

NELSON CITY COUNCIL

**Nelson Resource Management Plan**

Proposed Plan Change 16

Inner City Noise

**Section 32 Report**

**Notification Date**

7 September 2013

**Submissions Close**

5pm 4 October 2013



## **1.0 Introduction**

### **1.1 Purpose of report**

Section 32 of the Resource Management Act 1991 (RMA) requires Council to consider alternatives and assess the benefits and costs of adopting any objective, policy, rule or method in a Plan or Policy Statement prepared under the RMA. Before publicly notifying a proposed Plan or Plan Change, the Council is required to prepare a Section 32 report summarising these considerations.

The purpose of this report is to fulfil these Section 32 requirements for proposed Plan Change 16 (Inner City Noise).

### **1.2 Steps followed in undertaking the Section 32 evaluations**

The 7 broad steps which this section 32 evaluation follow are:

1. identifying the resource management issue;
2. evaluating the extent to which any objective is the most appropriate way to achieve the purpose of the RMA;
3. identifying alternative policies and methods of achieving the objective;
4. assessing the effectiveness of alternative policies and methods;
5. assessing the benefits and costs of the proposed and alternative policies, rules, or other methods;
6. examining the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and
7. deciding which method or methods are the most appropriate given their likely effectiveness and their likely costs, relative to the benefit that would likely be delivered.

### **1.3 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.

## **2.0 Resource Management issues**

### **2.1 Resource Management issue being addressed**

An issue is an existing or potential problem that must be resolved to promote the purpose of the RMA. The RMA does not require the identification or analysis of issues within Section 32 evaluations. Notwithstanding this it will be helpful to users to understand the basis and origin of the issue as this provides a context for the

evaluations of the objectives and policies that follow. The relevant identified resource management issues in Chapter 4 of the Plan are:

RI14 Amenity Values, and

RI15 Adverse Environmental Effects of Activities:

*RI15.1.iii: Loss of opportunities to use or enjoy resources and values as a result of adjacent land use or activities.*

*RI15.1.iv: Risk to public health, safety, and amenity values associated with traffic, aircraft and vessel movement, noise, and other contaminant discharges.*

## **2.2 Background and description of issues**

The issues relating to noise in the inner city, particularly at night time, has been the subject of complaint through the years. The complaints have primarily been from occupiers of residential dwellings in both the surrounding Residential Zone and within the Inner City Zone. These complaints are made due to the impact of noise on the amenity levels that people expect to receive in their living (and particularly sleeping) environments. This lowering of amenity levels in some cases can result in health effects due to ongoing disruption to sleep.

In relation to this issue, monitoring of noise levels has been carried out at various locations in the city centre and surrounding areas in March and April 2009. Noise levels have also been measured periodically over a number of years and have regularly been carried out for the purposes of enforcement. These periods of monitoring and recording noise levels have shown that at times noise levels exceed those specified in the operative Nelson Resource Management Plan.

The noise issue also relates to enforcement of the current operative noise rules, with particular reference to rule ICr.42 'Noise'. This requires noise to be measured '*...at, or as close as practicable to, the boundary of any site...*' and for specified levels not to be exceeded. Experience shows that this is difficult to monitor and enforce due to contamination from adjacent noise sources and from the high ambient noise levels on the street. Ultimately Nelson City Council enforcement officers were relying on enforcing compliance with rule ICr.43 'Noise – At residential boundary'. This rule sets limits for the noise produced in the Inner City Zone but received at sites within the Residential Zone.

This approach was the subject of the Environment Court decision number C9/2006, Env C 70/05, 30 Jan 2006. The Court found that the Council should be enforcing the Plan rule at the boundary of the property emitting the noise (ICr.42) regardless of whether or not there was compliance at residentially zoned sites under rule ICr.43. As noted above rule ICr.42 is not able to be practicably enforced in many situations. This is a resource management issue due to the inability to use this method to achieve the objectives of the Plan and the purpose and principles of the RMA.

Ensuring the management of noise maintains a range of activities which enhance the vitality and vibrancy of the City Centre is also part of the resource management issue. This goal is outlined in the vision statement for this Plan Change, the Objectives and Policies for the Inner City Zone and is also set out in Council Central City Strategy 'Heart of Nelson'. In addition, and contributing to this is the desire of owners and operators of premises which produce noise to continue to do so as an integral part of their business.

## 2.3 Identification of issue(s)

### Primary Issue

Unreasonable and excessive noise levels result in a reduction in amenity values and quality of the environment as it relates to the Inner City Centre area and to residential uses.

### Secondary Issue

Inability to reliably enforce current noise rule in the Inner City reduces the ability to resolve the primary issue. Different methods can more reliably manage noise production and reception.

## 3.0 Current situation

### 3.1 Nelson Resource Management Plan

#### 3.1.1 Resource Management issues and District Wide Objectives and Policies

In the operative Nelson Resource Management Plan framework noise production and management provisions stem from the identified resource management issues around Chapter 4 RI14 Amenity Values and RI15 Adverse Environmental Effects of Activities. These are discussed in section 2.0 Resource Management Issues above. District Wide Objective DO16.1 Management of Resources by Location and subsequent district wide policy DO16.1.1 Zones (and areas) 2, Inner City Zone which seek management of the natural and physical resources of Nelson in a way that responds to the varying resource management issues and the varying actual and potential effects of use, subdivision, development, and protection arising in different parts of the district. Specifically to the Inner City the policy states 'A City Centre which provides a strong and vibrant focus to the city, together with a City Fringe which supports and complements the City Centre'.

#### 3.1.2 Zone specific objectives and policies

The objectives and policies of the Inner City and Residential Zones include more specific policy direction relating to the content of this Plan Change. None of the Objectives and Policies listed below are proposed to be amended through this Plan Change however their identification and assessment against the Resource Management Act 1991 are important to set the framework for this Plan Change.

Objective RE2 'Residential Character' *An environment that is principally residential in character.*

In terms of noise travelling from the Inner City this objective is currently given effect through Inner City Zone rule ICr.43 Noise – at residential boundary. This limits the amount of Inner City noise received at a site in the Residential Zone to the same as is permitted to be received in any other area of the Residential Zone, therefore preserving the residential character.

Objective IC4 'Activities and adverse effects' *A diversity of activities which do not adversely affect the environment sought for the City Centre and City Fringe.*

Policy IC4.1 'Range of Activities' *Activities which enhance the vitality and vibrancy of the City Centre shall be encouraged.*

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.*

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.*

The objectives and three policies above provide the guiding direction for the environment sought in the City Centre. They also encapsulate the vision guiding this Plan Change. Some of the activities which create diversity, vibrancy and vitality also involve the production of noise. The current Plan provisions to manage noise in the Inner City have been developed under this policy direction. Also of relevance to meeting this objective is Nelson City Council's Central City Strategy – Heart of Nelson which has a stated objective 'To encourage more people to live in, or close to, the central city to support the vibrancy and economy of the City Centre.'

Objective IC5 'Effects on neighbouring zones' *Development on the edge of the Zone which does not detract from neighbouring or nearby zones but which seeks to complement in function and design the values of the adjacent zones.*

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.*

Policy IC5.2 'Residential Zones' *Special regard shall be had to preventing any deterioration of the amenity of the Residential Zone as a result of expansion of activities from the Inner City Zone, or as a result of adverse effects across the zone boundary.*

The objective and two policies clearly set out the expectation that there will be no deterioration of the amenity of the Residential Zone as a result of adverse effects across the zone boundary.

### **3.1.3 Inner City Zone Rules**

A combination of two rules in the operative Plan was intended to achieve the noise aspects of the objectives and policies set out above. The rules are ICr.42 'Noise and ICr.43 'Noise – at residential boundary'. Rule ICr.42 sets noise limits at, or as close as practicable to, the boundary of any site in the Inner City Zone. Rule ICr.43 is intended to maintain the amenity of the Residential Zone to the same level as could be experienced in any other area of the Zone (with an allowance for construction noise produced in the Inner City). The application of these rules has been discussed in Section 2 above.

The Plan also includes another rule with relevance to noise production in the Inner City Zone. This are not proposed to be amended through this Plan Change process. The rule is ICr.46 'Closing times – services to the public' which any activity within 50m of the Residential Zone boundary that is open to the public, or is a place of public assembly to be open only between 7am – 11pm Sunday to Thursday inclusive and Friday, Saturday, Sunday, Christmas Eve and New Years Eve between 7am and 1am

the next day. Elsewhere in the zone any activity which involves the sale of liquor for consumption on the premises may be open, for the sale of liquor, daily between 7am to 3am the following day. These limitations on hours result in noise from patrons and music from premises being reduced after closing times.

#### **3.1.4 Other methods (regulatory and non-regulatory)**

Council currently utilises a number of other methods for noise management and enforcement. The provisions of the Resource Management Act 1991 relating to noise (Sec 16, 326 and 327) are used as appropriate. Council also provides advice and information through the Customer Service Centre and the Duty Planners on Inner City living, activities and noise rights and responsibilities. Also a 24 hour enforcement service is available for noise complaints and monitoring.

## **4.0 Plan Change Development and Description**

### **4.1 Council's Legal Obligations**

The Council has a responsibility under Section 31 to give effect to the Resource Management Act, and to control, amongst other things, the actual and potential effects from the use of land, the emission of noise and the mitigation of the effects of noise (section 31(1)(d) of the RMA).

Proposed Plan Change 16 has been developed in recognition of the issue of the emission and effects of noise within Nelson City's Inner City Zone (and surrounding Residential Zone) whilst also providing for a vibrant and vital city centre that allows for a range of activities. This issue is expanded on in section 2.0 'Resource Management Issues'.

Due to the nature of noise, and the different needs of those producing, and receiving it, this Plan Change seeks that each party plays a role in mitigating the adverse effects generated. Proposed Plan Change 16 therefore focuses on achieving a legislative framework which balances these three aspects. Detail of the options to achieve this are outlined in Section 4.3.2.

Section 74 sets out matters to be considered by a territorial authority when preparing or changing its district plan. The development of this Plan Change has had regard to the Regional Policy Statement, in particular DA2 Noise, where the stated objective is '*An environment in which unreasonable noise is avoided, remedied or mitigated*'. The stated policy is to protect existing and proposed residents and other noise sensitive land uses from adverse effects of excessive and unreasonable noise.

No other management plans or strategies prepared under other Acts are relevant to the resource management issue and consistency with other Plans or proposed Plans of adjacent territorial authorities is not necessary. There is no overlap of issue or area of impact, either geographically or in terms of noise production and reception. The relevant iwi planning document Ngā Taonga Tuku Iho ki Whakatū Management Plan 2004 does not have a direct bearing on the relevant resource management issue. In addition iwi have been consulted on the proposal and have raised no concerns.

Section 75 (3) and (4). There are no relevant national policy statements or New Zealand Coastal Policy Statements to give effect to and the relevant aspects of the Regional Policy Statement has been discussed above. The proposed Plan Change is not

inconsistent with any water conservation order or any regional matter under a regional plan.

Section 5.0 of this report outline the assessment of this proposed Plan Change in terms of Section 32 of the Resource Management Act 1991.

## 4.2 Consultation

In addition to continuing availability of Council Officers to discuss the issue and proposed Plan Change the consultation outlined in the table below has been carried out. The initial consultation has helped to inform noise issue and develop the proposed Plan Change provisions to a point where wider public comment can be sought on specific draft Plan Change provisions. Comment was sought on these specific draft Plan Change provisions in late 2012 and a working group consisting of Councillors was formed to consider and respond to the feedback received. The working group also oversaw the development of the Plan Change to a point where the working group can recommend it to full Council for the purpose of notification. As per the First Schedule of the Resource Management Act 1991 formal consultation on the proposed Plan Change will be carried out once notification occurs.

Date	Consultation method	Stakeholders	Impact on proposed Plan Change
8 November 2008	Live Nelson Article – Issue 239 (706282)	General Public	Stating work will be carried out on the Inner City Noise issue.
20 December 2008	Live Nelson Article – Issue 242 (718681)	General Public	Introducing the Inner City Noise Plan Change.
31 January 2009	Live Nelson Article – Issue 244 (726366)	General Public	Article further introduced the Inner City Noise Plan Change and invited people to attend a public meeting.
23 February 2009	Public Meeting	Attendees – interested parties	Opinions expressed helped to inform the development of the plan change scope and provisions.
14 February 2009	Live Nelson Article – Issue 245 (729615)	General Public	Reminder about the public meeting
14 March 2009	Live Nelson Article – Issue 247 (735766)	General Public	Update on public meeting
1 August 2009	Live Nelson Article – Issue 257 (807276)	General Public	Article outlining findings from the public meeting.
August 2009	Individual meetings with stakeholders	Individual Stakeholders	Specific discussion on options developed. This helped to refine proposal and gauge the opinion of

			different interest groups.
11 September 2010	Live Nelson Article – Issue 285 (1022899)	General Public	Advising of the status of plan change and how this fits with the planned resource consents for events in public parks
9 August 2012	Media Release	General Public	Advising that draft Plan Change has been accepted for purposes of consultation with the public. Also included in 18 August 2012 Live Nelson (1353614)
6 November 2012	Schedule 1, Clause 3 consultation (1402288)	Ministry of the Environment	Schedule 1, Clause 3 consultation under the Resource Management Act.
10 November 2012	Live Nelson Article – Issue 339 (1402865)	General Public	Pre-notification consultation on the draft plan change for purpose of informing final drafting.
Nov – 14 Dec 2012	Public consultation (1447701)	Stakeholders and general public	Pre-notification consultation on the draft plan change for purpose of informing final drafting.
8 December 2012	Live Nelson Article – Issue 341 (1419617)	General Public	Reminder of the closing of the pre-notification consultation.
7 June 2013	Schedule 1, Clause 3 consultation (1530285)	Iwi	Schedule 1, Clause 3 consultation under the Resource Management Act.
2009 - present	Meetings and correspondence	Individual Stakeholders	Ongoing meetings and correspondence has helped to refine options and provide information to individuals.

#### **4.2.1 Working Group consideration**

The working group considered the content of the feedback received from the consultation in late 2012 on the draft Plan Change provisions. Overall there was support for the general direction being proposed. A number of those providing feedback did however raise items they sought to have amended or removed from the draft Plan Change. These have been considered by the working group and the content of the draft Plan Change amended accordingly. The section 32 analysis in section 5.0 identifies and discusses many of the points and options raised.

### **4.3 Plan Change Description**

#### **4.3.1 Context and Scope**

The current Plan structure, including objectives and policies around the management of noise in the Inner City Zone and adjacent Residential Zone is outlined in section 3.0 of this report. The Plan Change does not propose any changes to the Objectives and Policies of the Plan in relation to noise but does propose changes to some of the



explanations and reasons of those and includes a number of other changes to rules and explanatory statements.

This proposed Plan Change relates to noise produced in the Inner City Zone and measured both within the zone and at any site within the Residential Zone. Noise from moving vehicles and aircraft is controlled under other legislation and is not included in this proposed Plan Change.

The Plan Change also does not include specific provisions relating to:

- community events producing noise on a temporary basis (for example a festival on the street or in a park);
- closing times;
- creation of a specified 'entertainment precinct';
- availability of liquor, or any aspect of liquor licensing;
- specific control of bass frequencies.

The scope of the proposed Plan Change does involve:

- the production of noise within the Inner City Zone (excluding items noted above);
- the reception of noise within both the Inner City and Residential Zones (where it emanates from the Inner City Zone).
- methods of management and enforcement of noise production in the Inner City Zone.

#### **4.3.2 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 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 (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 and NZS6802:1991 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 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. See Section 2 for further details.

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

## 5.0 Appropriateness in achieving the purpose of the RMA

### 5.1 Overall Plan Change options

#### 5.1.1 Introduction

Prior to going into detail on the objectives, policies and rules of the proposed Plan Change, it is appropriate to consider the overall options for facilitating the resolution of the identified issues. This section considers the appropriateness and the potential benefits and costs of the proposed Plan Change and compares it to alternative options.

#### 5.1.2 Appropriateness of alternative options

##### Alternative 1: Status Quo

Retain and enforce existing NRMP rules ICr.42 'Noise' and ICr.43 'Noise – At residential boundary'. Including use of Section 16 'Duty to avoid unreasonable noise' and Section 327 'Issue and effect of excessive noise direction'.

##### Alternative 2: Raise permitted noise levels

Retain the existing NRMP rules ICr.42 and ICr.43 but allow for increased noise limits.

##### Alternative 3: Earlier closing time for licensed premises

Bring forward the current closing time of 3am under rule ICr.46 'Closing times – services to the public'.

##### Alternative 4: Proposed Plan Change

See section 4.3.2 for description of proposed Plan Change.

#### 5.1.3 Costs and Benefits of alternative options

Within the table below is a summary of the costs and benefits of each alternative option.

Alternative Option	Costs	Benefits
Alternative 1, Status Quo:	<ul style="list-style-type: none"> <li>• Demonstrated problems applying and enforcing both ICr.42 and ICr.43.</li> <li>• Inability to follow Environment Court direction to apply the rules effectively.</li> <li>• The onus for managing noise remains solely with the noise producer.</li> </ul>	<ul style="list-style-type: none"> <li>• No change to the NRMP required and therefore no Plan Change costs.</li> <li>• Existing rules and stated noise levels are retained – the stated noise limits are understood by the community.</li> <li>• Management of noise is not borne by the receiver.</li> </ul>
Recommendation	This option is not recommended as it does not resolve the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.	
Alternative 2, Raise permitted noise levels:	<ul style="list-style-type: none"> <li>• Inner City noise producers can still exceed an increased limit if no acoustic insulation or noise management measures are undertaken.</li> <li>• Enforcement still relies on monitoring being undertaken in difficult circumstances with</li> </ul>	<ul style="list-style-type: none"> <li>• Increased level provides limited improvement in ability for Inner City noise producers to operate within the noise level.</li> <li>• Increased level provides limited improvement in enforceability, particularly when measuring against background noise.</li> </ul>

Alternative Option	Costs	Benefits
	<p>contamination issues.</p> <ul style="list-style-type: none"> <li>• Increased limits may not encourage owners/operators of noise generating activities to seek other ways of reducing noise emissions.</li> <li>• Increased allowance for noise production does not address the demonstrated reduction in residential amenity experienced.</li> <li>• Any increase is unlikely to be acceptable to many residents.</li> <li>• Plan change unlikely to fully satisfy noise producers or noise receivers, as noise levels will increase but enforcement will still be difficult and uncertain.</li> <li>• Requirement (cost and time) to undertake a plan change process.</li> </ul>	<ul style="list-style-type: none"> <li>• Less cost for producer to insulate against noise.</li> </ul>
Recommendation	<p>This option is not recommended as it potentially alleviates but does not resolve the noise enforcement issues and does not resolve the noise issue experienced by residents within and surrounding the Inner City.</p>	
Alternative 3, Earlier closing time for licensed premises:	<ul style="list-style-type: none"> <li>• Earlier closing times relate to issues beyond the scope of this Plan Change – This is an action identified in the Nelson Tasman Regional Alcohol Strategy 2006 and involves considerations beyond the ambit of the RMA process. This is more appropriately considered under the Sale and Supply of Alcohol Act 2012 (Local Alcohol Policies).</li> <li>• Likely to result in a significant amount of consultation to which the Plan Change process could not respond.</li> <li>• Changing the closing time to resolve a noise issue alone is likely to have other unintended consequences.</li> <li>• Plan change unlikely to fully satisfy noise producers or noise receivers as noise is still produced but limited in hours.</li> <li>• Limits some of the opportunity for a vibrant and vital city centre.</li> <li>• Requirement (cost and time)</li> </ul>	<ul style="list-style-type: none"> <li>• Is likely to remove the noise issue of music until 3am and disruption caused by patrons on the street and heading home, or to other locations, at that time (although noting that the current rule only applies to the serving of alcohol – a venue with no alcohol for sale can remain open beyond 3am).</li> <li>• Simple to enforce</li> </ul>

Alternative Option	Costs	Benefits
	to undertake a plan change process.	
Recommendation	This option is not recommended as the extent of the issues surrounding closing times go beyond that able to be accommodated by the plan change process.	
Alternative 4, Proposed Plan Change:	<ul style="list-style-type: none"> <li>• Removal of a specific noise limit in the Inner City potentially results in uncertainty from residents and noise producers over what is an acceptable level of noise.</li> <li>• Additional cost to new noise receivers and producers from carrying out acoustic insulation or the requirements of a noise management plan.</li> <li>• Plan change may not fully satisfy noise producers or noise receivers.</li> <li>• Requirement (cost and time) to undertake a plan change process.</li> </ul>	<ul style="list-style-type: none"> <li>• Allows for the operation of businesses and establishment of residences that can add to the vitality and vibrancy of the city centre.</li> <li>• Places onus for noise management on both the noise emitter (within the Inner City) and the noise receiver (for residents of the Inner City).</li> <li>• Consistent with the approach to noise management for the airport and the port areas, but tailored specifically to the Inner City.</li> <li>• Retains the certainty of the noise limit at the Residential Zone boundary rule.</li> <li>• Removes the current difficulties in enforcement of existing rules.</li> <li>• It recognises an enforcement officer's ability to use their experience and judgement within the bounds of the RMA (Sec 16 and 327) to carry out enforcement.</li> </ul>
Recommendation	<p>This option is recommended and is the subject of this Section 32 RMA report. It recognises the provisions (Sec 16 and 327) of the RMA to carry out noise management and enforcement. It spreads the responsibility for noise management between both the noise producer and noise receiver. The option also retains the existing noise limits at sites within the Residential Zone which provides certainty for residents of these areas.</p> <p>Development of this option has been undertaken with the assistance of Keith Ballagh, Marshall Day Acoustics (the Acoustic Engineer to the project) who advises that <i>'...I am able to support the Plan Change as being an appropriate method of controlling and managing the potential conflicts between entertainment activities and residential amenity in the inner city.'</i></p>	

## 5.2 Appropriateness of objectives in achieving the purpose of the RMA

### 5.2.1 Introduction

Section 32 requires an evaluation of the extent to which the objective is the most appropriate to achieve the purpose of the Act. No existing objectives of the operative

Nelson Resource Management Plan are proposed to be amended by this Plan Change. Also no new objectives are proposed to be added. This section examines the relevant existing objectives in terms of achieving the purpose of the Act but also the extent to which this proposed Plan Change has a role in that.

Existing Objectives	Extent to which it is the most appropriate way to achieve the purpose of the RMA
<p>Residential Zone: Objective RE2 Residential Character: <i>An environment that is principally residential in character.</i></p>	<p>The purpose of the Act is achieved by allowing activities to occur in a way that enables people and communities to provide for their social, economic, and cultural wellbeing. In terms of noise, and RMA Section 7 c) <i>'the maintenance and enhancement of amenity values'</i> this objective seeks to provide a level of amenity suitable for the Residential Zone. It also provides for a level of health and safety within the Residential Zone that has been deemed to be appropriate through previous consultation in developing the Nelson Resource Management Plan.</p> <p>The proposed Plan Change maintains this level of amenity by retaining rule ICr.43 'Noise – at residential boundary' ensuring that the permitted activity standard for noise received in the Residential Zone is not changed (note some minor amendments are proposed – see section 4.3.2 amendment 4).</p>
<p>Inner City Zone: Objective IC4 Activities and Adverse Effects: <i>A diversity of activities which do not adversely affect the environment sought for the City Centre and City Fringe.</i></p>	<p>This Objective achieves the purpose of the Act by allowing activities to occur in a way that enables people and communities to provide for their social, economic, and cultural wellbeing. It does this by allowing for a 'diversity of activities' therefore creating opportunities for business and activity to occur with subsequent vibrancy and vitality created. This is qualified by there being no adverse effects to the environment sought for the City Centre and City Fringe. This relates to RMA section 7 c) <i>'the maintenance and enhancement of amenity values'</i> and f) <i>'the maintenance and enhancement of the quality of the environment'</i>.</p> <p>The proposed Plan Change recognises the importance of the two aspects of this objective, 1) the diversity of activities to draw people into the city centre, 2) managing any adverse effects to maintain an attractive, desirable environment. The proposed Plan Change therefore intends to strike a balance between allowing activities (such as music and bars) to be undertaken but to manage the adverse effects (in this case noise, which can impact on people's health and general amenity) that are often generated by these activities.</p>
<p>Inner City Zone: Objective IC5 Effects on Neighbouring Zones:</p>	<p>As for Objective RE2 above.</p>

<i>Development on the edges of the Zone which does not detract from neighbouring or nearby zones but seeks to complement in function and design the values of the adjacent zones.</i>	
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### **5.3 Whether the policies, rules, or other methods are the most appropriate for achieving the objectives in terms of their efficiency and effectiveness, benefits and costs, and in regards to the risk of acting or not acting**

#### **5.3.1 Introduction**

In addition to the analysis of objectives in section 5.2 above the following tables provide an evaluation of the costs and benefits of the methods which form the Plan Change. It considers whether these are the most appropriate for achieving the objectives, having regard to their efficiency and effectiveness. The terms efficiency and effectiveness are not defined in the RMA and, therefore, the guidance set out below have been used to help focus the analysis.

Costs and benefits have largely been assessed subjectively and or comparatively because of the great difficulty in assessing/quantifying intangible costs e.g. environmental and amenity costs or benefits. Where possible quantitative assessments of costs have been given.

The concept of risk has two dimensions, the probability of something adverse occurring and the consequence of it occurring. For example, if there is low risk associated with acting but high risk associated with not acting, then taking action is clearly the sensible option.

The alternative methods assessed in this section will achieve the objectives to different degrees and combinations of approaches will be used to form the final preferred option. The preferred option has been outlined in Section 4.3.2 of this report.

It is important to remember that the methods outlined below all form part of the overall package – no one method alone is proposed as a way of resolving the identified issues of Inner City noise.

**5.3.2 Amendment 1: Proposed new rule:** 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.

Methods	Option 1: Status Quo: dwellings or short term living accommodation in Inner City not required to provide acoustic insulation	Option 2: Restrict any new dwellings or short term living accommodation in Inner City	Option 3: PREFERRED OPTION Acoustic insulation for any new bedrooms in residential units or short term living accommodation in Inner City
<b>Environmental, Economic, Social, Implementation, and Compliance Costs</b>	<p>Does not require dwellings or short term living accommodation units to mitigate against the level of noise permitted within the Inner City environment, so does not provide a reasonable standard of residential amenity.</p> <p>Increases the noise issue as more people move to the city (as anticipated and encouraged through the Central City Strategy) without providing acoustically insulated living environments.</p> <ul style="list-style-type: none"> <li>• More potential for complaint</li> <li>• Potential negative impact on other activities adding vibrancy to City Centre</li> <li>• Additional ongoing compliance requirements relating to complaints</li> </ul> <p>Onus for noise management solely on those producing noise.</p>	<p>This option does not provide people with the option of living in the Inner City and will impact on the diversity of activity sought by objective IC4. This reduces Inner City vibrancy, impacts on economic activity in the city, removes positive surveillance effects of having people living in the city and restricts the amount of short term accommodation able to be provided in the city centre.</p> <p>Removes people's ability to choose a living environment that suits their requirements – may result in a resource consent required for any dwelling or short term living accommodation unit.</p> <p>Does not meet the intent of the Central City Strategy – Heart of Nelson - of having an increased number of people living in the Inner City.</p> <p>Plan Change process required.</p>	<p>A requirement to acoustically insulate bedrooms creates an increased monetary cost to developers of residential units and short term living accommodation in the Inner City. Additional costs have been calculated by a Quantity Surveyor to be an additional 5.4% or \$7850 for a standard mid level two bedroom unit, and an additional 4% or \$13040 for a larger two bedroom upper level apartment.</p> <p>Potential for this increased cost to restrict the viability and diversity of development thereby reducing the opportunity for more residents of the Inner City.</p> <p>Sub-option 1 – not preferred: Also considered was requiring all habitable space of residential units and short term living accommodation to be acoustically insulated. The additional costs of this option were calculated by a Quantity Surveyor to be an additional 12.8% or \$18760 for a standard mid level two bedroom unit, and an additional 17.5% or \$56820 for a larger two bedroom upper level apartment. These economic costs were considered to be above what could be considered a reasonable level when considered against the social benefits of increase residential use in the Inner City thereby increasing the vibrancy and vitality of the area.</p>



Methods	Option 1: Status Quo: dwellings or short term living accommodation in Inner City not required to provide acoustic insulation	Option 2: Restrict any new dwellings or short term living accommodation in Inner City	Option 3: PREFERRED OPTION Acoustic insulation for any new bedrooms in residential units or short term living accommodation in Inner City
			<p>Sub-option 2 – not preferred: Also considered the inclusion of <u>significantly altered</u> dwellings or short term living accommodation but this was not included as the costs versus benefits was not favourable. Retrospective acoustic insulation of an existing building is more expensive than including it at the initial construction stage. Also there are a limited number of units within the city centre and only a small portion of these would be 'significantly altered'. As a middle ground the Council will provide information and education so these existing owners can make an informed decision on acoustic insulation should they decide to 'significantly alter' their building. In addition it avoids the uncertainty of determining what consists of 'significant alteration'.</p> <p>Sub-option 3 – not preferred: Also considered was applying acoustic insulation requirements to new habitable space and not to short term living accommodation. This option is not preferred as visitors to the city centre are an important part of providing, and one of the reasons for desiring a diversity of activities and enhancing vitality and vibrancy. A comfortable sleeping environment helps to attract and retain visitors to the Inner City and assists with meeting Objective IC4 and policy IC4.1.</p>
<b>Environmental, Economic, Social, Implementation, and Compliance Benefits</b>	<p>No additional costs to development of dwellings or short term living accommodation in Inner City. Leaves any acoustic insulation provided as a voluntary measure.</p> <p>No Plan Change measures required and retains existing understanding of Plan requirements.</p>	<p>Maintains the current number of people living in the Inner City which limits the number of residents who may complain about noise.</p> <p>Effectively caps the number of people who can live or stay in the city centre thereby controlling how many people may experience issues with noise production. Extent of future enforcement resource required from Council is more accurately known.</p>	<p>Provides people who do live or stay within the Inner City with an appropriate noise level within their bedrooms or in the short term living accommodation unit. Increases the amenity level for people which in turn increases the number of people who are attracted to Inner City living or visiting.</p> <p>Provides greater diversity of housing choice and activity than in option 2.</p> <p>Improves the compliance environment as residents are 'insulated' from outside noise, and when taking into account the full package of this Plan Change less likely to make complaints.</p> <p>Option within the rule to either use an acoustic</p>

<b>Methods</b>	<b>Option 1: Status Quo: dwellings or short term living accommodation in Inner City not required to provide acoustic insulation</b>	<b>Option 2: Restrict any new dwellings or short term living accommodation in Inner City</b>	<b>Option 3: PREFERRED OPTION Acoustic insulation for any new bedrooms in residential units or short term living accommodation in Inner City</b>
			<p>consultant or to follow minimum construction standards will allow the most cost effective option to be followed.</p> <p>The option is consistent (aside from being focussed on the bedrooms rather than all the habitable space) with the approach undertaken for noise produced at the port in terms of having to design the building to achieve a specific acoustic reduction inside the building. In terms of implementation this is efficient as the systems and knowledge is already in place within Council and for external consultants. It is noted that in some cases a contribution is available from the Port towards costs which is not applicable to the Inner City. An associated change to AP19.2 Port Effects Control Overlay allows use of a combination of ventilation options in one residential unit. This has economic benefits to those required to pay for ventilation as the most practicable and cost effective option can be undertaken.</p>
<b>Overall Efficiency and Effectiveness</b>	<p>This option is not efficient or effective as it does not resolve the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone. It would allow the introduction of further residential and short term living activity which could potentially affect the environment sought for the City Centre and City Fringe. This does not assist in achieving the objective IC4 'A diversity of activities which do not adversely affect the environment sought for the City Centre and City Fringe'.</p>	<p>This option is not efficient or effective as it does not achieve Council's goal of increasing the number of residents in the Inner City as stated in Central City Strategy – Heart of Nelson. This does not assist in achieving the objective IC4 'A diversity of activities which do not adversely affect the environment sought for the City Centre and City Fringe'.</p>	<p>This option assists in achieving the objective IC4 'A diversity of activities which do not adversely affect the environment sought for the City Centre and City Fringe'. This is supported by Policy IC4.1 Range of Activities, and IC4.3 Residential Amenity stating that activities which enhance the vitality and vibrancy of the city centre shall be enhanced, and that the Inner City should provide a reasonable standard of residential amenity but recognising that the fundamental character of the area is non-residential.</p> <p>The option to only require acoustic insulation of bedrooms rather than all habitable space reduces the economic cost but still achieves the intent of this option to provide a comfortable sleeping environment.</p> <p>This approach recognises policy IC4.3 Residential Amenity as the requirement to acoustically insulate the bedrooms provides a 'reasonable standard of residential amenity' whilst there being no requirement to insulate the rest of the habitable space recognises that the fundamental character of the area is non-residential and people can expect there to be some noise. If a person develops or moves into new residential units or short term living accommodation in the Inner City then they</p>

Methods	Option 1: Status Quo: dwellings or short term living accommodation in Inner City not required to provide acoustic insulation	Option 2: Restrict any new dwellings or short term living accommodation in Inner City	Option 3: PREFERRED OPTION Acoustic insulation for any new bedrooms in residential units or short term living accommodation in Inner City
			<p>have made this choice based on the fundamental character of the area.</p> <p>This option is the most efficient and effective as it ensures those receiving noise in the Inner City undertake actions which help to reduce the impact of the noise. This recognises the Plan policy direction that the Inner City is a vibrant place and a place where residential use is provided for, and an appropriate level of amenity established.</p> <p>Consistency with Plan provisions for noise provisions relating to both the Port (specific design to an internal noise reduction level) and the airport (minimum standard approach) also makes this an efficient option as Council and the community have experience in this area.</p>
<b>Appropriateness</b>	<p>This option is not appropriate as it does not achieve objective IC4 Activity and Adverse Effects and does not assist in resolving the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.</p> <p>Any measures to manage the noise issue would then be placed solely on the noise producers.</p>	<p>This option is not appropriate as it does not assist in resolving the noise issue and does not achieve Council's Heart of Nelson goal of increasing the number of residents in the Inner City. It also is not appropriate as it removes a housing choice from people for whom it is a desirable alternative.</p>	<p>This option is appropriate as, in conjunction with other methods proposed, it allows for increased residential activity in the Inner City while recognising that it is a noisier place than the Residential Zone. This means measures should be undertaken by those wanting to live there to reduce the impact of that noise on their amenity.</p> <p>This option, in conjunction with other methods proposed, splits the responsibility for managing the impact of noise produced between both the produces and receivers.</p>
<b>Risk of Acting</b>	Not relevant to this option.	A housing choice is removed. The City centre does not benefit from an increased number of residents.	Residential unit and short term living accommodation will not be developed in the Inner City as additional costs could be a barrier, thereby limiting activities.
<b>Risk of Not Acting</b>	<p>This option creates risk as the Plan sets the expectation that the Inner City will be a place with a diversity of activities creating vitality and vibrancy with an increased level of noise than that experienced in the Residential Zone. Residential, or short term living accommodation activities without acoustic insulation will always leave this expectation exposed to complaint.</p>	<p>Residential activity will continue to grow in the Inner City without the impact of noise in the Inner City being addressed. This is anticipated to result in an increased level of complaint and enforcement activity.</p>	<p>Complaints, and possibly increased restrictions on noise producing activities, may increase as more people move to the Inner City and live in dwellings (or short term accommodation) without acoustic insulation.</p> <p>All onus for managing effects of noise will be placed on noise producers which may not allow for activities to meet the vibrant Inner City policy direction set in the Plan.</p>
<b>Conclusion</b>			<b>This option is the most appropriate for achieving the objective of the Plan.</b>

**5.3.3 Amendment 2, Proposed new rule:** 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 music 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 music to be played without the need for a resource consent.

Methods	Option 1: Status Quo: noise generating activities not required to apply for resource consent or have noise management requirements up front (but are regulated by a specified noise limit)	Option 2: Restrict any new noise generating activities in Inner City	Option 3: Noise generating activities required to apply for resource consent including noise management requirements up front
<b>Environmental, Economic, Social, Implementation, and Compliance Costs</b>	<p>As a social cost it does not require noise generating activities to take any measures when they are being planned and developed to mitigate against the levels of noise often produced by their activities.</p> <p>As more people and noise generating activities occur in the city centre (as anticipated and encouraged through the Central City Strategy – Heart of Nelson) the potential for complaint grows higher. This has the potential to negatively impact on activities which add vibrancy to City Centre.</p> <p>Additional ongoing compliance requirements relating to increased complaints and related lack of certainty for operators due to not knowing if their operations can achieve the specified limit.</p> <p>Onus for noise management solely on those receiving noise (see table 5.3.2 above).</p>	<p>This option limits the establishment of new noise generating activities which could be counter to Council's policy direction of developing diversity of activities and a vibrant city centre.</p> <p>A portion of the community that desires the type of entertainment that noise generating activities provide would have limited opportunity to meet this need. Also impacts on job creation and an income generator.</p> <p>Does not resolve the noise issue for any current noise generating activities.</p> <p>Resource consent process (possibly for more than just noise issues) required to establish any noise generating activity.</p> <p>Plan Change process required.</p> <p>Restriction could also apply to only allowing new noise generating activities in an identified 'entertainment precinct'. This would focus noise generation (and other associated issues) in one area and due to Nelson's small size the effects could be felt widely. Not following this</p>	<p>Increased monetary cost to developers of noise generating activities in the Inner City. Due to the wide range of possible noise generating activities, locations and buildings that house them costs have not been calculated exactly but noise assessment and noise management plan preparation Council has been involved in have cost approximately \$3000. This excludes any physical works that a developer may have to undertake to improve the acoustic insulation of their building.</p> <p>Potential for this increased cost to restrict the economic viability of development thereby reducing the opportunity for more entertainment and employment opportunities in the Inner City.</p> <p>Requirement (cost and time) to undertake a plan change process, plus additional resource consent processing.</p>

<b>Methods</b>	<b>Option 1:</b> <b>Status Quo: noise generating activities not required to apply for resource consent or have noise management requirements up front (but are regulated by a specified noise limit)</b>	<b>Option 2:</b> <b>Restrict any new noise generating activities in Inner City</b>	<b>Option 3:</b> <b>Noise generating activities required to apply for resource consent including noise management requirements up front</b>
		'entertainment precinct' approach allows a spread of activity across the city enhancing vitality and vibrancy and allowing a more diverse mix of activity in different areas.	
<b>Environmental, Economic, Social, Implementation, and Compliance Benefits</b>	<p>No additional costs to development of noise generating activities in the Inner City. Leaves any acoustic insulation / noise management provided in the up front development of the premises as a voluntary measure.</p> <p>No Plan Change measures required and retains existing understanding of Plan requirements.</p>	Effectively caps the number of noise generating activities in the city centre thereby controlling noise production. Extent of future enforcement resource required from Council is more accurately known.	<p>Places onus for noise management on both the noise emitter (within the Inner City) and the noise receiver (for residents of the Inner City).</p> <p>Ensures a proactive, up front approach to managing noise before a potential problem is created.</p> <p>Definition of noise generating activity can be tailored to allow activities which produce low levels of noise, or are open later on a Friday or Saturday night to operate without the need for a resource consent up front.</p> <p>Increases certainty for all parties including an operator of a noise generating activity as they can gain a resource consent (including an approved noise management plan) identifying actions they need to carry out in the management of noise.</p> <p>Improved noise management allows additional activity in the city centre but with reduced adverse effects from noise. This supports NRMP policies to enhance vitality and vibrancy, manage adverse effects, and provide a reasonable standard of residential amenity.</p>
<b>Overall Efficiency and Effectiveness</b>	This option is not efficient or effective as it does not resolve the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.	This option is not efficient or effective as it does not resolve the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.	<p>This option is the most efficient and effective as it ensures those producing noise in the Inner City undertake actions which help to reduce the emission and impact of that noise. This recognises the Plan policy direction that the Inner City is a vibrant place, but also a place where residential use is encouraged. It does this by allowing the noise generating activities (subject to consent) but limiting the effects on other more noise sensitive activities within and adjoining the zone.</p> <p>For the reasons stated above this option assists in achieving the objective IC4 'A diversity of activities which do not adversely affect the environment sought for the</p>

Methods	Option 1: Status Quo: noise generating activities not required to apply for resource consent or have noise management requirements up front (but are regulated by a specified noise limit)	Option 2: Restrict any new noise generating activities in Inner City	Option 3: Noise generating activities required to apply for resource consent including noise management requirements up front
			City Centre and City Fringe'. This is supported by Policy IC4.1 Range of Activities, and IC4.3 Residential Amenity stating that activities which enhance the vitality and vibrancy of the city centre shall be enhanced, and that the Inner City should provide a reasonable standard of residential amenity but recognising that the fundamental character of the area is non-residential. In addition it gives effect to policy IC4.2 'adverse effects' seeking that activities should not give rise to effects which adversely affect the character of the City Centre and City Fringe areas.
<b>Appropriateness</b>	This option is not appropriate as it does not resolve the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.	This option is not appropriate as it does not resolve the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.	This option is appropriate as, in conjunction with other methods proposed, it specifically requires that noise generating activities recognise and proactively manage the issue of noise emission from their activities. In doing this the rule and the NRMP Objectives and Policies still anticipate noise generating activities as an integral part of the Inner City environment. This means measures should be undertaken by those wanting to produce noise to manage this at a level appropriate in the Inner City environment.  This option, in conjunction with other methods proposed, splits the responsibility for managing the impact of noise produced between both the produces and receivers.
<b>Risk of Acting</b>	Risk of acting 'ie doing nothing' is that the noise issue is not resolved as expected by the Environment Court. Council is exposed to a legal challenge over management of noise.	Future growth of noise generating activities is restricted. If a 'entertainment precinct' approach was undertaken risk is noise and associated issues would cumulate and due to Nelson's small size the effects could be felt widely	New Noise Generating Activities will not be developed in the Inner City as additional costs could be a barrier.
<b>Risk of Not Acting</b>	See above.	The existing identified noise issues are unresolved as expected by the Environment Court. Council is exposed to a legal challenge over management of noise.	Complaints and enforcement action may increase if more noise generating activities establish without considering noise management upfront.  All onus for managing effects of noise may be placed on noise receivers which is an unfair distribution of responsibility and may not meet the vibrant Inner City policy direction set in the Plan.
<b>Conclusion</b>			<b>This option is the most appropriate for achieving the objective of the Plan.</b>

**5.3.4 Amendment 3, Proposed New Rule:** 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 provides an upper limit to single noise events such as a higher noise level for a short duration; this 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 playing continuously or an air conditioner unit) can generally operate to and be deemed to be reasonable and not excessive.

Methods	Option 1: Retain Existing Rules	Option 2: Include specific bass frequency control with $L_{AFmax}$ control	Option 3: Plan provision retaining control over night time maximum noise level ( $L_{AFmax}$ ) at any frequency.
<b>Environmental, Economic, Social, Implementation, and Compliance Costs</b>	Retention of the rules which currently contain the $L_{max}$ control is discussed in full in sections 5.3.5 and 5.3.6 Option 1 below.	<p>Specific bass frequency control (depending on the levels set) can constrain activities which seek to produce higher levels of bass.</p> <p>Enforcement of a specific bass frequency control will be difficult due to remaining levels of contamination and the need to use a specialist noise meter for that component of the noise spectrum whilst the rest is managed under option discussed in section 5.3.6 below.</p> <p>Requirement (cost and time) to undertake a plan change process.</p>	<p>Some commercial activities (including construction) may be limited in the extent of noise they can produce.</p> <p>Requirement (cost and time) to undertake a plan change process.</p>
<b>Environmental, Economic, Social, Implementation, and Compliance Benefits</b>		<p>Bass frequencies and maximum noise have a defined numerical limit.</p> <p><math>L_{AFmax}</math> 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>The <math>L_{AFmax}</math> control proposed is consistent with that for the Residential Zone so a single noise source heard across both zones will be managed in the same way and at the same level.</p> <p>Assists in achieving the amenity sought for the Inner City</p>	<p><math>L_{AFmax}</math> 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>The <math>L_{AFmax}</math> control proposed is consistent with that for the Residential Zone so a single noise source heard across both zones will be managed in the same way and at the same level.</p> <p>Assists in achieving the amenity sought for the Inner City and Residential Zones.</p>

<b>Methods</b>	<b>Option 1: Retain Existing Rules</b>	<b>Option 2: Include specific bass frequency control with L<sub>AF</sub>max control</b>	<b>Option 3: Plan provision retaining control over night time maximum noise level (L<sub>AF</sub>max) at any frequency.</b>
<b>Overall Efficiency and Effectiveness</b>		and Residential Zones. This option has limited efficiency and effectiveness as the bass frequency control would still be subject to some level of contamination. Whilst not as significant as that experienced for general noise currently it could still present difficulties in measurement and enforcement – particularly as other frequencies would be assessed under the RMA noise provisions.	This option is the most efficient and effective as it retains a 'cap' on maximum noise levels permitted at night time and in a manner which is consistent with that allowable in the Residential Zone. It also acts as part of the package of noise control measures proposed under this Plan Change.
<b>Appropriateness</b>		This option of including the bass noise limits is not appropriate as it does not resolve the noise issue, particularly in regard to the noise receivers, but also noise producers, and noise enforcement as there is still some level of contamination when carrying out noise measurements.	This option is appropriate as it forms part of the wider package of methods in the Plan Change to manage noise in the Inner City. This assists in achieving the standard of amenity desired for the City Centre and surrounding residential area as set out in the Plan.
<b>Risk of Acting</b>		Bass frequencies provisions are difficult to enforce and similar problems to that which currently occur are likely to develop.	No identified risk as this is effectively retention of an existing provision that is able to be monitored and enforced.
<b>Risk of Not Acting</b>		Bass levels and maximum noise are not specifically managed by the Plan. Lack of a specified maximum noise level reduces the level of certainty to residents as to the maximum noise they can expect to experience.	This aspect of the package of methods under this Plan Change is not given effect to and the specified maximum noise level is not provided.
<b>Conclusion</b>			<b>This option is the most appropriate for achieving the objective of the Plan.</b>



**5.3.5 Amendment 4, Retain and Amend Existing Rule:** 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 and NZS6802:1991 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.

Methods	<b>Option 1: Retain and Amend Existing Rule to update NZS noise standard and modify construction provision</b>	<b>Option 2: Increase noise levels for noise produced in Inner City Zone and received in the Residential Zone</b>	<b>Option 3: Delete existing rule and utilise RMA provisions for managing noise as is proposed for Inner City</b>
<b>Environmental, Economic, Social, Implementation, and Compliance Costs</b>	<p>Amendments to use 2008 standards require the enforcement team to use a different noise measurement practice than they do now – training maybe required.</p> <p>The full use of the construction noise standard expands this aspect of allowable noise production from 'building and demolition' to all construction activities covered by the standard (for example road maintenance), thereby increasing the number of activities that can produce additional noise which is then received in the Residential Zone. This will potentially increase the amount of construction noise received in the Residential Zone. This can led to an environmental cost.</p>	<p>An increase in permitted noise levels will reduce the amenity (in terms of noise) of the adjacent Residential Zone below that expected.</p> <p>Increased limits may not encourage owners/operators of noise generating activities to seek other ways of reducing noise emissions.</p> <p>Requirement (cost and time) to undertake a plan change process, plus increased likelihood of a protracted process due to objections.</p>	<p>Removal of a specific noise limit for Inner City Noise heard in the Residential Zone results in uncertainty for residents and noise producers over what is an acceptable level of noise.</p> <p>Noise control for the Residential Zone would then be inconsistent between noise produced within the Zone and noise received from the Inner City Zone.</p> <p>Requirement (cost and time) to undertake a plan change process, plus increased likelihood of a protracted process due to objections.</p>
<b>Environmental, Economic, Social, Implementation, and Compliance Benefits</b>	<p>The noise permitted in the Residential Zone is not changed from that permitted under the current operative rule – this maintains certainty and consistency for residents of this area and importantly retains the level of residential amenity anticipated in the Residential Zone.</p> <p>Amended rule better reflects current standards and its enforceability is improved by including specific explanations and reasons in the rule.</p> <p>As noted in 'costs' above there is a proposed increase in the number of construction type</p>	<p>Increased level provides limited improvement in ability for Inner City noise producers to operate within a new noise level.</p> <p>Increased level provides limited improvement in enforceability, particularly when measuring against background noise.</p>	<p>Removes the current difficulties in enforcement of existing rules.</p> <p>It recognises an enforcement officer's ability to use their experience and judgement within the bounds of the RMA (Sec 16 and 327) to carry out enforcement.</p> <p>Consistent with noise management proposed for within the Inner City Zone.</p>

Methods	<b>Option 1: Retain and Amend Existing Rule to update NZS noise standard and modify construction provision</b>	<b>Option 2: Increase noise levels for noise produced in Inner City Zone and received in the Residential Zone</b>	<b>Option 3: Delete existing rule and utilise RMA provisions for managing noise as is proposed for Inner City</b>
	<p>activities that can produce a higher level of noise leading to an environmental cost – this is also a economic benefit due to the need to undertake construction within the city which does not always meet the standard noise limits. Construction is a relatively short term activity that is necessary for the economic well being of Nelson.</p> <p>Limited change to the NRMP required.</p>		
<b>Overall Efficiency and Effectiveness</b>	<p>This option is the most efficient and effective as it maintains the current operative rule and updates it to the current New Zealand Standard for noise management – including the construction noise standard.</p>	<p>This option has some efficiencies and effectiveness as it provides an increased ability for noise producers to operate with a higher permitted noise level. In regard to noise receivers however it increases their exposure to noise, without any means of mitigating this.</p>	<p>This option has some efficiencies and effectiveness as it allows enforcement to be undertaken without relying on noise measurement in situations where contamination exists (however this issue is not as prevalent as it is when attempting to carry out measurements within the Inner City), and is consistent with the approach proposed in the Inner City Zone. However it reduces certainty for residents of the Residential Zone.</p>
<b>Appropriateness</b>	<p>This option is appropriate as it maintains the current noise environment for the Residential Zone adjacent to the Inner City.</p>	<p>This option is not appropriate as it does not resolve the noise issue, particularly in regard to the noise receivers and reduces the amenity levels expected in the Residential Zone.</p>	<p>This option is not appropriate as the enforcement issues of the city centre are not present, or not as prevalent in the surrounding Residential Zone and therefore the specific noise limits can be retained. Use of specific noise limits confirms the level of amenity expected and experienced in the Residential Zone is retained.</p>
<b>Risk of Acting</b>	<p>Limited risk of acting as the proposal substantially retains the current rule and any amendments do not significantly change its intent.</p>	<p>Residents of the Residential Zone experience a higher level of noise and subsequent reduction in amenity.</p>	<p>Removal of a specific noise limit in the Residential Zone results in uncertainty from residents and noise producers over what is an acceptable level of noise and makes noise enforcement in the Residential Zone adjacent to the Inner City inconsistent with other Residential Zone areas.</p>
<b>Risk of Not Acting</b>	<p>Limited risk of not acting as the proposal is to basically retain the current rule otherwise it would become out of date as it uses an older (although still applicable) standard and is not updated in line with the rest of the proposed Plan Change.</p>	<p>Limited risk of not acting as the current operative noise limits remain in place.</p>	<p>Limited risk of not acting as the current operative noise limits remain in place.</p>
<b>Conclusion</b>	<b>This option is the most appropriate for achieving the objective of the Plan.</b>		

**5.3.6 Amendment 5, Approach to existing rule ICr.42 'Noise':** Utilise noise provisions of the Resource Management Act 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 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. See Section 2 for further details.

Methods	Option 1: Retain Existing Rule	Option 2: Increase Noise limit	Option 3: Remove Existing Rule and Enforce Noise using provisions of the RMA
<b>Environmental, Economic, Social, Implementation, and Compliance Costs</b>	<p>Demonstrated problems applying and enforcing rule ICr.42 in particular with resulting costs for amenity reduction, and compliance in particular. Also difficult for noise producers due to uncertainty around acceptability of noise levels (due to inability to reliably measure and enforce the stated levels – see issue statement).</p> <p>Inability to follow Environment Court direction to apply the rules effectively.</p>	<p>Inner City noise producers, particularly bars can still exceed an increased limit if no acoustic insulation measures are undertaken.</p> <p>Enforcement still relies on monitoring being undertaken in difficult circumstances with contamination issues.</p> <p>Increased limits may not encourage owners/operators of noise generating activities to seek other ways of reducing noise emissions.</p> <p>Increased allowance for noise production does not address the reduction in residential amenity experienced.</p> <p>Requirement (cost and time) to undertake a plan change process.</p>	<p>Removal of a specific noise limit in the Inner City could result in uncertainty from residents and noise producers over what is an acceptable level of noise, and for acoustic engineers to know what external noise level to design for.</p> <p>Additional supporting material and possible training of enforcement staff required to maintain/develop consistent enforcement practices using this method.</p> <p>Requirement (cost and time) to undertake a plan change process.</p>
<b>Environmental, Economic, Social, Implementation, and Compliance Benefits</b>	<p>No change to the NRMP required.</p> <p>Existing rules and stated noise levels is retained – the stated noise limits are understood by the community.</p>	<p>Increased level provides limited improvement in ability for Inner City noise producers to operate within the noise level.</p> <p>Increased level provides limited improvement in enforceability, particularly when measuring against background noise.</p>	<p>In combination with other methods proposed, places onus for noise management on both the noise emitter (within the Inner City) and the noise receiver (for residents of the Inner City).</p> <p>Removes the current difficulties in enforcement of existing rules and results in a proven enforcement method that is currently being successfully utilised.</p> <p>As a implementation/compliance benefit it recognises an enforcement officer's ability to use their experience and judgement within the bounds of existing legislation in the RMA (Sec 16 and 327) to carry out enforcement.</p>
<b>Overall Efficiency and Effectiveness</b>	<p>This option is not efficient or effective as it does not resolve the current noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.</p>	<p>This option has some efficiency and effectiveness as it provides an increased ability for noise producers to operate with a higher permitted noise level. In regard to noise receivers however it increases their</p>	<p>This option is efficient and effective as it allows enforcement to be undertaken without relying on noise measurement in situations where contamination exists.</p>

<b>Methods</b>	<b>Option 1: Retain Existing Rule</b>	<b>Option 2: Increase Noise limit</b>	<b>Option 3: Remove Existing Rule and Enforce Noise using provisions of the RMA</b>
		exposure to noise, without any means of mitigating this and is therefore ineffective at achieving amenity outcomes.	
<b>Appropriateness</b>	This option is not appropriate as it does not resolve the current demonstrated noise issue or the difficulty with enforcing the current noise rules in the Inner City Zone.	This option is not appropriate as it does not resolve the noise issue, particularly in regard to the noise receivers, but also noise producers, and noise enforcement as there is still a contamination issue in carrying out measurements.	This option is appropriate as it utilises existing sections of the Resource Management Act 1991 to carry out noise control. This resolves an identified issue of contamination making noise measurement and enforcement inefficient and ineffective in many circumstances.
<b>Risk of Acting</b>	Risk of acting 'ie doing nothing' is that the noise issue is not resolved as expected by the Environment Court. Council is exposed to a legal challenge over management of noise.	Residents and visitors of the Inner City and surrounding areas experience a higher level of noise and subsequent reduction in amenity.	Removal of a specific noise limit in the Inner City results in uncertainty for residents and noise producers over what is an acceptable level of noise.
<b>Risk of Not Acting</b>	Not applicable.	Noise producers carrying out standard operations are in contravention of permitted activity standards, resulting in the current difficult enforcement regime.	Council is exposed to legal challenge for not enforcing a current rule as expected by the Environment Court. There is no improvement in current noise situation and an established method of enforcing noise under the RMA is not fully utilised.
<b>Conclusion</b>			<b>This option is the most appropriate for achieving the objective of the Plan.</b>

**5.3.7 Amendment 6, Non-regulatory:** 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.

<b>Methods</b>	<b>Option 1: Provide non-regulatory support for the Plan Change</b>	<b>Option 2: Do not provide non-regulatory support for the Plan Change</b>
<b>Environmental, Economic, Social, Implementation, and Compliance Costs</b>	Economic cost to provide, develop and maintain material and support.	The proposed Plan Change does not achieve the full level of results anticipated as it is not supported with the non-regulatory material.  No change to the NRMP required.
<b>Environmental, Economic, Social, Implementation, and Compliance Benefits</b>	The proposed Plan Change approach will produce better results over all if it is supported by non-regulatory methods such as educational material and advice.  No change to the NRMP required.	No cost in time or money to provide, develop and maintain the material.
<b>Overall Efficiency and Effectiveness</b>	This option is efficient or effective as it assists in improving the outcomes possible from the proposed Plan Change.	This option is not efficient or effective as there is no supporting non-regulatory material developed to assist the Plan Change implementation.
<b>Appropriateness</b>	This option is appropriate as it provides education and advice or support beyond that possible in the strictly regulatory environment.	This option is not appropriate as there is no supporting non-regulatory material developed to assist the Plan Change implementation.
<b>Risk of Acting</b>	Limited risk identified.	The Plan Change does not achieve the full level of results anticipated as it is not supported with the non-regulatory material.
<b>Risk of Not Acting</b>	The proposed Plan Change does not achieve the full level of results anticipated as it is not supported with the non-regulatory material.	Not applicable.
<b>Conclusion</b>	<b>This option is the most appropriate for achieving the objective of the Plan.</b>	

## **6.0 Conclusion**

The proposed Plan Change has been developed to resolve the identified issue of management of noise production and its impact on the city centre and surrounding areas. Consultation has been carried out throughout the development phase and this has resulted in a package of methods which together improve the way noise is managed in Nelson's Inner City Zone. The proposed package recognises that the Nelson Resource Management Plan Objectives and Policies, and the Heart of Nelson direction seek that Nelson has a vital and vibrant centre that is full of activity and life. The Plan Change is not about changing the noise level in the Inner City but is about improving how noise is managed. It does this by requiring that new and extended noise producers and new noise receivers in the inner city both play a role in managing noise. For enforcement of noise produced it utilises the existing provisions of the RMA. The Plan Change package also includes retention of the existing rule relating to noise which is produced in the Inner City Zone but received in the Residential Zone. This is important as it retains consistency for people in the surrounding residential area. Also an important aspect of the proposed Plan Change is the non-regulatory components where Council will provide guidance and information around noise production, management and reception in and around the city centre.

As assessed in this section 32 report the proposed Plan Change is the most appropriate way of achieving the objectives of the Plan in regard to Inner City noise.