

NELSON CITY COUNCIL

Nelson Resource Management Plan

Proposed Plan Change 16

Inner City Noise

Proposed Plan Amendments

Notification Date

7 September 2013

Submissions Close

5pm 4 October 2013



1.0 Introduction (not part of the formal Plan Change text)

1.1 Plan Change Vision

A vibrant night life and encouraging more people to live in our CBD both play an important part in keeping our young and young at heart living in and visiting our city. However some inner city attractions and activities can be noisy and some inner city dwellings were designed for quieter environments. People choosing to live in the CBD are much more likely to use the city and its restaurants, bars and clubs as their playground but they need to recognise that living in the CBD is likely to be noisier than living in the suburbs. There is much that the providers of inner city dwellings and the providers of entertainment can do to create a "liveable" inner city environment. If this is to happen we all need to take responsibility for managing noise; Council seeks to strike a balance between those who make the noise and those on the receiving end. We want to improve how noise is managed by supporting entertainment-makers, patrons and residents to make this city a great place to live, work and play.

1.2 Background and Explanation of Plan Change

This Plan Change consists of a number of parts as described below.

The background, context and resource management issues and options are contained in the Section 32 Documentation report (document 1243377) available from the Council, the public libraries, or on Council's website www.nelsoncitycouncil.co.nz. The current Operative Nelson Resource Management Plan (NRMP) can also be viewed at these locations.

1.3 Proposed Plan Change Description

The proposed Plan Change contains the following amendments to the Nelson Resource Management Plan.

Amendment 1: Introduce permitted activity requirements for new bedrooms (as defined in the Nelson Resource Management Plan for residential units), or new rooms intended to be used for sleeping in short term living accommodation units (hotels, motels etc) in the Inner City Zone to be acoustically insulated to reduce noise entering. This new rule is based on a similar rule that is currently used for houses near the Port where an acoustic engineer designs the building to achieve a specified reduction in sound level inside the building. It also incorporates the option to use specified minimum construction standards to achieve this reduction.

Amendment 2: Introduce a new rule requiring new or extended 'Noise Generating Activities' to apply for a resource consent with the requirement for a noise management plan addressing location, noise production and management, acoustic insulation and any mitigation measures proposed. This change includes a definition of 'Noise Generating Activities' which includes the assembly of people inside or outside for a commercial activity at night time and where amplified sound is being played. The definition allows activities to operate later on Friday and Saturday nights than during the week, and allows a low level of amplified sound to be played without the need for a resource consent.

Amendment 3: Plan provision retaining control over maximum noise level (L_{AFmax}) at night time. This provision is part of the current rule ICr.42 dealing with noise in the Inner City which is proposed to be removed under this Plan

Change (see Amendment 5 below). L_{AFmax} control at night time is an upper limit to single noise events which provides a level of certainty around the limits to a single 'spike' of sound. Note this does not act as a limit that a more continuous source of noise (such as music or an air conditioner unit) can generally operate to and be deemed to be reasonable and not excessive.

Amendment 4: Retain rule ICr.43 'Noise – at residential boundary' (with minor amendments). This Inner City Zone rule provides specific noise levels which cannot be exceeded when received within any site in the Residential Zone. The change involves minor amendments to the existing rule to better reflect the construction noise standard and to allow a change from NZS6801:1991 Measurement of Sound, and NZS6802:1991 Assessment of Environmental Sound to the 2008 versions of the same standards. In addition specific assessment criteria and explanations are added where these previously did not exist. The amendments also allow a broader set of construction activities to utilise the construction noise standard than is currently the case, but otherwise result in no change to the permitted noise levels heard in the Residential Zone.

Amendment 5: Utilise noise provisions of the Resource Management Act 1991 for enforcement of noise in the Inner City Zone, specifically Section 16 'Duty to avoid unreasonable noise' and Section 327 'Issue and effect of excessive noise direction'. This involves the removal of rule ICr.42 'Noise' which currently relies on the measurement of specific noise levels produced by an individual activity. The current rule resulted in enforcement difficulties and an Environment Court decision against Council's enforcement approach at the time.

Amendment 6: As a non-regulatory method ensure that Council officers continue to proactively engage with existing owners and operators to encourage noise management plans and other ways to actively reduce noise. Also provide access to guidance and information around noise production, management and reception in and around the Inner City.

Externally referenced documents: Within the Plan Change text relating to the amendments above Plan Change 16 also externally references three Standards New Zealand Standards:

- NZS 6801:2008 Acoustics – Measurement of environmental sound
- NZS 6802:2008 Acoustics – Environmental noise
- NZS 6803:1999 Acoustics – Construction noise

1.4 Format of the Plan Change provisions

For the ease of the reader the full text of provisions to be changed have been used in this document.

The reader should be aware that operative provisions and text that are not proposed to be changed are unable to be submitted upon.

Within this Plan Change:

- 'Normal' text applies to operative provisions and text which are to remain unchanged.
- 'Underline' text applies to proposed new provisions.
- '~~Strikethrough~~' text applies to operative provisions proposed to be deleted or amended as described.
- '*Italic*' text applies to instructions (therefore are non statutory).

2.0 Proposed Plan Change 16: Proposed Amendments to the Nelson Resource Management Plan (Statutory Provisions)

Amendment 1 – Acoustic insulation for any new bedrooms or rooms intended to be used for sleeping in short term living accommodation units in the Inner City

Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

<u>Item</u>	<u>Permitted</u>	<u>Controlled</u>	<u>Discretionary/Non-complying</u>
<u>ICr.43A</u> <u>Acoustic Insulation of Buildings</u>	<u>ICr.43A.1</u> Construction of new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units is permitted if: a) the new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units are acoustically insulated in accordance with Appendix 19 (AP19.3 Inner City Zone, Table 3), or b) the new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units are acoustically insulated to achieve a façade sound level difference of not less than 30dB $D_{2m,nT}+C_{tr}$, and has either ventilating windows open or minimum ventilation requirements as set down in Appendix 19 (AP19.3 Inner City Zone), and c) If option b) is used then prior to commencement of any construction or site works a certificate is obtained from a suitably qualified acoustic engineer to demonstrate that the building design complies with option b) above.	<u>ICr.43A.2</u> Not applicable	<u>ICr.43A.3</u> Activities that contravene a permitted condition are discretionary.

<u>Assessment Criteria</u>	<u>Explanation</u>
<u>ICr.43A.4</u> a) The location and orientation of the new Bedrooms or rooms intended to be used for	<u>ICr.43A.5</u> This rule proactively ensures that the new Bedrooms or rooms intended to be used for

<p><u>sleeping in Short Term Living Accommodation Units in relation to noise sources.</u></p> <p>b) <u>The likely exposure to the noise, the type of noise (volume, tone and audio frequency), and the duration of exposure.</u></p> <p>c) <u>The time of day or night the noise is likely to be experienced.</u></p> <p>d) <u>The measures proposed to be undertaken to ensure an appropriate sleeping noise environment is achieved.</u></p>	<p><u>sleeping in Short Term Living Accommodation Units in the Inner City Zone have acoustic insulation features designed into the building from the start to create reasonable sleeping environments. The rule operates in conjunction with other rules to manage noise in the city centre. It recognises that new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone, which is inherently a noisier environment than that generally experienced in the Residential Zone, should undertake some measures to protect against the adverse effects of noise.</u></p> <p><u>Two methods of achieving compliance with the rule are possible; one allows a developer or owner to select from a list of specified materials, and construction methods to use, whilst the second allows any material or construction style to be used (subject to the Building Code) but it must be certified by a suitably qualified acoustic engineer to achieve a specified level of noise reduction.</u></p>
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Amendments to contents page of Inner City Zone rule tables

Add

ICr.43A Acoustic Insulation of Buildings

Amendments to Appendix 19, AP19.2 Port Effects Control Overlay

AP19.2 Port Effects Control Overlay

AP19.2.i Acoustic insulation requirements for the Port Effects Control Overlay area included in the rules for the respective zones. However, no minimum construction requirements for habitable spaces (~~MW71A~~) are specified for the Port Effects Control Overlay. Instead the rules require certification from an acoustic engineer that the building design will achieve the required design noise level for that zone and, certification on completion of the works.

AP19.2.ii In addition, where the indoor design level cannot be achieved with ventilating windows open, the minimum ventilation requirements for habitable spaces require either:

- a) A mechanical system or mechanical ventilation system capable of:
- providing at least 15 air changes of outdoor air per hour in the principal living room of each building and give 5 air changes of outdoor air per hour in the other habitable spaces of each building, in each case with all external doors and windows of the building closed with the exception of such windows in non-habitable spaces that need to be ajar to provide air relief paths;
 - enabling the rate of airflow to be controlled across the range, from the maximum airflow capacity down to 0.5 air changes (plus or minus .01) of outdoor air per hour in all habitable spaces;
 - limiting internal air pressure to not more than 30 Pascals above ambient air pressure;
 - being individually switched on and off by the building occupants, in the case of each system; and

- creating no more than 40 dBA $L_{eq(15 \text{ min})}$ in the principal living room, no more than 30 dBA $L_{eq(15 \text{ min})}$ in the other habitable spaces, and no more than 50 dBA $L_{eq(15 \text{ min})}$ in any hallway, in each building. Noise levels from the mechanical system(s) shall be measured at least one meter away from any diffuser.

Note: This is the ventilation option provided for by the Port Noise Mitigation Plan. In the event that qualifying residents opt for the following (more expensive) air conditioning option (option b), those residents shall be required to pay the difference.

or:

b) Air conditioning plus mechanical outdoor air ventilation capable of:

- providing internal temperatures in habitable spaces not greater than 25 degrees Celsius at 5% ambient design conditions as published by the National Institute of Water & Atmosphere Research ("NIWA) (NIWA ,Design Temperatures for Air Conditioning (degrees Celsius), Data Period 1991-2000), with all external doors and windows of the habitable spaces closed;
- providing 0.5 air changes (plus or minus 0.1) of outdoor air per hour in all habitable spaces;
- each of the air conditioning and mechanical ventilation systems shall be capable of being individually switched on and off by the building occupants; and
- creating no more than 40 dBA $L_{eq(15 \text{ min})}$ in the principal living room, no more than 30 dBA $L_{eq(15 \text{ min})}$ in the other habitable spaces, and no more than 40 dBA $L_{eq(15 \text{ min})}$ in any hallway, in each building. Noise levels from the mechanical system(s) shall be measured at least one metre away from any diffuser.

and:

c) a mechanical kitchen extractor fan ducted directly to the outside to serve any cooking hob, if such an extractor fan is not already installed and in sound working order.

AP19.2.iii A single Residential Unit may contain a combination of the ventilation options a) and b) set out above to achieve the most practicable and cost effective approach. As an example it may be best for the principal living room to comply with option b) whilst the other habitable spaces may comply with option a).

AP19.3 Inner City Zone

AP19.3.i Acoustic insulation requirements for the Inner City Zone are included in the rule ICr.43A 'Acoustic Insulations of Buildings. Under this rule a choice can be made between minimum construction requirements or having the acoustic insulation specifically designed for the proposed development. When designing acoustic insulation the rule requires certification from an acoustic engineer that the building design will achieve the required design noise level.

AP19.3.ii This appendix sets out the minimum ventilation requirements for new Bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone where the indoor design level cannot be achieved with ventilating windows open. These require either:

- a) A mechanical system or mechanical ventilation system capable of:
- 5 air changes of outdoor air per hour in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units. In each case with all external doors and windows of the building closed with the exception of such windows in non-habitable spaces that need to be ajar to provide air relief paths;
 - enabling the rate of airflow to be controlled across the range, from the maximum airflow capacity down to 0.5 air changes (plus or minus 0.1) of outdoor air per hour in all new

bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units;

- limiting internal air pressure to not more than 30 Pascals above ambient air pressure;
- being individually switched on and off by the building occupants, in the case of each system; and
- creating no more than 30 dBA $L_{eq(15\ min)}$ in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units. Noise levels from the mechanical system(s) shall be measured at least one metre away from any diffuser.

or:

b) Air conditioning plus mechanical outdoor air ventilation capable of:

- providing internal temperatures in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units, not greater than 25 degrees Celsius at 5% ambient design conditions as published by the National Institute of Water & Atmosphere Research (“NIWA”) (NIWA ,Design Temperatures for Air Conditioning (degrees Celsius), Data Period 1991-2000), with all external doors and windows of the new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units, closed;
- providing 0.5 air changes (plus or minus 0.1) of outdoor air per hour in all new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units;
- each of the air conditioning and mechanical ventilation systems shall be capable of being individually switched on and off by the building occupants; and
- creating no more than 30 dBA $L_{eq(15\ min)}$ in new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units. Noise levels from the mechanical system(s) shall be measured at least one metre away from any diffuser.

AP19.3.iii Individual rooms in a single Residential Unit or Short Term Living Accommodation Unit may contain a combination of the ventilation options a) and b) set out above to achieve the most practicable and cost effective approach.

AP19.3.iv The minimum measures identified in Table 3 below are one of two ways of demonstrating permitted activity status for acoustic insulation of new Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone. See rule ICr.43A ‘Acoustic Insulation of Buildings’.

table 3: acoustic insulation of new Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone

<u>Building Element</u>	<u>Required Construction</u>
<u>Walls</u>	<u>Exterior: 20mm timber weatherboards</u> <u>or 2 x 6mm fibre cement</u> <u>or 1 x 9mm compressed fibre cement</u> <u>Frame: nominal 100mm with acoustic blanket</u> <u>Interior: 3 x 13mm high density gypsum plasterboard for top floor</u> <u>Bedrooms and rooms intended to be used for sleeping in</u> <u>Short Term Living Accommodation Units</u> <u>2 x 13mm high density gypsum plasterboard for mid-level</u> <u>Bedrooms and rooms intended to be used for sleeping in</u> <u>Short Term Living Accommodation Units</u> <u>Or: 190 series concrete blocks (minimum every 4th core filled)</u> <u>Or: 100mm thick pre cast concrete slabs</u> <u>Or: Solid clay brick veneer (minimum 70mm thick) with standard</u> <u>internal framing and plasterboard lining.</u>
<u>Windows</u>	<u>Minimum 17mm thick laminated glass for top floor Bedrooms and rooms</u> <u>intended to be used for sleeping in Short Term Living</u> <u>Accommodation Units</u>

	<u>Minimum 13mm thick laminated glass for mid-level Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units</u> <u>Or: Double glazed unit with 10mm and 6mm panes, separated by a minimum 50mm air gap.</u>
<u>Roof</u>	<u>Top floor only, not needed for mid-level Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units</u> <u>Cladding: 0.5mm profiled steel or tiles or 6mm corrugated fibre cement</u> <u>Frame: Timber truss with acoustic blanket</u> <u>Ceiling: 3 x 13mm high density gypsum plasterboard</u>
<u>External Door</u>	<u>Hinged solid core door of at least 40kg/m² with airtight seals (or if glazed, as per window requirements). Sliding doors are not suitable.</u>
<u>Internal Door</u>	<u>Internal doors to new bedrooms or rooms intended to be used for sleeping in Short Term Living Accommodation Units shall be hinged solid core of at least 16kg/m².</u>
<u>Ventilation</u>	<u>The indoor design sound level shall be achieved with windows and doors shut. This requires the use of minimum ventilation requirements as set out in Appendix 19.3 Inner City Zone.</u>

Acoustic Blanket: 75mm of acoustically absorbent material with minimum area density of 580g/m², such as fibreglass, rockwool, polyester or wool. Thermal insulation such as R1.8 is also suitable.

High Density Plasterboard: Gypsum Plasterboard of minimum density 960kg/m³.

Amendment 2 – New Noise Generating Activities required to apply for resource consent including noise management requirements up front

Include a new definition in Chapter Two Meanings of Words to the Nelson Resource Management Plan

Noise Generating Activity

is an activity that takes place at a site or building located in the Inner City Zone, involving:

- the assembly of people within a building for a commercial activity involving the playing of amplified sound (from a sound system with greater than 100W output) between the hours of 11:00pm and 7:00am Sunday to Thursday nights, and for the nights of Friday, Saturday, Christmas Eve and New Year’s Eve 1:00am and 7:00am, or
- the assembly of people in an outdoor area (i.e. an area that is outside of the main part of the building such as garden bars, outdoor dining and smoking areas) associated with a commercial activity between the hours of 11:00pm and 7:00am Sunday to Thursday nights, and for the nights of Friday, Saturday, Christmas Eve and New Year’s Eve 1:00am and 7:00am, and
- temporary events occurring no more than once per year in any one site or building are excluded from this definition. Noise from these events is still required to take account of Section 16 and 327 of the RMA, and rule ICr.42B and Appendix 13 of this Plan.

Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

<u>Item</u>	<u>Permitted</u>	<u>Controlled</u>	<u>Discretionary/Non-complying</u>
<u>ICr.42A Noise Generating Activities</u>	<u>ICr.42A.1</u> The establishment or extension of a ‘noise generating activity’ is not a permitted activity. For the purposes of this rule ‘extension’ is defined as any alteration or change which: a) _____ results in a 10% or greater increase in permitted patrons, or b) _____ any increase in operating hours, or c) _____ results in an outdoor area accessible to patrons which is new, has a different location, or is increased in size by 10% or more.	<u>ICr.42A.2</u> Not applicable	<u>ICr.42A.3</u> The establishment or extension of a ‘noise generating activity’ is a discretionary activity if a noise management plan is provided in accordance with the provisions of Appendix 13.1 Noise Generating Activities.

<u>Assessment Criteria</u>	<u>Explanation</u>
<u>ICr.42A.4</u> a) _____ the suitability of the site, the activity on the site and in any outdoor areas, having regard to its location, and the proximity of residential or other noise-sensitive activities. b) _____ expected hours of operation and type of	<u>ICr.42A.5</u> Before a Noise Generating Activity establishes or extends in the Inner City Centre a resource consent is required to assess the suitability of the site and specific proposal in terms of management and reduction of noise at source. Conditions can be imposed as appropriate to

<p>noise expected to be generated.</p> <p>c) <u>The adequacy of measures to manage or reduced noise at source, including the provisions of a Noise Management Plan in accordance with Appendix 13.</u></p>	<p><u>maintain an acceptable level of noise generation for the Inner City (see policies IC4.2, IC4.3 and IC5.2 in particular). In addition to this rule, rules ICr.42, ICr.42B and the relevant sections of the Resource Management Act 1991 apply to the ongoing operation of the activity and to existing activities already established.</u></p> <p><u>The permitted activity standard includes a definition of extension based on there being a 10% or greater increase in permitted patrons. The number of permitted patrons in a building is determined through the Building Codes fire safety provisions (Clause 'C'). Any changes which will result in a 'change of use' must be advised to the Territorial Authority for consideration under the Building Code.</u></p>
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Amendments to contents page of Inner City Zone rule tables

Add

ICr.42A Noise Generating Activities

Add new paragraph to ICr.46.5 Explanation

Rule ICr.42A 'Noise Generating Activities' may also be applicable to activities considered under rule ICr.46. See definition of 'Noise Generating Activity' in Chapter Two 'Meanings of Words' and rule ICr.42A.

Add a new appendix to the Nelson Resource Management Plan

appendix 13

Inner City Zone: Noise Management Plans and assessment of unreasonable and excessive noise

AP13 Overview

Relating to rule ICr.42A this appendix prescribes the matters that shall be included in the Noise Management Plans for new and extended Noise Generating Activities. The overall intent of a Noise Management Plan is that the best practicable option is undertaken to ensure that the emission of noise from a site does not exceed a reasonable level.

Relating to rule ICr.42B this appendix sets out aspects which may help form an opinion for assessment of unreasonable and excessive noise as it relates to noise produced within the Inner City Zone (City Centre and City Fringe, including the Intense Development Area).

AP13.1 Noise Generating Activities

AP13.1.1 Minimum Noise Management Plan Provisions

AP13.1.1.i The Noise Management Plan required under Rule ICr.42A shall be prepared by a professional acoustic engineer and shall, at a minimum, contain the following:

- a) The intended outcomes of the Noise Management Plan, including the design noise level to be received outside of the building and site.
- b) A description of the premises including details of walls, roof, cladding, door openings and windows, ventilation, site layout, outdoor areas and any acoustic insulation that has been, or will be, installed, and a description of how these assist to reduce noise levels and meet the design noise level specified above.
- c) A description of the surrounding land uses and in particular residential or short term living accommodation units, including a description of the existing sound environment in the area.
- d) A description of all noise generating activities carried out in the premises or on the site.
- e) A floor plan of the premises, including outdoor areas, with the noise sources marked on it.
- f) The hours of operation of the noise generating activities.
- g) The specifications of the sound systems and any mechanisms to govern the maximum noise output.
- h) Details of any noise data that has been recorded, and any noise modelling; noise monitoring; auditing and reporting procedures, including methods used.
- i) Any methods proposed to manage noise produced by patrons, including either leaving the venue, or queuing for entry.
- j) The name and contact details of the manager responsible for noise generating activities in the premises.
- k) Complaint handling and recording procedures, and
- l) Procedures for achieving noise reduction through operational procedures and staff training.

AP13.1.2 Minimum Monitoring and Reporting Requirements

AP13.1.2.i The minimum monitoring and reporting requirements on any approved consent and associated Noise Management Plan are as follows:

- a) A inventory shall be kept of all noise sources at the premises, and
- b) Copies of the Noise Management Plan and the inventory required above are to be held at the premises and made available to Council staff as and when requested.

AP13.1.3 Measurement of Noise

AP13.1.3.i The measurement of noise is to be in accordance with NZS 6801: 2008 and 6802: 2008

AP13.2 Assessment of unreasonable and excessive noise

AP13.2.1 Noise assessment criteria

AP13.2.1.i Nelson City Council, for the purposes of assessing compliance with permitted activity conditions, relevant resource consent conditions, and sections 16(1), or in forming an opinion under 327(1) of the Resource Management Act will

generally take into account the following matters when determining whether or not noise is unreasonable or excessive:

- i) the **frequency** (number of events) of noise emission, and
- ii) the **intensity** of the noise, as indicated by volume, tone, and audio frequency and the degree of disturbance, and
- iii) the **duration** of each noise event, and
- iv) the **nature** of the noise, and
- v) the **location and timing** of the noise, having regard to the time of day or night and the sensitivity (including reverse sensitivity) of the receiving environment.

AP13.2.1.ii Assessment may also consider the following matters.

- a) Other noise complaints or events relating to emissions from the same location which have been found to be unreasonable or excessive, including what remedial action has previously been undertaken.
- b) Where possible and relevant, noise level measurements from a calibrated noise meter to determine actual noise level.
- c) Information regarding the effectiveness of any noise management plan, or on site noise management.
- d) Whether the best practicable option is being undertaken to ensure noise produced does not exceed a reasonable level.

AP13.2.2 Construction Noise

AP13.2.2.i Construction activity by necessity can produce higher levels of noise than would be expected, or be deemed reasonable, from other activities. In recognition of this Standards New Zealand have produced NZS 6803:1999 Acoustics – Construction Noise. In assessing construction noise produced in the Inner City Zone Nelson City Council will use this standard, in addition to the points outlined in AP13.2.1.i and AP13.2.1.ii, as a guide to the reasonableness of the construction noise produced.

AP13.2.2.ii Separately to this appendix rule ICr.43 provides that the provisions of NZS 6803:1999 Acoustics – Construction Noise apply to construction noise received in the Residential Zone.

Amendment 3 – Plan provision retaining control over maximum noise level (L_{AFmax}) at night time.

Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

Item	Permitted	Controlled	Discretionary/Non-complying
ICr.42 Maximum Night Time Noise	<p><u>ICr.42.1</u> Noise measured 1 metre from the façade of any Residential Unit or Short Term Living Accommodation Unit shall not exceed the following maximum noise levels during the hours 10:00pm to 7:00am:</p> <p>75 dB L_{AFmax}</p> <p>All measurements and assessment shall be in accordance with NZS6801:2008 and NZS6802:2008.</p>	<p><u>ICr.42.2</u> Not Applicable</p>	<p><u>ICr.42.3</u> Activities that contravene a permitted condition are discretionary.</p>

Assessment Criteria	Explanation
<p><u>ICr.42.4</u> a) The length of time, number of times, or the level by which, the noise standards will be exceeded at night, and the likely disturbance that may cause. b) The nature and location of nearby activities and the effects they may experience, particularly the night time effects on occupants of Residential Units and Short Term Living Accommodation within the Inner City and neighbouring zones. c) Whether the noise is likely to detract from the amenity sought for the Inner City and Residential Zones.</p>	<p><u>ICr.42.5</u> L_{AFmax} control at night time provides an upper limit to single noise events which provides a level of certainty around the limits to a single ‘spike’ of sound. Note this does not act as a limit that a more continuous source of noise can generally operate to and be deemed to be reasonable and not excessive.</p> <p>In addition to controls on maximum noise; noise will be controlled by Council officers under the relevant sections of the Resource Management Act for unreasonable and excessive noise. See rule ICr.42B (General Noise Emission) for information and guidance on this process. As a pro-active measure, Council officers will also offer information and advice to noise producers on ways in which they can reduce and control their emission of noise.</p>

Amendments to contents page of Inner City Zone rule tables

Add

ICr.42 Maximum Night time Noise

Amendment 4 – Retain and Amend Existing Rule ICr.43 Noise at Residential Boundary

Amend rule ICr.43 Noise at residential boundary and associated assessment criteria and explanation in the Inner City Zone (City Centre and City Fringe areas) as follows:

Item	Permitted	Controlled	Discretionary/Non-complying
<p>ICr.43 <u>Noise received at sites in the Residential Zone</u> At residential boundary</p>	<p>ICr.43.1</p> <p>a) Noise levels measured at any site within a Residential Zone must not exceed:</p> <p style="padding-left: 20px;">Daytime: — L10:55dBA <u>53 dB L_{Aeq}</u></p> <p style="padding-left: 20px;">Other times: — L10:45dBA — L_{max}: 75 dBA <u>43 dB L_{Aeq}</u> <u>75 dB L_{AFmax}</u></p> <p style="padding-left: 40px;">(Daytime means 7am to 10pm Monday to Friday, and 9am to 10pm Saturdays, Sundays and Public Holidays).</p> <p>b) All measurements and assessment in accordance with <u>NZS6801:1994 2008</u> and <u>NZS6802:1994 2008</u>.</p> <p>c) Parts a) and b) of this rule do not apply to <u>construction building and demolition</u> activities, which, when assessed at, or within, any site within the Residential Zone, must comply with the provisions of NZS6803P:1984 'The measurement of Noise from Construction, Maintenance and Demolition' <u>NZS6803:1999 'Acoustics - Construction Noise'</u>.</p>	<p>ICr.43.2</p> <p>Not Applicable</p>	<p>ICr.43.3</p> <p>Activities that contravene a permitted condition are non-complying.</p>

<u>Assessment Criteria</u>	<u>Explanation</u>
<p>ICr.43.4</p> <p>As for ICr.42.4</p> <p>a) <u>The length of time, number of times, time of day or night, or the level by which, the noise standards will be exceeded, and the likely disturbance that may cause.</u></p> <p>b) <u>The nature and location of nearby activities and the effects they may experience, particularly the</u></p>	<p>ICr.43.5</p> <p>As for ICr.42.5</p> <p><u>The rule is to prevent unreasonable levels of noise affecting properties in the Residential Zone. When compared to the Inner City Zone it is expected there will be a higher standard of residential amenity, and particularly a night time environment conducive to</u></p>

<p><u>night time effects on occupants of residential units and Short Term Living Accommodation within the Inner City and neighbouring zones.</u></p> <p>c) <u>Whether the noise is likely to detract from the amenity sought for the Residential Zone.</u></p>	<p><u>sleeping.</u></p> <p><u>This recognises the greater sensitivity of the Residential Zone, the generally lower ambient noise levels, and that noise has a major influence on residential amenity. For this reason any proposal for noise in excess of the permitted standard will be assessed as a non-complying activity where it affects the Residential Zone.</u></p>
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Amendments to contents page of Inner City Zone rule tables

Amend

ICr.43 Noise received at sites in the Residential Zone ~~at residential boundary~~

Amendment 5 - Remove Existing Noise Rule ICr.42 and Enforce Noise using provisions of the RMA

Delete existing rule ICr.42 Noise and associated, assessment criteria and explanation from Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

<p>ICr.42 Noise</p>	<p>ICr.42.1 a) — Noise levels measured at, or as close as practicable to, the boundary of any site must not exceed: Day Time (7am to 10pm) L 10: 65 dBA Other Times L10: 55 dBA Lmax: 75 dBA b) — All measurements and assessment in accordance with NZS6801:1991 and NZS6802:1991.</p>	<p>ICr.42.2 not applicable</p>	<p>ICr.42.3 Activities that contravene a permitted condition are discretionary.</p>
<p>ICr.42.4 a) — the length of time, and the level by which, the noise standards will be exceeded, particularly at night, and the likely disturbance that may cause. b) — the nature and location of nearby activities and the effects they may experience, particularly the night time effects on residential units within the Inner City, and neighbouring zones. c) — whether the noise is likely to detract from the general environmental quality being proposed for the City Fringe or City Centre, or the amenity of the Residential Zone. d) — the effectiveness of, and in particular the certainty provided by, any conditions or controls that might be imposed on the activity.</p>	<p>ICr.42.5 The rule is to prevent unreasonable levels of noise affecting neighbouring properties. Different levels are specified for noise received in the Inner City Zone, compared to a residential area. This recognises the greater sensitivity of areas containing dwellings and generally lower ambient levels. Noise has a major influence on the amenity of an area. For this reason any proposal for noise in excess of the permitted standard will be assessed as a non-complying activity where it affects a Residential Zone. NZS 6801:1991 is New Zealand Standard (Measurement of Sound). NZS 6802:1991 is New Zealand Standard (Assessment of Environmental Sound).</p>		

Add a new rule, assessment criteria and explanation to Inner City Zone (City Centre and City Fringe areas) of the Nelson Resource Management Plan

Item	Rule
<u>ICr.42B</u> <u>General Noise</u> <u>Emission</u>	<u>ICr.42B.1</u> <u>Noise produced within the Inner City Zone (City Centre and City Fringe, including the Intense Development Area) must comply with the following general conditions:</u> <u>a) not exceed a reasonable level under s16 of the RMA 1991</u> <u>b) not be determined to be ‘excessive noise’ under s327 (1) of the RMA 1991.</u> <u>In addition compliance with rules ICr.42 Maximum Night Time Noise and ICr.43 Noise received at sites in the Residential Zone is required.</u>

<u>Explanation</u>
<u>ICr.42B.5</u> <u>These are provisions of the Resource Management Act 1991 which, unless otherwise stated, apply in all instances.</u> <u>Any breach of the condition a) or b) will not result in requirements for resource consent but rather will be enforced via the Council’s monitoring and enforcement mechanisms.</u> <u>This approach allows Council Enforcement Officer’s to determine if unreasonable or excessive noise is being produced utilising sections 16, 326 and 327 of the Resource Management Act 1991. In making this assessment the matters in Appendix 13.2 Assessment of Unreasonable and Excessive Noise will generally be taken into account when determining whether or not noise is unreasonable or excessive.</u>

Amendments to contents page of Inner City Zone rule tables

Delete

~~ICr.42 Noise~~

Add

ICr.42B General Noise Emission

Add a new appendix 13 to the Nelson Resource Management Plan (for content see Amendment 2 above).

Amendment 6 – Ongoing education, negotiation and mediation

No specific changes to the Nelson Resource Management Plan

Supporting changes to Policy, Explanation and Reasons

Amendments and a new method to Inner City Zone Policy IC4.2 Adverse effects

policy

IC4.2 adverse effects

Activities should not give rise to levels of noise, smell, dust, and smoke, or traffic, landscape, aesthetic or other adverse effects which will detract from the character being sought for the City Centre and City Fringe areas.

Explanation and Reasons

IC4.2.i The City Centre is primarily a people place. Because of this, the Plan aims to exclude activities from the City Centre which are excessively noisy or smelly, or which generate other effects which are inappropriate in a City Centre environment. If such adverse effects can be controlled to a level suitable to the people oriented nature of the City Centre, then the activity should be allowed to occur.

IC4.2.ii A lower level of amenity is expected in the City Fringe than in the City Centre. For example, vehicle movements and sizes will be greater. ~~More noise and other effects will be tolerated~~ It is however acknowledged that fringe areas are often adjacent to more sensitive residential areas and ~~Nevertheless the area~~ will still primarily serve people, in terms of them coming to the area for services or goods. The City Fringe is not an industrial area where there is little interaction with the general public, and where higher levels of effects might be permissible.

Methods

IC4.2.iii Rules setting performance standards, or the use of management practices, for emissions such as noise, smoke, dust, and odour.

IC4.2.iv Rules which require newly established producers of noise to take action to minimise noise emission.

IC4.2.v Use of sections 16, 326 and 327 of the Resource Management Act 1991, plus Plan guidance, for enforcement of unreasonable and excessive noise.

IC4.2.vi ~~iv~~ Rules with a limited listing of unacceptable activities.

Amendments and new methods to Inner City Zone Policy IC4.3 Residential Amenity

policy

IC4.3 residential amenity

The Inner City, and sites used for residential activity, should provide a reasonable standard of residential amenity, but recognising that the fundamental character of the area is non-residential.

Explanation and Reasons

IC4.3.i The Inner City is not the suburbs and a similar level of residential amenity cannot be expected. Higher levels of noise and glare, for example, must be expected in the Inner City, particularly given the presence of places of assembly, licensed bars and restaurants and other noise generating activities. Also the expectation of outdoor space must be lower than in suburban areas. Similarly, given the height of some buildings in the City Centre, expectation regarding privacy and sunlight must be lower. At the same time, the policy recognises a broad bottom line to provide a reasonable level of protect-residential amenity in the Inner City. This recognises residential activity is a valid activity, deserving of a degree of protection from more traditional Inner City activities.

Methods

IC4.3.ii Provision of information on opportunities for inner city living and the relevant Resource Management Plan provisions.

IC4.3.iii Rules setting performance standards for residential activity.

IC4.3.iv Rules requiring acoustic insulation in new Bedrooms and rooms intended to be used for sleeping in Short Term Living Accommodation Units in the Inner City Zone.

IC4.3.v Rules setting performance standards, or the use of management practices, for emissions such as noise, smoke, dust, and odour.

Amendments and new methods to Inner City Zone Policy IC5.1 Amenity of Neighbouring Areas

policy

IC5.1 amenity of neighbouring areas

Activities within the Inner City should not have adverse effects which significantly diminish the amenity of neighbouring areas, having regard to the character of these areas and the cumulative effects of such activities.

Explanation and Reasons

IC5.1.i Any impacts that activities in the Inner City have on neighbouring areas need to take account of the nature of that area. Residential areas and activities will be more sensitive to certain effects such as noise and glare, than commercial areas. Also a single activity may have effects that are acceptable to a residential ~~neighbourhood~~ activities, but the addition of further similar activities may eventually lead to an unacceptable level of effect. The policy aims to address such cumulative effects.

Method

~~**IC5.1.ii** Rules setting performance standards for effects such as noise and odour.~~

IC5.1.ii Rules setting performance standards, or the use of management practices, for emissions such as noise, smoke, dust, and odour.