity. Within other zones aviation activities are not considered appropriate, due to the potential impact the activity may have on the character and purpose of those zones.
16. The PDP zones are structured in a manner which is consistent with the National Planning Standards. Only particular activities are enabled in a zone to ensure that the amenity values and purpose of the zone is not compromised. For example, residential activities are enabled within Residential Zones, whilst industrial activities are discouraged and vice versa, industrial activities are enabled in Industrial Zones whilst residential activities are discouraged.
17. Other than the Airport Zone and the Mandeville Aviation and Rail Precinct there are no zones (or areas) where an aviation activity is considered appropriate as a permitted activity, therefore, it defaults to non-complying in other zones. I confirm that in response to paragraph 4 of Minute 32 this is intentional.
18. The PDP does, however, recognise that agricultural aviation (as a sub-set of aviation activity) is an important part of primary production. As such the PDP enables agricultural aviation in the zones where primary production is enabled – General Rural Zone (GRUZ) and Rural Lifestyle Zone (RLZ). As large scale primary production is not enabled in other zones, it is not considered necessary to enable agricultural aviation elsewhere, nor is it considered appropriate as it would not align with the character and purpose of those other zones.
19. Whilst there could be an argument that aircraft and helicopter use associated with primary production would fall under that activity, the definition of primary production is such that it isn't explicitly clear. Therefore, without providing a specific definition and enabling pathway for agricultural aviation and its associated noise there is a risk that consent may be unnecessarily required or confusion over interpretation arises. The provisions are therefore intended to be enabling agricultural aviation (whilst balancing potential adverse effects on amenity values) in terms of both the Zone Chapter and Noise Chapter provisions and remove any ambiguity.
20. Additionally, as far as I am aware, there are no submissions seeking to enable either aviation activity or agricultural aviation in other zones.
21. Helicopter and aircraft movements (take-offs and landings) are a part of both aviation activities and agricultural aviation. However, I do not consider the take-offs and landings

to be an activity in themselves. In the same way vehicle movements are not an activity in themselves, they are associated with a primary activity. Use of a helicopter or aircraft, and therefore the associated take-off and landing, will be associated with another primary activity. In the Airport Zone the primary activity is likely general 'aviation activity', whereas in other zones a commercial activity or a rural commercial recreation activity could have associated helicopter or aircraft movements in the same way it may have vehicle traffic.

22. In principle, other than noise (which is the primary effect generated by take-offs and landings), of the use of helicopters and aircraft for other activities may be acceptable. In the same way the Transport Chapter controls volumes of vehicle movements from a site due to potential impact on the road network and users of the network, the Noise Chapter controls noise from helicopters and aircrafts to manage the effects on the environment, including people and their amenity values.
23. Helicopter landing areas and airstrips for aircraft are a means of controlling where these vehicles take-off and land, in the same way a vehicle crossing is a means of controlling how a vehicle enters a site. I do not consider an airstrip or a helicopter landing area to be an activity in and of itself. As with the helicopter or aircraft movements, airstrips and landing areas are an associated part of an aviation activity or other activity.
24. Overall, I do not consider it necessary or appropriate to provide specifically for helicopter and aircraft take-offs and landings, helicopter landing areas or airstrips within zones as activities, because these components would be part of a wider activity which is controlled by the zone provisions. The PDP zones control aviation and agricultural aviation activities along with other activities, in relation to helicopter and aircraft the principal issue is the associated noise which is managed and controlled through the PDP Noise Chapter.
25. Notwithstanding the above, it is recognised that there may be a need to use helicopters or aircraft for certain activities or on an infrequent basis for any purpose. As these infrequent movements would have a lesser noise effect, allowance can be made for them within the Temporary Activity Chapter, without further control in the Noise Chapter. This is the rationale for the recommended rule TEMP-R11 which provides for movements (take offs and landings) for aircraft and helicopters on a temporary basis.
26. Within the Temporary Activities Chapter Note 1 states that the provisions of the Chapter take precedence over any other provision within the PDP. The intention of the temporary activity rule (TEMP-R11) is to allow for limited movements (take off and landings) within any zone (other than General and Medium Density residential) for certain purposes or for limited durations. The PDP intends to direct activity beyond the permitted extent to the Airport Zone, or a consent is required. Consideration can then be given to potential adverse effects.
27. Therefore, as noted above, if a person wanted to use a helicopter or aircraft as part of a commercial activity for example, and commercial activities were permitted in that zone then that use, from a zone rule perspective, may be able to be undertaken as of right. However, the provisions of the Noise Chapter would still be applicable and due to the rule framework in the Noise Chapter, noise from a helicopter for a commercial activity

would either be a Restricted Discretionary Activity or Non-Complying. Noise from an aircraft would be assessed under NOISE-R1 because there are no other relevant rules in the Noise Chapter. This would allow Council to assess the noise effects associated with the use.

28. The Panel has correctly identified that NOISE-R9 provides for noise from agricultural aviation and NOISE-R10 for noise from helicopters used for other purposes. Both rules apply to all zones.
29. Agricultural aviation in any zone other than General Rural or Rural Lifestyle would be a Non-complying activity. NOISE-R9 would also be triggered, and as the activity would most likely fail to comply with condition 1 which requires take-off and landing to be to/from a rural airstrip or helicopter landing area within the rural environment. Therefore, consent would also be required as a Discretionary activity under NOISE-R9.
30. For example, any person looking to undertake agricultural aviation in the Large Lot Residential Zone would require consent as a Non-Complying Activity in accordance with Rule LLRZ-R12 and consent as a Discretionary Activity in accordance with Rule NOISE-R9.
31. However, it could be clearer to just apply NOISE-R9 to the General Rural Zone and Rural Lifestyle Zone to reflect the more enabling pathway for agricultural aviation in those zones. If the Panel felt this was more appropriate I would not be opposed to such an amendment and have included the amendment in Appendix 1.
32. However, this would change the approach to providing for agricultural aviation activities associated with the Mandeville Aviation and Rail Precinct which is located within the Settlement Zone. As the Settlement Zone would no longer be referenced it would be appropriate to delete reference to the Mandeville Aviation and Rail Precinct in NOISE-R9(1) and adopt the same approach as for the Airport Zone. This has the effect of making noise from agricultural aviation more enabling in the Mandeville Aviation and Rail Precinct which I consider aligns better with the intent of that precinct which also enables aviation activities.
33. I also recommend that a similar amendment is made to NOISE-R10 in relation to the Mandeville Aviation and Rail Precinct given aviation activities more generally are enabled in the zone and without such an amendment activities may require a consent due to noise effects which is not the intention of the Precinct.
34. Furthermore, I recommend a minor correction to NOISE-R9 in relation to the Airport Zone part of the rule to clarify that there is no further consenting pathway trigger as there are no permitted activity conditions:
35. Therefore, I recommend the following amendment to NOISE-R9:

NOISE-R89 Noise from the take-off and landing of aircraft and helicopters used for agricultural aviation		
All Zones	Activity status: Permitted	Activity status where compliance is not achieved with:
General Rural Zone and Rural Lifestyle Zone	Where: 1. The take-off and/or landing is to and/or from a rural airstrip, a helicopter landing area located in the rural environment, or the Mandeville Aviation and Rail Precinct; 2. Take off and landings do not occur for more than 315 hours in any 12 month period;	NOISE-R79(1) to (4): Discretionary
	3. The rural airstrip or helicopter landing area is separated setback by at least 500m from any the notional boundary of a noise sensitive activity not located on the same a site not being serviced by the use of the airstrip; and 4. A record of take offs and landing times and dates is maintained by the landowner of the site where the rural airstrip and/or helicopter landing area is located and the record is made available to the Council upon request.	
Airport Zone and Mandeville Aviation and Rail Precinct	Activity status: Permitted	Activity status where compliance is not achieved with: N/A

Consistency of Terms

36. The Panel note that Agricultural Aviation is a subset of Aviation Activity as per the nesting tables in the Interpretation Chapter. The Panel note that GRUZ-R16, GRUZ-S9, RLZ-R6 and RLZ-S8 refer to Agricultural Aviation whilst AIRPZ-R1 refers to Aviation Activity.
37. The Airport Zone is intended to provide for a wider range of aviation activities given that is the fundamental purpose of the zone. In the General Rural Zone and Rural Lifestyle Zone the intention is to limit aviation activity to just agricultural aviation to recognise the specific purpose of that activity subset relative to rural production activities.
38. The definition of aviation activity is broad enough to capture agricultural aviation given its definition states:

Means the use of land and / or buildings for commercial and non-commercial activities associated with aircraft operation, maintenance, navigation and / or education, including: aircraft landing, take off and taxiing; airport freight, luggage and passenger facilities; airport navigational, control and safety equipment; aviation education, training and recreational facilities and activities; maintenance, servicing and manufacturing of aircrafts and associated parts; refuelling of aircrafts; warehouse and storage.

39. A similar approach is adopted throughout the PDP for other activities which also have sub-categories of activities (as detailed in the definitions nesting table in Chapter 2 – Interpretation).
40. For example, in some zones ‘commercial activities’ are permitted and based on the definition this would include a wide range of activities such as retail activities or food and beverage activities etc. Whereas in other zones it would not be appropriate to enable all

commercial activities (due to the character and purpose of the zone) yet, some sub-set commercial activities are appropriate and these are therefore specifically enabled.

41. A specific example is in the Town Centre Zone where 'commercial activities' are permitted as this aligns with the purpose of that zone, whereas in the Mixed Use Zone, more limited commercial activities (e.g. sub-set activities - office activities, retail activities (subject to limits)) are enabled so that the purpose of the Town Centre Zone is not undermined.
42. In relation to aviation activities – as noted above the definition is broad and includes a wide range of aviation related activities which are generally only appropriate to be enabled in limited locations – in this instance the Airport Zone and the Mandeville Aviation and Rail Precinct.
43. If the Panel is concerned that it may be unclear as to whether agricultural aviation is also permitted within the Airport Zone then a simple fix would be to add the words 'including agricultural aviation' to Rule AIRPZ-R1 as follows:

AIRPZ-R1 Aviation Activity (including agricultural aviation activity)

44. Otherwise, I do not recommend any other amendments as I consider the PDP is clear as to what is intended.
45. The Panel also notes that TEMP-R11 refers to 'aircraft and helicopter movements' whereas NOISE-R10 refers to take-off and landing. Further, "Aircraft landing, take off and taxiing" is part of the definition of Aviation Activity but there is no reference to "movements", although in the context of some rules referring to intensity of use then "movements" may be appropriate.
46. I acknowledge that the definition of aviation activity does not refer to 'movements' however, the term 'movement' is defined in the PDP as follows:

Means a single journey to or from a particular site that is either an arrival or departure but not both. A return journey equates to two movements.

47. The intent of TEMP-R11 is to control the number of movements to or from a site, this could be expressed as the number of 'take-off and landings', however, I prefer use of the word 'movement', given it is defined and also referred to within the body of the rule. I consider it a more concise expression than 'take-off and landing' and note that it is a consistent approach to how vehicle movements are captured within the Transport Chapter.
48. I note that the word 'movements' was not italicised in the rule header and have therefore recommended an amendment to correct this.
49. I do not consider it problematic that NOISE-R10 refers to 'take-off and landing' as opposed to movements. This is because in relation to 'noise' the PDP only controls noise in relation to take-off and landing, which is a part of a movement. I consider use of 'take-off and landing' avoids any ambiguity as to what part of the movement the noise provisions apply. As noted above the definition of 'movement' relates to an arrival or

departure. Whilst a take-off and/or landing could be considered an 'arrival or departure' it does not necessarily capture the specific point at which noise provisions are applicable, i.e. when a helicopter or aircraft begins its ascent to land or begins take-off.

50. A means of providing consistency and clarity but retaining the word movement, which I consider appropriate, could be to amend the header for TEMP-R11 as follows:

Aircraft and Helicopter Movements (take-offs and landings)

51. Therefore, the use of the phrase 'take off and landing' in NOISE-R9 makes it clear what action i.e. take off and landing is being controlled, rather than just the more general use of the word 'movement'. NOISE-R10 does not refer to take off and landing it refers only to TEMP-R11. I do not consider any further amendment to respond to this point necessary.
52. Overall, I consider the wording as proposed is sufficiently clear and I do not recommend any further amendments.
53. In response to the Panel's comments that *““Temporary events” is a subset of “temporary activities” and therefore both terms are not required in the same provision, as in NOISE-R11. The Panel also doubts “temporary events” is the correct term within the rule. Rather, “temporary activity” appears to be the necessary term.”*
54. The rationale for the 'temporary events' reference in the rule header was because the rule (as notified) only applied to temporary events and is referenced in Rule TEMP-R1 as being specifically relevant.
55. The proposed amendment to include reference to 'temporary activities' through the s42A recommendations was to allow for a cross reference to TEMP-R11. However, as I recommended an alternative approach through my response to Minute 24, the reference to 'temporary activities' should have been recommended to be deleted from the rule header, along with deletion of NOISE-R11(3) and the corresponding discretionary activity status – this was an oversight which I have now recommended is corrected in Appendix 1.
56. In relation to Rule NOISE-R11 I disagree that it would be incorrect to refer only to temporary events in the rule header given the cross over to TEMP-R1. In fact I consider it more appropriate that the rule only refer to temporary events to avoid any confusion that it applies to all temporary activities. Temporary activities more generally should be captured by NOISE-R1, for by another rule in the Noise Chapter such as Temporary Military Training Activities.

NOISE Note 2

57. The Panel has raised a concern that taking account of the legal advice provided in response to Minute 24 relating to the use and purpose of 'notes' in a district plan the exemptions provided for in Note 2 should be provided for as a permitted activity. The Panel notes a similar direction in relation to the Earthworks Chapter.

58. The use of exemptions in Note 2 was supported by a number of submitters as referenced at paragraphs 73-74, 78-80, 254-260 and 261-269 of the Section 42A report for Noise. However, whilst several submitters did seek amendments to specific exemptions (either to make the exemption broader, more clearly defined or provide an exemption for another activity) no submitter sought to have the exemptions formulated into permitted activity standards.
59. Therefore, in the first instance I do not consider there is scope to amend the exemptions to permitted activity rules.
60. Secondly, amending the Chapter to have all the exemptions as a permitted activity rule would become potentially confusing and unclear. The activities which are exempt from the rules are very specific and would not easily be translated into an 'activity'. Further including these as 'activities' may have unintended consequences for other parts of the PDP.
61. The intent with exemptions is that they are just that, wholly exempt from the rules and so there would be no opportunity for any triggering of resource consent requirements or application of the performance standards.
62. Notwithstanding the above, I acknowledge the reference to 'Note 2' potentially alters the status of the exemptions, given the legal advice provided by Ms Chadwick around use of advice notes. Therefore, I recommend an amendment to the Noise Chapter to remove the exemptions from Note 2 and place them under the Rules header. This is an approach adopted by other District Plans such as New Plymouth and Far North, as well as Timaru which includes the exemptions under NOISE-R1 (refer to Appendix 2). I prefer the approach adopted by New Plymouth and Far North, as I consider this approach makes it clear that none of the provisions apply rather than having the exemptions contained within the body of one rule.
63. The amendment I recommend is detailed in Appendix 1 and essentially results in a deletion of the exemptions from Note 2. As Note 2 retains reference to section 16 I have recommended an amendment to the Note header. I have then placed the exemptions (which are unchanged) under the 'Rule' header in the Chapter, with some minor amendments to the introductory wording to reflect the revised location of the exemptions:

Note 2	Noise sources exempt from specific rules and standards Section 16 of the RMA
	Noise associated with the following activities are not subject to the Rules and Standards of the Noise Chapter: 1. Any warning device, siren, ~~mobile equipment~~ or fixed plant used by emergency services during an emergency response or for routine testing and maintenance, including noise from helicopter take off and landings during an emergency response. This exemption does not apply to the noise generated at permanent emergency services depots or bases, such as fire stations, police stations or the base for emergency aircraft. 2. Volunteer fire brigade sirens. 3. Emergency helicopter landings and take-offs which are associated with the function of the hospital in terms of patient care. 4. Noise from vehicles on roads which are managed by a road controlling authority. 5. Trains on rail lines, including at railway yards, railway sidings or stations and level crossing warning devices. This exemption does not apply to the testing (when stationary), maintenance or unloading of trains, or trains on private sidings. 6. Overflying aircraft and noise from aircraft taking off and landing in the Airport Zone and Mandeville Aviation and Rail Precinct.

7. ~~Motorcraft operating on the surface of waterbodies.~~
8. ~~Noise from animals and birds associated with non-commercial activities on a site.~~
9. ~~Noise from vehicles, machinery or equipment undertaking agricultural, horticultural and pastoral activities in the rural environment, including noise from stock, other outdoor animals and working dogs, and audible bird scaring devices but excluding noise from stationary processing activities.~~
10. ~~Public firework displays.~~
11. ~~Noise from plantation forestry, which is managed under section 98 of the Resource Management (National Environment Standard for Plantation Forestry) Regulations 2017.~~

~~While the above noise sources are exempt from meeting the noise standards, any potential and actual adverse effects associated with the character, timing, duration or level of noise shall be considered for any discretionary or non-complying activity.~~

Section 16 of the RMA places a general duty on all operators and occupiers to adopt the *best practicable option* to ensure noise (including vibration) emitted from any site does not exceed a reasonable level. What constitutes a "reasonable level" is not prescribed by the RMA. However, the Rules and Standards of this chapter and the zone chapters are designed for the anticipated activities in each zone and may be used as a guide together with the relevant Objectives and Policies when considering whether the timing, duration, level and character of noise effects of activities that require resource consent will be reasonable.

Rules

The noise rules and standards do not apply to the noise generated by the following:

1. Any warning device, siren, mobile equipment or fixed plant used by emergency services during an emergency response or for routine testing and maintenance, including noise from helicopter take off and landings during an emergency response. This exemption does not apply to the noise generated at permanent emergency services depots or bases, such as fire stations, police stations or the base for emergency aircraft.
2. Volunteer fire brigade sirens.
3. Emergency helicopter landings and take offs which are associated with the function of the hospital in terms of patient care.
4. Noise from vehicles on roads which are managed by a road controlling authority.
5. Trains on rail lines, including at railway yards, railway sidings or stations and level crossing warning devices. This exemption does not apply to the testing (when stationary), maintenance or unloading of trains, or trains on private sidings.
6. Overflying aircraft and noise from aircraft taking-off and landing in the Airport Zone and Mandeville Aviation and Rail Precinct.
7. Motorcraft operating on the surface of waterbodies.
8. Noise from animals and birds associated with non-commercial activities on a site.
9. Noise from vehicles, machinery or equipment undertaking agricultural, horticultural and pastoral activities in the rural environment, including noise from stock, other outdoor animals and working dogs, and audible bird scaring devices but excluding noise from stationary processing activities.
10. Public firework displays.
11. Noise from plantation forestry, which is managed under section 98 of the Resource Management (National Environment Standard for Plantation Forestry) Regulations 2017.

While the above noise sources are exempt from meeting the noise standards, any potential and actual adverse effects associated with the character, timing, duration or level of noise may be considered for any discretionary or non-complying activity.

64. I do not consider there to be any inconsistency with the approach adopted by Ms Carlson-McColl in her response to Minute 27 and the Earthworks Chapter. I consider there to be differences between the two sets of exemptions, structure of the Chapters and general provisions. Further, as noted above, I do not consider there is scope within the submissions for re-drafting the chapter, as proposed by Ms Carlson-McColl in relation to the Earthworks Chapter.
65. In relation to noise, as can be seen in the examples provided in Appendix 2, it is a reasonably standard approach to provide exemptions for very specific activities which generate noise. Further, the approach of provide exemptions is also consistent with the Operative District Plan and was considered appropriate by Styles Group in their assessments of the draft and proposed Noise Chapter prior to notification¹.
66. As noted in the response to Minute 27, section 9(3) of the Act specifies that no person may use land in a manner that contravenes a district rule unless the use is expressly allowed by a resource consent or is subject to existing use rights. This essentially means that a land use activity is permitted unless a rule in the district plan restricts it. In relation

¹ Noise Chapter Review – Gore Proposed District Plan, 2 August 2023, Styles Group, Section 4.0, page 9 "it is common for District Plans to identify a list of specific noise generating activities that are excluded from the need to comply with the maximum permitted noise levels...."

to the Noise Chapter, there are rules which provide for specific activities and a general catch all rule (NOISE-R1) which enables all other activities subject to compliance with NOISE-S1 and NOISE-S2. NOISE-S1 and NOISE-S2 contain maximum noise levels for different zones based on their character and purpose.

67. In her response to Minute 27, Ms Carlson-McColl considers that *“most of the specified activities could instead be managed by the general earthworks “catch-all” rule EW-R14, and many would likely be permitted under this rule.”*
68. In contrast, many of the activities exempted from compliance with the Noise Chapter may not comply with the catch all rule NOISE-R1, due to the requirement to comply with NOISE-S1 and NOISE-S2.
69. Furthermore, many of the exemption activities are actually smaller sub-parts of a different activity and there are specific reasons why an exemption, rather than a permitted standard is more appropriate.
70. For example, the Noise Chapter specifies that *“noise from animals and birds associated with non-commercial activities on a site”* are exempt from the rules and standards. Animals may be kept as domestic pets, which would be a ‘non-commercial activity’. This is really an undefined activity but may typically be part of a residential or recreational activity. Trying to express this as part of a permitted activity rule would be challenging. Farm animals may also be kept on a rural or rural lifestyle block for non-commercial activities, such as goats and sheep to control grass and weeds. Overall, it would be very difficult to define this as a specific permitted ‘activity’ and there is a risk that if it were to be defined as an activity there are resultant knock on effects for provisions in zone chapters.
71. Finally, the exemptions also relate to activities where noise is regulated and controlled by other means outside the PDP. For example, noise from plantation forestry which is managed under the NES for Plantation Forestry or noise from aircraft flying overhead which is managed by civil aviation.
72. For these reasons I do not recommend providing for the exemptions as a permitted activity. Instead, I recommend the amendments detailed above.

Helicopters associated with construction work

73. I have consulted with Mr Styles in relation to the application of NZS6803:1999 and NZS6807:1994 in relation to use of helicopters for construction activities.
74. Mr Styles has advised that NZS6803:1999 covers anything associated with construction activities and this would include use of helicopters specifically for the purposes of construction i.e. using a helicopter to lift materials etc. However, it would not cover the noise associated with a helicopter leaving its base to go to undertake a construction activity.
75. Mr Styles has confirmed that NZS6807:1994 does not mention construction activities but C1.1 of the standard states:

“In general, this standard is not intended to apply to infrequently used helicopter landing areas, or to emergency operations such as search and rescue missions (and training for emergencies). Any application of the Standard to emergency operations should be determined by consultation between the airport operator, the territorial authority and other interested parties.”

76. As the use of helicopters as part of a construction activity would be infrequent (i.e. a helicopter may be used for a short duration to lift construction materials) the standard would not apply, instead NZS6803:1999 would be applicable.
77. Advice note 2 of NOISE-R2 states that *“the measurement and assessment period for construction activity noise is 30 minutes. No adjustment for duration or averaging shall be applied”*. The approach is based on NZS6803:1999 which states:

“Sound from construction work is usually highly variable. Therefore care must be taken to ensure that the measurements are representative of the sounds under investigation. The time of day for measurement and the measurement sample time should relate to the duration and characteristics of the sound based on observation of common construction activities at the site under investigation.

NOTE – The measurement sample time should not exceed 1 hour and 15 minutes will often be adequate.”

78. Mr Styles advised that on the basis of the 1 hour maximum and suggestion of 15 minutes potentially being adequate a middle ground approach is typically adopted in district plan advice notes, hence the reference to 30 minutes. Mr Styles did not consider it problematic that helicopter noise would be measured against this standard noting that the noise measurement only relates to take off and landing in relation to the actual use for construction activities, noise from the helicopter which is not part of the take-off and landing or is for travel to and from a construction site would not be captured by NOISE-R2.
79. Accordingly, neither Mr Styles nor myself have any concerns with the reference to noise from helicopters used for construction activities being captured under NOISE-R2. However, we have identified that the advice note could be strengthened to make it clear that it is only noise which is directly related to the construction activity that falls under NOISE-R2 and that the noise should be measured in accordance with NZS6803:1999 rather than NZS6807:1994.
80. Therefore, taking account of the above I recommend that Note 3 for NOISE-R2 is amended as follows:

Noise from helicopters ~~associated with~~ used as part of construction work activities, for example lifting of construction and building materials, is provided for by NOISE-R2. Noise from helicopters used in construction activities is measured in accordance with NZS6803:1999

81. The Hearing Panel has also identified an inconsistency with the use of the terms “construction activities” and “construction work”. As construction activity is a defined

term and the rule headers for NOISE-R2 and NOISE-R3 refer to 'construction activities' I recommend that Note 3 for NOISE-R2 is amended as detailed above to refer to 'construction activities' as opposed to construction work to avoid any confusion.

Rule NOISE-R10

82. I acknowledge some issues with regard to version control and amendments to this rule between the first and second responses to Minute 24.
83. Having carefully considered how the PDP will function as a whole, in relation to aircraft and helicopter movements, I note the following in relation to the notified PDP and recommended amendments to the PDP to date:
- a. Aircraft and helicopter movements associated with agricultural aviation are permitted (subject to limits) in the GRUZ and RLZ.
 - b. Noise associated with aircraft and helicopter movements associated with agricultural aviation is permitted (subject to limits as outlined in NOISE-R9) in all zones (now recommended to be amended to GRUZ and RLZ only) and without limit in the Airport Zone and Mandeville Aviation and Rail Precinct.
 - c. Aircraft and helicopter movements for any activity are provided for, subject to limits, or for certain activities without limits, in the Temporary Activity Chapter.
 - d. Noise associated with helicopters used for any activities is permitted if the Temporary Activity rule relating to aircraft and helicopter movements is met. Otherwise, noise from helicopters trips to Restricted Discretionary under NOISE-R10(2) and if the conditions of NOISE-R10(2) are not met the activity status is non-complying.
 - e. Noise from aircrafts not associated with agricultural aviation would be covered by NOISE-R1 as aircraft noise (other than for agricultural aviation) is not provided for by another rule in the Noise Chapter.
84. I acknowledge that TEMP-R11 provides for aircraft as well as helicopters, however, NOISE-R10 only applies to helicopters. Whilst this does create a discrepancy between the two rules. However, NOISE-R10 is intentionally only applicable to helicopters which have their own New Zealand Standard and have different noise effects than aircraft.
85. I considered amending NOISE-R10 to include aircraft, however, this would result in noise from aircraft which were not permitted under TEMP-R11 or for agricultural aviation being non-complying because NOISE-R10(2) only applies to helicopters and is not appropriate to apply these conditions to aircraft because they relate to NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.
86. It is therefore more appropriate that aircraft noise (other than agricultural aviation) is captured by NOISE-R1, which would be the case if it is not provided for in any other rule. This will allow application of NOISE-S1 and NOISE-S2 and if compliance with those standards is achieved, which I am advised by Mr Michelle may be possible, then the

noise would be permitted. Otherwise, consent would be required as a Restricted Discretionary Activity, which I consider a more appropriate consent pathway.

87. Therefore, other than to correct some technical amendments to numbering and to enable noise from helicopters in the Mandeville Aviation and Rail Precinct as a permitted activity without limits I do not recommend any further amendments to NOISE-R10. The amendments are provided in Appendix 1.
88. It should also be noted that exemption (6) provides that noise from aircraft taking-off and landing to and from the Airport Zone and Mandeville Aviation and Rail Precinct is exempt from the chapter provisions.

RULE NOISE-R11

89. The reference in paragraph 11(d) of my second response to Minute 24 related to deleting the cross reference from NOISE-R11 to TEMP-R11. This amendment is recommended as a consequential change associated with the amendments to NOISE-R10.
90. Essentially, I recommended an alternative approach providing a permitted pathway for noise from helicopter and aircraft movements permitted by TEMP-R11.
91. I had initially considered that providing the permitted pathway in NOISE-R11 would be appropriate. However, following further consideration it became clear that the provisions in NOISE-R10 were somewhat redundant given TEMP-R11 provided for movement limits. Further, the advice from Mr Styles was that if there is a clear limit on movements as per TEMP-R11 the restrictions in relation to setbacks for helicopter landing areas are not needed.
92. Therefore, as NOISE-R10 provisions were amended to permit noise from helicopter and aircraft movements permitted by TEMP-R11 the reference to TEMP-R11 in NOISE-R11 is no longer required and as such I recommend it be deleted.
93. I continue to make this recommendation, although I note there should also have been amendments to the rule header and matters of discretion. These amendments are now recommended as follows:

NOISE-R101 Noise from Temporary Events and Temporary Activities		
All zones	Activity status: Permitted	Activity status where compliance is not achieved with NOISE-R11(1) and (2):
	Where: 1. The Noise level arising from any temporary event shall not exceed: (a) 8am to 10pm - 75dB L ₉₀ (5min) (b) 10pm 31 December to 1am 1 January - 75dB L _{Aeq} (5min) When measured and assessed: (i) At or within the notional boundary of any other site in the General Rural Zone, Rural Lifestyle Zone, Settlement Zone, Large Lot Residential Zone, General	Restricted Discretionary Matters of discretion: 1. Whether the noise levels are likely to cause alarm or adversely affect the character, Ngāi Tahu cultural values or amenity values of the location and adjacent activities. 2. Any mitigation of the noise proposed, in accordance with a best practicable option approach (e.g. site layout and design, design and location of structures, buildings and equipment and the

Residential Zone and Medium Density Residential Zone. (ii) 1m from any other <i>building</i> on another site in any other zone that is occupied during the <i>temporary event</i>. 2. At all other times, the noise limits for the receiving zone apply. ~~3. The temporary activity is permitted under TEMP-R11.~~ <i>Note: The measured noise level must comply with the stated noise limit for every 5-minute sample with no adjustment for special audible character or duration in accordance with NZS6802:2008</i>	timing of operations) recognising the temporary nature of the event. 3. The provision of a <i>noise</i> management plan that specifically identifies the likely <i>noise</i> impacts for the area and describes the measures required to avoid or mitigate these. 4. The programme for notification and communication with occupiers and owners of affected <i>sites</i> prior to the activities commencing. 5. The method for following up any complaints received during or after the event including communications with the Council. ~~Activity status where compliance is not achieved with NOISE R11(3):~~ <u>Discretionary</u>
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94. As noted elsewhere in this report there is no need for the rule header to refer to Temporary Activities given the deletion of clause 3 because the rule is focused on enabling noise associated with temporary events (which are specifically defined) rather than broader temporary activities.

Rule TEMP-R11

95. The Panel has raised a concern in relation to the activity status for TEMP-R11 where helicopter or aircraft movements do not comply with the permitted conditions.
96. Having reviewed TEMP-R11 and considered the purpose of the rule and the purpose of the Temporary Activities Chapter, I agree an amendment to TEMP-R11 would be appropriate to ensure consent was not sought under the rule for an activity which was not of a temporary nature.
97. I agree it would be appropriate to allow for non-compliance with TEMP-R11(1)(c) and 1(d) as a Restricted Discretionary Activity and have recommended this amendment.
98. However, in relation to the other conditions of TEMP-R11 I recommend that there is no activity status for non-compliance with the rule, rather the underlying zone rules apply. This is a comparable approach to TEMP-R3 and would allow for consideration of the use of helicopters and aircraft as part of the overall activity for which they are being used.
99. Elsewhere in this response I have provided detail of how the zone framework applies to aircraft and helicopter movements.
100. I therefore, recommend the following amendments:

Temp- R11	Aircraft and Helicopter Movements (take-offs and landings)
Activity Status: permitted Where: 1. Aircraft and helicopter movements for the purposes of: a. <u>emergency works management, including fire and rescue;</u> b. <u>military or law enforcement; or</u> c. <u>in relation to helicopters the maintenance, upgrade or installation of infrastructure associated with the National Grid where compliance with NOISE R910(3) there are no more than 10 movements per month</u> d. <u>temporary military training where there are no more than</u> i. <u>6 movements per day; and</u>	Activity status where compliance is not achieved with TEMP-R11(1)(c) and TEMP-R11(1)(d): <u>Restricted Discretionary</u> <u>Discretionary</u> Matters of discretion: 1. The extent and effect of the duration, hours and timing of the movements on the amenity values of the surrounding properties. 2. The extent of adverse effects arising from noise. 3. In relation to helicopters the matters of discretion for NOISE-R10.

Or ii. <u>30 movements per year</u> 2. <u>Movements from or to a site are undertaken on no more than 3 days (either consecutively or non-consecutively) over a 12 month period; and</u> 3. <u>Movements are only undertaken between the hours of 7am and 7pm</u> 4. <u>The site is not within the General Residential Zone or Medium Density Residential Zone.</u> <u>Note: For the purpose of TEMP-R11(2) a 'day' is counted where there is at least one movement although there is no limit on the number of movements which may be undertaken on that 'day' subject to compliance with TEMP-R11(3).</u>	Activity status where compliance is not achieved with TEMP-R11(1)(a), TEMP-R11(1)(b), TEMP-R11(2), TEMP-R11(3) and TEMP-R11(4): N/A <u>Note: Any aircraft and helicopter movements (take-offs and landings) which fails to meet TEMP-R11(1)(a), TEMP-R11(1)(b), TEMP-R11(2), TEMP-R11(3) and TEMP-R11(4) is subject to the rules of the relevant Zone.</u>
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101. I do not agree that it is necessary to provide rules relating to aircraft and helicopter movements in specific zones, for the reasons outlined elsewhere in this report. I consider this to be a cumbersome approach. Further, I am hesitant whether there is scope to make such an amendment.
102. I have researched the approach adopted in relation to aircraft and helicopter movements by other more recently drafted district plans and the district plans for surrounding Councils. The approaches are summarised below:

a. Proposed Selwyn District Plan (Appeals version)

- West Melton Aerodrome is enabled with a specified limit (60,000) aircraft movements per day
- The Temporary Activity Chapter enables aircraft and helicopter movements associated with emergency works, military or law enforcement and conservation activities otherwise the zone rules apply.
- In the General Rural Zone aircraft and helicopter movements are enabled where they are associated with primary production subject to limits on number of movements, location of airstrip and helicopter landing area and record keeping except where the movement is for an activity on the same site.
- The noise provisions do not apply to noise from aircraft and helicopters associated with the permitted temporary activities or associated with use for primary production as permitted in the GRUZ.
- In the Centre and General Industrial Zones airfields and helicopter landing areas are a non-complying activity. Some special purpose zones enable limited helicopter and aircraft movements, others require consent as a non-complying activity.

b. Proposed Timaru District Plan

- In the General Rural Zone use of airstrips and helicopter landing areas are permitted for limited purposes (emergency flights) and are subject to limits (setbacks and limited numbers of movements) in relation to use for primary production purposes.
- In the Māori Purpose Zone and Future Development Area use of airstrips and helicopter landing sites are a non-complying activity.

c. *Proposed New Plymouth District Plan (Appeals Version)*

- Emission of noise from helicopter landing area is permitted provided it complies with NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.
- The Airport zone enables aviation activities, and the hospital and port zones enable compatible helicopter facilities including take-off, landing and refuelling.

d. *Proposed Far North District Plan*

- Noise from helicopter landing areas is permitted if the flight movements are for emergency purposes and for all other purposes in any zone compliance with the relevant zone noise standards is achieved when assessed in accordance with NZS6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.
- The noise rules do not apply to cropping, top dressing and spraying for the purposes of farming or conservation zone carried out in the rural production and horticulture zones or an SNA subject to limits (30 days in any 12 month period).
- The Temporary Activity Chapter permits aircraft and helicopter movements for emergency services, military or conservation activities with the activity status being discretionary unless there is a zone rule permitting the activity.
- Two special purpose zones permit helicopter landing areas and their operation subject to limits on times and setbacks.

e. *Clutha District Plan*

- Provisions which relate to airports and the use of an airport for aircraft and helicopter movements for different purposes.

f. *Invercargill District Plan*

- Noise from aircrafts used for defence and emergencies are exempt from the noise limitations.
- There are designations for airport approaches and a specific Airport Operation and Airport Protection zone which enables aircraft activities and provides a buffer between noise sensitive activities and airport operations.

g. *Southland District Plan*

- Intermittent aircraft departures and landings that do not meet the RMA definition of airport are permitted in rural, residential and natural open space zones, subject to noise limits.

103. Overall, I consider the approach to managing noise from aircraft and helicopter movements recommended within the Gore PDP is reasonably consistent with other

District Plans approach (noting there is no one consistent approach between Plans) and provides an efficient and effective approach which provides an enabling framework for limited movements where they relate to key activities that provide important functions within the district.