



QUEENSTOWN LAKES DISTRICT COUNCIL

COUNCIL DECISION FOR PLAN CHANGE 27A: UPDATING NOISE ASSESSMENT AND MEASUREMENT STANDARDS

Report outlining the Decisions of L. Overton and M. Gazzard acting as Independent Commissioners for the Queenstown Lakes District Council pursuant to Section 34A of the Resource Management Act 1991.

EXECUTIVE SUMMARY

In April 2009 it was resolved by the Strategy Committee of the Council that a Plan Change was needed in order to update the references to the New Zealand Standards within the District Plan (the Plan).

Initially it was proposed to update all references to New Zealand Standards under one Plan Change. This was to include an update to the noise, lighting and traffic standards in order to align the District Plan with current best practice. It became clear, however, that some issues were more complex than others and that it would be more logical to progress separate Plan Changes that could follow different timeframes.

The purpose of the Noise Plan Change was defined as:

To clarify, replace or update references to acoustic standards incorporated by reference in the Plan and review provisions relating to noise to ensure they are consistent and clear and reflect industry best practice.

In undertaking the noise Plan Change, acoustic engineer Dr Stephen Chiles, was commissioned to identify the changes that needed to be made to the District Plan. This included recommending the appropriate New Zealand Standards that needed to be referenced in the District Plan to ensure the plan reflected current best practice. As part of this process, Dr Chiles also identified some anomalies and inconsistencies with many of the noise provisions in the different zones that were considered to be in need of addressing.

The Plan Change was publicly notified for submissions in August 2009 with further submissions closing in November 2009. A total of 53 submissions and 13 further submissions were received. Of the original submissions 37 were proforma submissions (replicates of other submissions).

A public hearing was held on Wednesday 17 February 2010. The Hearings Panel consisted of Commissioners Leigh Overton (Chair) and Commissioner Mel Gazzard. A total of 11 submitters presented evidence at the hearing. Most of the submitters opposed the Plan Change. The key issues raised both in the submissions and at the hearing included the following:

- i) Inadequacy of Plan Change and Section 32 assessment
- ii) Lack of public consultation
- iii) Liberalisation of noise limits
- iv) Reduction in amenity values particularly in respect to aircraft noise
- v) Plan Change should include a comprehensive review of all the District Plan noise provisions

Once the Hearings Panel heard all of the evidence presented they deliberated on all of the key issues raised. In making its decisions on the Plan Change the Hearings Panel has:

- (i) Been assisted by a report prepared by its planning staff. This report was circulated to submitters prior to the hearing taking place; and

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- (ii) Had regard to matters raised by submitters and further submitters in their submissions and further submissions, and at the Council hearing; and;
- (iii) Had regard to the provisions of Section 32 of the Resource Management Act 1991 and;
- (iv) Had regard to advice received from Acoustic Engineer, Dr Stephen Chiles.

The Hearings Panel found that the recommendations of the Planner's Report should be adopted in full. It must be noted, however, that the Hearings Panel does sympathise with the many points raised by submitters and recognises that there are noise issues in the District Plan that need to be addressed. The Panel determined, however, that many of the issues raised by submitters were outside the scope of this Plan Change and in reaching its decision it was cognisant of the purpose of the Plan Change, which is to update references to the New Zealand noise standards in the District Plan. It is noted that the Hearings Panel in reaching its decision considered advice received from Dr Stephen Chiles, who was the only noise expert involved in this plan change process.

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Appendix 1: Plan Change 27A – Updating Noise Assessment and Measurement Standards.

1. Introduction

This Report discusses and makes Decisions on submissions received in relation to Plan Change 27A Updating Noise Assessment and Measurement Standards. Although this Report is intended as a stand-alone document, a more in-depth understanding of the Plan Change, the process undertaken, and related issues may be gained by reading the Section 32 report and associated documentation prepared for Plan Change 27A, publicly notified in August 2009. This information is available on the Council website: www.qldc.govt.nz.

The relevant provisions in the Queenstown Lakes District Council's Partially Operative District Plan which are affected by the Proposed Plan Change are:

| Plan Section | Provision |
|-------------------------------------|--|
| 5 Rural General Zone | 5.3.5.2 iv, 5.3.5.2 v and 5.7.5.2 iii |
| 6 Qtwn Airport Mixed Use Zone | 6.2.5.2.iv |
| 7 Residential Zone | 7.5.5.2.xi, 7.5.6.2.vii, 7.6.6.2.vi |
| 8 Rural Living Zone | 8.2.4.2.iii |
| 9 Township Zone | 9.2.5.2.vi |
| 10 Town Centre Zones | 10.6.5.2.ii, 10.7.5.2.ii, 10.8.5.2.ii, 10.9.5.2.ii |
| 11 Business and Industrial Zones | 11.2.5.2.ii, 11.3.5.2.i |
| 12 Special Zones | 12.2.5.2.xi, 12.4.5.2.iii, 12.7.5.2.ii, 12.9.5.2.v, 12.11.5.2.iii, 12.15.5.2.vii, 12.17.5.2.xi, 12.18.5.2.ii |
| D Definitions | Noise and Sound Definitions |
| Appendix 2 | Noise References |

In summarising submissions, the name of the submitter is shown in **bold**, with their submission number shown in brackets.

Where there is any inconsistency between the provisions contained in Appendix 1 and amendments made by the Decisions, then the provisions in Appendix 1 shall be considered correct.

2. Purpose

To clarify, replace or update references to acoustic standards incorporated by reference in the Plan and revise provisions relating to noise to ensure they are consistent and clear, and reflect industry best practice.

3. List of Submitters

| Original Submitters | Submission # |
|--------------------------------------|--------------|
| ACB Holdings Limited | 27/1/1 |
| Bar None Limited | 27/2/1-4 |
| Ellis Hospitality Group Limited | 27/3/1-4 |
| Frenzy Group Limited | 27/4/1-4 |
| Southern Pub Company Limited | 27/5/1-4 |
| Subculture Limited | 27/6/1-4 |
| The World Bar Limited | 27/7/1-4 |
| Watertight Investments Limited | 27/8/1-4 |
| Geoff Argall | 27/9/1 |
| Philippa Argall | 27/10/1-1 |
| Arthurs Point Community Association | 27/11/1-1 |
| Simon Beale | 27/12/1-1 |
| Sue Bradley | 27/13/1-1 |
| Christine Byrch | 27/14/1-1 |
| Angela Champion | 27/15/1-1 |
| Louise Cooper | 27/16/1-1 |
| Tom Cowan | 27/17/1-1 |
| Edward Cruikshank | 27/18/1-1 |
| Tonya Cruickshank | 27/19/1-1 |
| Simon Dasises | 27/20/1-1 |
| Warwick Dicker | 27/21/1-1 |
| Sandra and Mike Fleming | 27/22/1-1 |
| Frankton Community Association | 27/23/1-1 |
| Lorna Gray | 27/24/1-1 |
| Simone Hart | 27/25/1-1 |
| Victoria Hibbolt | 27/26/1-1 |
| Peter Jahnsen | 27/27/1-1 |
| Steve and Mary Jenkins | 27/28/1-1 |
| Kelvin Heights Community Association | 27/29/1-1 |
| Clive and Shane Manners Wood | 27/30/1-1 |
| Kenneth Mitchell | 27/31/1-1 |
| Ewen and Hearther Rendel | 27/32/1-1 |
| Darryl Sampson | 27/33/1-1 |
| Elinor Slater | 27/34/1-1 |
| Peter Smith | 27/35/1-1 |
| D Sowry and J Allan | 27/36/1-1 |
| Colin Yuill | 27/37/1-1 |

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| | |
|--|---------|
| Arthurs Point Protection Society | 27/39/1 |
| D and J Baird | 27/40/1 |
| Richard Bowman | 27/41/1 |
| Michael Clark | 27/42/1 |
| Good Group Limited and Westwood Group Holdings Limited | 27/43/1 |
| Elizabeth Hanan | 27/44/1 |
| Heliworks Queenstown Helicopters Ltd | 27/45/1 |
| John Murray | 27/46/1 |
| Veronica and Michel Logez | 27/47/1 |
| Clifton Palmer | 27/48/1 |
| Peter Fleming and Associates | 27/49/1 |
| Remarkables Park Limited | 27/50/1 |
| Marc Scaife | 27/51/1 |
| Victoria Shaw | 27/52/1 |
| Spire Luxury Hotels Limited | 27/53/1 |
| W and F Cooper Village Green Family Trust | 27/54/1 |
| Further submissions | |
| Spire Luxury Hotels Limited | |
| Church Lane No. 5 Limited | |
| ACB Holdings Limited | |
| Bar None Limited | |
| Ellis Hospitality Group Limited | |
| Frenzy Group Limited | |
| Southern Pub Company Limited | |
| Subculture Limited | |
| The World Bar Limited | |
| Watertight Investments Limited | |
| Christine Byrch | |
| Elizabeth Hannan | |
| Mike Dunn and Becky Ozanne | |

4. The Hearing – Summary of Evidence and Submissions Presented

The hearing was held on Wednesday 17 February 2010 at the Council offices, 10 Gorge Road, Queenstown.

In attendance were the following:

| | |
|---------------|--------------------------------------|
| Leigh Overton | Commissioner and Hearing Panel Chair |
| Mel Gazzard | Commissioner |

| | |
|-------------------|--------------------------------------|
| Jane Roberston | Hearings Administrator |
| Philip Pannett | General Manager: Policy and Planning |
| Karen Page | Senior Policy Analyst |
| Dr Stephen Chiles | Acoustic Engineer |

Ten submitters spoke at the hearing. One written submission by Remarkables Park Limited was tabled. The following provides a summary of the key points raised within the verbal and written submissions.

1.1 **Clive Manners Wood**

Mr Manners Wood presented written evidence in opposition to the plan change particularly in respect to the proposal to include New Zealand Standard 6807 1994 (noise management and land use planning for helicopter landing areas) in the District Plan. Mr Manners Wood original submission included a proforma submission that sought the withdrawal of the Plan Change, further consultation and a new Section 32 report. The submitter considered that by adopting this standard, noise levels in residential areas (with particular reference to Arthurs Point) would increase therefore compromising amenity levels, and concluded that adopting this standard without further public consultation was illegal and was not needed in the District Plan.

1.2 **Brett Giddens of Lakes Consulting Group on behalf of ACB Holdings Limited Bar None Limited, Ellis Hospitality Group Limited, Frenzy Group Limited, Southern Pub Company Limited, Subculture Limited, The World Bar Limited, and Watertight Investments Limited.**

Mr Giddens presented verbal evidence in support of both the original and further submissions lodged by Lakes Consulting Group on behalf of the above submitters. Mr Giddens elaborated on key points within his original and further submissions. The submitter stated that the principle to update the existing standards was not opposed but considered that the effects of the Plan Change were underestimated. Mr Giddens submitted that the Section 32 was grossly inadequate, it failed to give consideration to any objectives and policies, and considered that reviewing the noise standards only, as opposed to taking a holistic approach by reviewing all the District Plan noise provisions, was not an efficient planning process. Furthermore, Mr Giddens considers that the public consultation was inadequate and that while there was no statutory obligation to consult, there is an expectation that Council as an administering body would have done so.

Mr Giddens addressed the proposal to impose a provision to require noise received from another zone to comply with the noise limits set in the zone standards for that zone. The submitter considered this “new measuring point” would incur a significant reverse sensitivity issue which had not been assessed in the Plan Change and should be removed. He submitted that the implications of this rule on licensed premises in the Town Centre would be significant if the Plan Change was adopted.

Mr Giddens also sought a new rule that excluded all existing consented licensed premises from having to comply with the above provision that would require compliance with adjoining noise limits. He considered that these premises could be affected at a later date by this new measuring point due to the review clauses that were imposed as consent conditions. He submitted that existing use rights may not be sufficient to protect these existing activities and therefore sought a specific provision to exclude these consented activities from having to comply with this rule.

1.3 **Peter Fleming on behalf of Peter Fleming and Associates**

Mr Fleming presented verbal evidence in opposition to the Plan Change. Mr Fleming considers that the Plan Change is an example of bureaucratic incompetence, was a waste of money and should be withdrawn.

1.4 **Christine Byrch**

Ms Byrch presented verbal evidence in opposition to the Plan Change. Ms Byrch believes that adopting the new noise standards will make the permitted noise levels more lenient and considers that noise needs to be addressed holistically. The submitter states that instead of changing noise measurement and assessment the Plan Change should take into account the many concerns raised by submitters regarding noise in the district and undertake a more comprehensive noise review. Ms Byrch considers that the noise problem in the district is much bigger than the issues raised in the Plan Change.

1.5 **Marc Scaife**

Mr Scaife presented verbal evidence in opposition to the Plan Change. Mr Scaife submitted that it should be up to the community to decide what an acceptable level of noise was, as opposed to acoustic technicians. The submitter considers that changing the way noise is assessed and measured will result in an increase in noise limits. Mr Scaife believes that as the existing District Plan provisions do not reference standards relating to helicopter noise, introducing such a standard should require more public consultation and should not be a technical decision.

1.6 **Chris Streat on behalf of Arthurs Point Protection Society**

Chris Streat presented written evidence on behalf of the Arthurs Point Protection Society. The submitter considers that the Plan Change will have an adverse effects in respect to noise levels and seeks that the plan change process start again. Mr Streat advised that the Society had no opposition to reviewing the noise standards but rather to the quantum of increases being proposed. Mr Streat considered that the Council had not followed the correct procedures and sought a legal opinion on the legality of introducing the new Standards. Rather than waiting for an appeal on the Plan Change, Mr Streat requested that Council go straight to the Environment Court to get a declaration on the legality of the process that was followed for this Plan Change.

Mr Streat considered that the cost/ benefit analysis in the Section 32 report did not address the helicopter standards being introduced into the District Plan. He considered that to claim that there would be no effects of introducing the helicopter standards was incorrect. Mr Streat considered that Council should get legal advice and consider getting a declaration from the Environment Court regarding procedural correctness before getting to substantive matters which will be covered in an appeal at a later date.

1.7 **Warren Cooper**

Warren Cooper presented verbal evidence in support of the plan change as long as it does not act as a facilitator for liberalising the noise limits. Mr Cooper considers that the commercial greed of some existing establishments in the Queenstown Town

Centre is on the verge of pushing away the residential aspect of this Town Centre zone.

1.8 Sean Dent on behalf of Heliworks

Mr Dent presented written evidence on behalf of Heliworks Limited in support of the Plan Change. Mr Dent submitted that the result of the changes will ensure that the references to noise standards are up to date, taking into account of the developments in research and understanding of acoustics and will refer to standards which reflect industry best practice and achieve consistency in assessment. He concludes that he considers that the Plan Change in its current form is in accordance with Part II of the RMA.

1.9 Annabel Ritchie on behalf of Church Lane No. 5 Limited

Ms Ritchie of Anderson Lloyd presented a legal submission on behalf of Church Lane No. 5 Limited, a further submitter to the Plan Change, in general support of the Plan Change as it relates to the Town Centre noise standards. This submitter opposed the relief sought by Frenzy Group Ltd, ABC Holdings, Ellis Hospitality Group Ltd, Bar None Ltd, Southern Pub Company Ltd, Subculture, The World Bar Ltd and Watertight Investments Ltd which sought for a review of the daytime and night time noise hours and an exemption for licensed premises with smoker areas from the District Plan noise standards. The submitter specifically opposed any increase in the daytime noise hours from 2200 to 2300 hours as sought by the above original submitters and any increase to the noise level for night time noise. Church Lane No.5 Ltd concurred with the findings of the Planner's Report that any increase in daytime noise hours or provision to exempt licensed premises with smoking areas from the noise standards would be outside the scope of the Plan Change.

1.10 Tim Walsh on behalf of Westwood Holdings Limited

Tim Walsh of Southern Planning Group presented verbal evidence in support of the Plan Change. He opposed, however, any rule that introduced the need to comply with noise standards of any adjacent zone. Mr Walsh believes that this would be arduous for activities in the Town Centre Zone that were complying with the noise standards in that zone but not in those adjacent zones. Mr Walsh accepted that there was already such a requirement in the District Plan but would support any future Plan Change to change this.

1.11 Remarkables Park Limited

Remarkables Park Limited (RPL) tabled a written submission supporting, in principal, the Plan Change. The submitter, however, raised concerned about the potential increase in noise received at the Remarkables Park Zone due to the proposed change to measuring points from "at" the site boundary to "within" the site boundary. RPL considers that given the spatial extent of the RPZ Activity Areas, this change could increase noise received from the RPZ and result in disputes as to the point from which noise is to be measured.

5. Commissioners Decision

In making recommendations the Hearings Commissioners have had regard to the matters raised by submitters and further submitters in their submissions and at the

Council hearing, to the Section 32, planner's recommendation and associated reports, and to the provisions of the Resource Management Act 1991. They have also considered advice received during the Hearing from acoustic engineer Dr Stephen Chiles.

The following sections of this report provide a brief summary of each submission, the decision in respect to each submission point and explanation for the decision.

Twenty nine submitters lodged the following proforma submission

Proforma 1

Geoff Argall (27/9/1), Philippa Argall (27/10/1-1), Arthurs Point Community Association (27/11/1-1) Simon Beale (27/12/1-1), Sue Bradley (27/13/1-1), Christine Byrch (27/14/1-1), Angela Champion (27/15/1-1), Louise Cooper (27/16/1-1), Tom Cowan (27/17/1-1), Edward Cruikshank (27/18/1-1), Tonya Cruikshank (27/19/1-1), Simon Dasies (27/20/1-1), Warwick Dicker (27/21/1-1), Sandra and Mike Fleming (27/22/1-1), Frankton Community Association (27/23/1-1), Lorna Gray (27/24/1-1), Simone Hart (27/25/1-1), Victoria Hibbolt (27/26/1-1), Peter Jahnsen (27/27/1-1), Steve and Mary Jenkins (27/28/1-1), Kelvin Peninsula Community Association (27/29/1-1), Clive and Shane Manners Wood (27/30/1-1), Kenneth Mitchell (27/31/1-1), Ewen and Heather Rendel (27/32/1-1), Darryl Sampson (27/33/1-1), Elinor Slater (27/34/1-1), Peter Smith (27/35/1-1), D Sowry and J Allan (27/36/1-1) and Colin Yuill (27/37/1-1).

- i) **The submission states that the plan change was “*not prepared in accordance with RMA Section 32*” and not in accordance with the Objectives and Policies contained in the District Plan.**

Discussion

Under Section 32 of the Resource Management Act a local authority must undertake an evaluation that examines the extent to which each objective is the most appropriate way to achieve the purpose of the Act and whether having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.

The Plan Change does not propose to amend, delete or introduce any objectives to the District Plan and therefore an assessment of any proposed objectives is not relevant. This assessment would have been done prior to adopting the existing objectives. Further to this, given that the Plan Change will not increase the existing permitted noise levels, the proposal to update the existing standards will continue to ensure that the proposed provisions are the most appropriate method in achieving the existing objectives.

An example of those objectives specifically relevant include the following:

Section 5 Rural Areas - Objective 3

“Avoiding, remedying or mitigating adverse effects of activities on the rural amenity”

Section 7 Residential Areas- Objective 3 and 4

“Pleasant living environments within which adverse effects are minimised while still providing the opportunity for individual and community needs”.

“Non residential activities which meet community needs and do not undermine residential amenity located within residential areas”.

Section 8 Rural Living Areas- Objective 2

“Avoiding, remedying or mitigating adverse effects of activities on rural amenity”

Section 10 Town Centre – Objective 2- Amenity

“Enhancement of the amenity, character, heritage, environmental quality and appearance of the town centre.

“Maintenance and enhancement of the Queenstown Town Centre as the principal commercial, administration, cultural and visitor focus for the District.”

The noise provisions in the District Plan fall under the relevant zone specific objectives that seek to protect amenity values. The proposed amendments to the District Plan are limited to updating the New Zealand Standard references relating to noise measurement and assessment. The Plan Change does not amend the purpose of the rules and will have negligible adverse effects over and above those effects already permitted under the Plan. As a result it is considered that the proposed amendments will ensure the rules will continue to be consistent with the relevant objectives and policies in the District Plan. The Plan Change will provide for a more efficient and effective method of measuring and assessing noise in the district while continuing to ensure that any adverse effects are mitigated. As a result, the proposed new noise standards and subsequent minor changes to the provisions will continue to safeguard existing amenity values.

Decision

Reject the submission that the plan change was not prepared in accordance with Section 32 or is contrary to the objectives and policies of the District Plan.

Explanation

The proposed introduction of the updated standards is more a technical as opposed to a policy issue as the Plan Change does not propose to amend or introduce any new objectives and policies. Furthermore, the proposed new rules will continue to ensure consistency between the existing policies and rules. As a result the Hearings Panel considered that the Section 32 analysis and subsequent 42 A report assessment were sufficient to meet the requirements of the Act.

- ii) **The submission also states that the Plan Change does not assess effects on property owners common law rights to quiet enjoyment, loss of building rights, imposition of Building Act costs to insulate buildings near noise sources proposed.**

Discussion

The proposed Plan Change will not increase permitted noise levels within the district. Amending references in the District Plan to the updated New Zealand standards will change the way noise is assessed and measured but will not result in a perceivable change in the level of noise districtwide.

As a result, the Plan Change will not alter existing building rights (it is noted that the concept of the notional boundary already exists in the District Plan), nor will it increase the noise levels and therefore the potential cost to insulate from noise sources. As a result, the above assessment requested in this submission was not considered necessary.

Decision

Reject the submission that an assessment should be undertaken to consider the matters raised above.

Explanation

The Plan Change will not result in a perceivable change in permitted noise levels and therefore an assessment including the above was not considered necessary.

- iii) **The submission states that the Plan Change does not record any consultation with the Ministry for the Environment, Iwi authorities, and the board of any foreshore and seabed reserve in the region.**

Discussion

The Ministry for the Environment and Ngai Tahu were both served notice of the Plan Change through the public notification process. It is noted that neither parties chose to submit on the Plan Change. Consultation was not carried out with the board of any foreshore or seabed reserve as this is only required if applicable and it is clearly not relevant to this Plan Change.

Decision

Reject the above submission that consultation was insufficient.

Explanation

Consultation prior to notifying the Plan Change was not legally required nor was it considered necessary due to the nature of the Plan Change.

- iv) **Item 5 of the submission states that the Plan Change “*understates the environmental costs of the proposed changes, the RMA section 32 report hardly mentions any costs at all*”.**

Discussion

As outlined above, the Section 32 assessment is considered adequate in respect to meeting the requirements of the Resource Management Act. The assessment includes a cost and benefit analysis for both options and finds that not undertaking the plan change outweighs the cost of retaining the status quo.

Decision

Reject the above submission that the Section 32 report was inadequate in respect to assessing the costs of the proposed Plan Change.

Explanation

A cost and benefit analysis was undertaken in the Section 32 report. It was considered sufficient to meet the requirements of the Act.

- v) **The submission also states that the Plan Change “*does not assess that NZS 6807 1994 Helicopters is being introduced for all zones in the District for non-residential activities. NZS6807 was not previously referenced in the District Plan*”.**

Discussion

Dr Stephen Chiles has provided the following comments regarding the above;

“Specific sources of transportation sound (including helicopters) are excluded from NZS 6802:1991 as the general assessment method is not appropriate. The District Plan specifies that noise limits are to be assessed using NZS 6802:1991 and therefore, under the current District Plan provisions there are in fact no explicit noise limits for helicopters. NZS 6802:1991 refers to other standards for these sound sources, although due to the order of publication dates there is still not an explicit link to NZS 6807:1994. However, the predecessor to NZS 6807:1994 was a 1987 Department of Health guideline, which used the same noise limits and method. Therefore, the current reference in the District Plan to NZS 6802:1991 can be followed to implicitly specify the noise limits and methodology in NZS 6807:1994. In practice, in the absence of any explicit noise limits in the District Plan, on the basis of expert advice, recent helicopter landing sites in the Queenstown Lakes District have all been assessed using NZS 6807:1994. Therefore, the plan change making this reference explicit does not alter the noise limits currently applied to helicopter landing sites under the District Plan.

The District Plan also includes assessment matters for airports in some zones. These can require consideration of issues beyond NZS 6807:1994 for helicopter noise. These assessment matters are not altered by the Plan Change”

Decision

Reject the above submission point as the noise limits and methodology in NZS 6807:1994 were already applicable under the District Plan.

Explanation

This issue was discussed at some length in the hearing. The New Zealand Standard NZS6807, while used for the purposes of resource consent assessments, is not specifically referenced in the District Plan. Dr Chiles confirmed, however, that it is widely recognised by Commissioners and noise experts that the use of this standard is appropriate in assessing helicopter noise. Dr Chiles considered that introducing the standard will address a technical issue with the District Plan and will not result in a perceivable change in the level of noise permitted in the district. Further to this, the Plan Change did consider the effects of introducing the new standards and found them to be negligible.

- vi) **The submission states that the Plan Change does not assess the effects of the Notional Boundary being introduced as a measuring point, a relaxation of the Helicopter Standard NZS 6807:1994 which requires the *property boundary* as a measuring point in built up areas. The submission states that this change has negative implications for future land use.**

Discussion

The existing plan provisions for all sound sources require measurement points to be taken “*either at or within the notional boundary of any residential unit*” within the Rural General Zone. The concept of a notional boundary is only used in the rural environment. Within all other zones, the existing plan provisions require measurement to be taken at the boundary of any other site in the zone. The notional boundary measurement point is therefore not being introduced to the plan as it already exists. It is being amended, insofar as the Plan Change requires measurement to be taken *within the boundary* of any other site within the zone as opposed to *at the boundary*. The existing provisions include both provisions (*within*

and at the property boundary) subject to the zone. Hence this is not a new concept in the District Plan but is being introduced in some zones in an attempt to provide some consistency throughout the District Plan. It is recognised in NZS 6802:2008 that requiring a measurement point at a property boundary is not good practice as measurements can be obstructed or influenced by objects such as ditches, fencing or buildings for example. In respect, however, to reference to the NZS 6807:1994 standard, as outlined in Rule 5.3.5.2.v (d) helicopter noise limits will continue to be measured in accordance with this standard.

Decision

Reject the above submission point.

Explanation

Changing the proposed measuring points will ensure a level of consistency between the District Plan and the New Zealand Noise Standards, and will have negligible adverse effects in respect to any increase in noise levels.

- vii) **The proposed Plan Change proposes to introduce NZS 6802:2008 to the District Plan. The submission states that the assessment does not assess the building rights issue of this standard which states “any existing dwelling”. The submission states that this standard is “*designed to exclude effects on future buildings close by a noise source and may force requirements for expensive acoustic building methods for buildings at medium distance or prevent their being erected at all close by.*”**

Discussion

In respect to the above, Dr Chiles advised the following:

“As outlined above, the concept of measuring sound in the rural environment within the notional boundary is not new to the District Plan. NZS 6802:2008 does not seek to alter any future building rights; it simply alerts the reader to this being an issue that requires consideration (section 8.4.8). It does not specify that noise limits apply only at “existing” dwellings, but notes that this is a common provision in consents. The point in time at which noise limits apply is a legal matter that is not something defined by acoustics standards.

The Plan Change does not add the word “existing” to the plan rules, and this is not part of NZS 6802:2008. The legal position regarding whether or not noise limits apply retrospectively at future buildings should not be affected by this plan change”.

Decision

Reject the above submission.

Explanation

It is considered that the proposed Plan Change will not alter any existing building rights.

- viii) **Item 9 of this submission states that the Plan Change does not assess the issue of removing the protection in NZS 6802:1991 for a 5 dB L₁₀ reduction to noise performance standards for noise with “*special audible characteristics*”... *such as tonality and impulsiveness*”.**

Discussion

In respect to the above Dr Chiles advised the following:

“NZS 6802:2008 (section 6.3, Appendix B) contains the same special audible characteristics adjustment as NZS 6802:1991 (section 4.3, 4.4). However, there may be some confusion as in the 1991 version the adjustment was subtracted from the noise limit, whereas in the 2008 version the adjustment is now added to the measured sound level. For example:

- *The noise limit is 50 dB*
- *The measured sound level is 48 dB*
- *The measured sound is deemed to have special audible characteristics*
- *Under the 1991 version:*
 - *Sound level = 48 dB*
 - *Noise limit = 50 dB – 5 dB = 45 dB*
- *Under the 2008 version:*
 - *Sound level = 48 dB + 5 dB = 53 dB*
 - *Noise limit = 50 dB*
- *Under both versions the sound level is 3 dB above the noise limit*

The reason for the change is that with multiple sound sources usually only some of them have special audible characteristics. By keeping the limit fixed, only those sources with special audible characteristics are penalised.

The other difference with respect to special audible characteristics is that in the 2008 version more sophisticated objective methods have been added to confirm whether or not special audible characteristics exist, to resolve disputes over differing subjective assessments. A minor side-effect of adopting these international objective methods is that for tonality the adjustment can now be up to + 6 dB, which is 1 dB more stringent than the 1991 version. This is not significant”.

Decision

Reject the above submission

Explanation

Protection from special audible characteristics has not been removed and hence the above submission point is rejected.

- x) ***Item 10 of this proforma submission states that the Plan Change does not adequately identify the alternatives such as using a greater distance than 20m from the notional boundary in rural areas.***

Discussion

The purpose of the Plan Change is to update the existing plan provisions so that they reflect current best practice. The 20m notional boundary is recognised in both the District Plan and in the existing and updated standards as being a common measuring point that is used as best practice. It is considered sufficient to protect dwellings or land in the vicinity of dwellings that are considered to require the greatest level of protection from adjacent noise emissions. As a result, it is considered that the use of any alternative measure would be inconsistent with the purpose of the Plan Change.

Decision

Reject the submission.

Explanation

This measuring point is currently used in the District Plan as well as in the New Zealand Noise Standards. The assessment of an alternative measuring point is not considered necessary.

- xi) The submission also states that the Plan Change underestimates the effects of moving from typically 50dBA L_{10} in the District Plan at present to 50dBA $L_{Aeq(15\ min)}$ measurement method.**

Discussion

In respect to the above, Dr Chiles advised the following:

“The effect of changing the noise limit from 50 dB L_{A10} to 50 dB $L_{Aeq(15\ min)}$ will vary for different sound sources. This is discussed in the section 32 evaluation. It is not possible to make an exact translation from one unit to the other. The original L_{A10} noise limits were set at round numbers rather than on the basis of an absolute scientific requirement. The same round numbers are still considered appropriate for the $L_{Aeq(15\ min)}$ noise limits. The change will result in a comparable standard. From extensive experience with a wide range of different sound sources, there are no realistic situations known where this change would lead to significant degradation in amenity. However, the change will allow far more robust monitoring and enforcement which could provide a benefit”.

Decision

Reject the submission on the advice received above.

Explanation

Dr Chiles has advised that his assessment has not underestimated the difference between 50dBA L_{10} and 50dBA $L_{Aeq(15\ min)}$.

- xii) Item 12 states the Plan Change does not assess the effects of changing noise measurement periods**

Discussion

In respect to the above, Dr Chiles advised the following:

“There are currently no measurement periods directly specified in the District Plan. NZS 6802:1991 (section 5.1) specifies between 10 or 15 minutes and an hour. NZS 6802:2008 (section 6.2.1) specifies a standardised time of 15 minutes. In practice, time periods used under the existing District Plan rules have generally been 10 or 15 minutes, so there is no significant difference under the Plan Change. The only change is that exclusion of longer time periods of up to an hour is marginally more stringent”.

Decision

Reject the submission point on the advice received confirming that measurement periods have not significantly changed.

Explanation

This submission point is rejected on the basis that Dr Chiles has advised that there is no significant difference in respect to time measurement under the proposed Plan Change. The only change is that exclusion of longer time periods of up to an hour is marginally more stringent.

- xiii) **The submission also states that the Plan Change does not assess the effect of removing NZS6801 1991 4.2 “background plus” assessment that states “ L_{10} should not exceed the background sound level by 10dBA or more”, to protect particularly quiet environments, especially in the 30-50dBA L_{10} range.**

Discussion

In respect to the above Dr Chiles advised the following:

“NZS 6802:1991 (section 4.2.1) provides a supplementary guide for the assessment of sound levels using “background plus”. This guidance has no bearing on the District Plan noise limits. It can optionally be used as an aid when assessing the effects of sound. It has tended to have been used more to justify higher noise limits than allowing for lower noise limits. However, it does not alter whether or not sound complies with the District Plan. This approach is no longer favoured and has therefore been removed from the 1999 and 2008 versions of NZS 6802. The change does not materially alter the District Plan”.

Decision

Reject this submission point.

Explanation

Advice from Dr Chiles confirms that the removal of “background plus” from NZS 6802 has no bearing on the District Plan noise limits.

- xiv) **Item 14 of the submission states that the Plan Change does not assess the effects of changing from L95 “residual sound level” in NZS6802 1991 to L90 “background sound level” in NZS6802 2008.**

Discussion

In respect to the above Dr Chiles advised the following

“New Zealand Standards have been updated to use L90 rather than L95. However, the District Plan does not use either the L90 or L95, so this change has no effect. In any case, the difference between the L90 and L95 is generally less than 0.5 dB which is not significant”.

Decision

Reject the submission.

Explanation

Neither the L_{90} nor L_{95} are included in the District Plan.

- xv) **Item 15 states that the plan change does not assess the effects of removing L_{max} for night time.**

Discussion

Dr Chiles has advised that the descriptor L_{max} has now been written more precisely as L_{AFmax} . There is no change in the meaning, but there is less scope for misinterpretation with the new notation.

Decision

Reject the submission as maximum noise limits have been retained at night. The terminology has changed to L_{AFMax} but the limits are the same.

Explanation

Reject the above submission point for reasons outlined above.

In respect to the above submission points, the submitter seeks the following relief:

- i) Withdraw Plan Change, carry out further consultation with community groups and prepare a new Section 32 report.**

Further Submission

A further submission was received from Christine Byrch in support of the proforma submission above, seeking that the Plan Change undertakes a comprehensive review of the noise provisions in the District Plan as opposed to just changing the way noise is measured and assessed.

A further submission in support of this submission was received from all those parties listed in the “Proforma 2” submission below.

Decision

Reject relief sought in both the original and further submissions.

Explanation

The Hearings Panel rejected the above submission points for the reasons outlined above.

Proforma 2

The following proforma submission was lodged by Lakes Consulting Limited on behalf of the submitters listed below:

ACB Holdings (27/1/1-4), Bar None Limited(27/2/1-4), Ellis Hospitality Group Limited (27/3/1-4), Frenzy Group Limited (27/4/1-4), Southern Pub Company Limited (27/5/1-4), Subculture (27/6/1-4), The World Limited (27/7/1-4), Watertight Investments Limited(27/8/1-4).

- i) Review of all District Plan Noise Provisions**

The main issue raised in this submission point was the opposition towards Council not undertaking a complete review of the existing District Plan noise provisions, as opposed to the proposal to just update the existing noise standards.

Discussion

While it is acknowledged that the existing noise levels may need to be considered for review at some time in the future, Council is yet to consider the most appropriate time for this to occur. The purpose of this plan change is simply to update the old New Zealand Standards and address some of the inconsistencies around the noise provisions in the District Plan. Brett Giddens, on behalf of the above submitters, presented evidence at the hearing in support of this submission point. As reiterated at the hearing, Council will have to review all the noise provisions within the next three years, where many of the issues raised through submissions could be considered. The purpose of this Plan Change was to update the noise standards only.

Decision

Reject this submission point for reasons outlined above.

Explanation

The Hearings Panel rejected the above submission point as undertaking a complete review of the noise provisions was outside the scope of this plan change.

ii) **Inadequate Section 32 Analysis**

The submission also states that the Section 32 was inadequate, specifically stating there is little evidence to justify the plan change, the implications of not undertaking Plan Change is overstated and there was an inadequate analysis of effects.

Discussion

The Section 32 analysis is considered adequate and meets the statutory requirements. As outlined above, the Plan Change does not propose to amend, delete or introduce any objectives to the District Plan and therefore an assessment of any proposed objectives is not relevant. This assessment would have been done prior to adopting the existing objectives. Further to this, given that the Plan Change will not increase the existing permitted noise levels, the proposal to update the existing standards will continue to ensure that the proposed provisions are the most appropriate method in achieving the existing objectives.

Decision

Reject this submission point that the Section 32 assessment was inadequate.

Explanation

The above submission point is rejected as the level of assessment is considered to meet the requirements of the Act.

iii) **No Consultation**

The submission states that “no consultation has been undertaken with stakeholders and landowner who have land and/or interests in the Town Centre Zones or other zones in the district”.

Discussion

Due to the negligible adverse effects the Plan Change will have, over and above those effects already existing, on noise levels, consultation prior to notification of the plan change was not considered necessary. There is no statutory obligation under the RMA to consult prior to notification of a Plan Change, with the exception of those specifically listed in Schedule 1 of the Act. Under Section 82 of the Local Government Act 19 the level of consultation required is dependent on the size of the decision sought. Due to the negligible effects the proposed Plan Change will have on noise levels in the district, consultation prior to notification was not deemed necessary.

Decision

Reject this submission point suggesting that consultation should have been carried out prior to notification.

Explanation

This submission point is rejected for reasons outlined in the discussion above.

iv) **Compounding Existing Inconsistencies in the District Plan**

The submission states that the plan change will compound existing inconsistencies in the District Plan, potentially creating a conflict between noise generating activities in Town Centres and sensitive receivers. It is suggested that the way to avoid this is to review the noise rules as a whole. This submission suggests that the daytime and night time hours in the noise rules in the Town Centre zone need to be amended.

Discussion

As outlined above, the purpose of the Plan Change is to update the existing noise standards that are referenced in the District Plan and rectify any existing inconsistencies with the existing noise provisions. In order to amend the noise limits as suggested above, a full review of the noise provisions will need to be undertaken. Amending the noise provisions in the town centre as suggested would be outside the scope of this Plan Change.

Decision

Reject the submission point to amend the noise provisions in the Town Centre zone.

Explanation

As outlined above, the scope of the Plan Change was very narrow seeking only to address inconsistencies with the noise provisions and update the noise standards. A full review of the Queenstown Town Centre noise provisions is anticipated being progressed in Council and therefore the above issue raised by the submitter could be considered through this process. Submitters are welcome to lend their support to a more comprehensive review via submitting to the Annual Plan process.

v) Noise Limits

The submitter states that there has not been any assessment undertaken to support the proposition that noise levels should remain “as is”, with reference to the L_{Aeq} to L_{10} change.

Discussion

The Section 32 report includes a cost and benefit assessment of this change stating “*changing the Plan noise limited from L_{10} to L_{eq} creates a slight difference between the two values and in some (albeit few) instances, the noise limits would become marginally more lenient.*” The benefits of the change are stated as including “*the provisions of the plan will be updated to align them with current acoustic standards and best practice without changing the intent of the provisions*”. This change is necessary in order to update the standards referenced in the District Plan and hence achieve the purpose of this Plan Change.

Decision

Reject the above submission point for reasons outlined above.

Explanation

This submission point is rejected as it is contrary to the purpose of the Plan Change.

vi) Implications for Resource Consents

This submission also states that the Section 32 report does not detail or justify why the current standards are “*inefficient in the consideration and assessment of individual resource consent application*” and opposes any changes to the District Plan which may have implications for its resource consent to operate licensed premises. The submitter seeks an additional

clause be added to the proposed rules to protect the existing use rights of consented premises.

Discussion

All resource consents approved prior to any applicable plan change are protected by existing use rights. It is not considered necessary to include a further provision in the District Plan as sought by the submitter.

Decision

Reject the above submission point for reasons outlined above.

Explanation

It is noted that the submitter presented evidence on this submission point at the hearing. The submission point was rejected, however, as any activities operating under existing resource consents will be sufficiently protected through existing use rights.

vii) Ambiguities in Drafted Rules

The submitter considers that the rules as drafted contain a flaw which will result in interpretational issues because “sound” is not defined in the District Plan. Reference should be made to “noise” which is defined in the District Plan and referenced throughout the Act.

Discussion

It is agreed that the reference to “sound” in the proposed provisions may potentially cause interpretational issues at a later date, due to the absence of a definition in the District Plan. The words “sound” and “noise” have different meanings in New Zealand Standards and the usage in the Plan Change is consistent with the meanings used in the standards. Altering “sound” to “noise” would be inconsistent with these standards.

A new definition of “sound” in the District Plan would address the issues identified and retain consistency with the relevant standards.

Decision

Accept the submission point in part by including the following definition in the District Plan:

“Sound shall have the same meaning as in NZS 6801:2008 Acoustics - Measurement of environmental sound and NZS 6802:2008 Acoustics - Environmental noise”.

Explanation

A new definition of “sound” is considered necessary in order to ensure consistency between the proposed new standards and the plan provisions.

viii) Provision for Smokers

The submitter seeks that an additional clause to the Plan Change be included to address the provision for smokers using the outdoor areas of licensed premise after 10pm.

Discussion

Introducing the above clause would fall outside the scope of this Plan Change.

Decision

Reject the above submission point as it would fall outside the scope of this Plan Change.

Explanation

Introducing the above clause would incur effects that have not been considered under this Plan Change.

ix) Clause 10.7.5.2 (ii) (b)

The submitter seeks that the following clause be deleted from the Town Centre provisions. The clause reads:

“Sound from activities which is received in another zone shall comply with the noise limits set in the zone standards for that zone”.

Discussion

The above clause was proposed in order to protect activities in one zone from noise generated in an adjoining zone. A similar provision already exists in the Residential and Remarkables Park Zones. The purpose of introducing this provision districtwide was to provide some consistency with the District Plan noise provisions, as outlined in the purpose of the Plan Change. This submission, however, as well as the submission by Good Group and Westward, opposes this new provision as they consider that the provision could generate reverse sensitivity effects between activities in adjoining zones.

The purpose of this provision is to protect amenity values in respect to the particular zone. This submitter, however, opposes the inclusion of this rule as it considers it could compromise activity in the Queenstown Town Centre Zone due to this requirement to comply with noise levels in the adjoining Rural General and Residential Zones. In respect to the Rural General Zone, the proposed rule requires sound to comply with noise limits at any point within the notional boundary of any residential unit. The only Rural General zoning around the Queenstown Town Centre is the underlying zoning of Lake Wakatipu and the Queenstown Gardens, neither of which support, nor are likely to support, any residential units. Further to this, in the Residential Zone there is already a provision requiring noise received in the residential zone to comply with the residential provisions. The proposed new provision, although reworded, will not change any existing requirements. This issue was discussed by this submitter at some length at the hearing. This provision has been proposed in all the zones to provide some consistency in the District Plan in respect to the noise provisions. The adverse effects of introducing this provision will be negligible. The benefits in comparison include a more consistent approach to managing noise throughout the District Plan as well as providing more protection towards safeguarding on site amenity.

Decision

The above submission point is rejected.

Explanation

As outlined above, the Remarkables Park and Residential Zones already include a similar provision and therefore, this Plan Change will not exacerbate any effects for activity adjoining these zones. Introducing this provision into all the zones will ensure consistency throughout the District Plan.

In respect to the above, the submission seeks the following relief:

- i) Withdraw Plan Change and advance new Plan Change addressing the noise rules as a whole; or**

ii) Amend Rule 10.6.5.2 (ii) to read:

(a) Noise from activities measured in accordance with NZS 6801:2008 assessed in accordance with NZS 6802:2008 shall not exceed the following noise limits at any point within any other site in this zone:

- (i) daytime (0800 to 2300hrs) 60 dB $L_{Aeq(15\ min)}$**
- (ii) night time (2300 to 0800 hrs) 50 dB $L_{Aeq(15\ min)}$**
- (iii) night time (2200 to 0800 hrs) 70 dB L_{AFmax}**

(b) Noise activities in the Town Centre Transition sub-zone measured in accordance with NZS 6801:2008 and assessed in accordance with NZS 6802:2008 shall not exceed the following noise limits at any point within any other site in this zone:

- (i) daytime (0800 to 2300 hrs) 50 dB $L_{Aeq(15\ min)}$**
- (ii) night time (2300 to 0800 hrs) 40 dB $L_{Aeq(15\ min)}$**
- (iii) night time (2200 to 0800 hrs) 70 dB L_{AFmax}**

(c) The noise limits in (a) and (b) shall not apply to construction noise which shall be assessed in accordance with NZS 6803:1999.

(d) The noise limits in (a) and (b) shall not apply to noise from sources outside the scope of NZS 6802:2008. Noise from these sources shall be assessed in accordance with the relevant New Zealand Standard, either NZS 6805:1992, NZS 6807:1994 or NZS 6808:1998.

(e) The noise limited in (a) and (b) shall not apply to noise generated from smokers within designated outdoor areas of licensed premises.

(f) Subsections (a) and (b) shall not apply to licensed premises that have resource consent granted (insert date that PC27A becomes operative).

iii) The Plan Change be placed on hold while another Plan Change is advanced addressing the noise rules as a whole. This will allow the related plan changes to be considered together; or

iv) The Plan Change is approved with an amendment to Rule 10.6.5.2 (ii) and the creation of a Town Centre Sound Sub Zone which excludes the Town Centre Zones from the proposed changes to the rules.

Further Submission

This submission was opposed in its entirety, including relief sought, by Church Lane No. 5 Ltd. Annabel Ritchie of Anderson Lloyd presented evidence on behalf of Church Lane Ltd at the hearing in support of their further submission, seeking that no changes were made to the District Plan as sought by this submitter.

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in support of their original submission.

A further submission was also received from Spire Luxury Hotels Limited in opposition to the whole of this submission. This submitter considers that the relief sought does not achieve purpose of the Act, is contrary to objectives and policies of the District Plan and the proposed amendments to the plan change will have adverse

effects on residential and other noise-sensitive activities within and adjoining the Town Centre Zones. This submitter seeks that the submission be rejected.

Discussion

The above relief seeks to withdraw, amend or place the Plan Change on hold in order to undertake a comprehensive review of all the noise provisions. For reasons outlined above, this relief is not considered necessary in order to achieve the purpose of the Plan Change.

Decision

For the reasons outlined above reject relief sought in items i)-iv). It is noted that the relief sought in this submission to include a definition for “*sound*” in the district plan is accepted. Further to this, the relief sought by Church Lane Ltd and Spire Luxury Hotels is accepted with the submission received by Lakes Consulting Ltd rejected.

Explanation

The above relief is rejected for reasons outlined above.

Remarkables Park Submission

The following submission was received from Remarkables Park Limited:

- i) **The Remarkables Park submission (27/50/1) supports the Plan Change in part but seeks that the current text 6.2.5.2.iv (Airport Mixed Use Zone) in the District Plan be reinstated.**

Discussion

The existing plan text requires noise levels to be measured “*at any Residential Zone boundary or at any boundary of Activity Areas 1,3,4,6 and 7 of the Remarkables Park Zone*”. The proposed text, however, seeks to amend this to “*at any point within any Residential Zone or at any point within Activity Areas 1,3,4,6 and 7 of the Remarkables Park Zone*”. This amendment has come about as a result of the change made to how noise is measured under the updated New Zealand noise standards. For reasons outlined, the change in measuring points will have negligible effects on the level of noise permitted under the District Plan.

It is noted that Remarkables Park presented written evidence on this matter at the hearing seeking that noise be measured from the boundary of the Remarkables Park Activity Areas.

Decision

Reject relief sought for reasons outlined above.

Explanation

The relief is rejected because the effects of the change will be negligible and accepting this relief would be contrary to the purpose of the Plan Change to provide a consistent approach to noise provisions throughout the District Plan.

- ii) **Further to the above, this submission seeks that “*Activity Area 8*” in the Remarkable Parks Zone be included in this rule as the submitter believes it was unintentionally omitted from the existing plan text.**

Discussion

The above rule, however, also excludes Activity Area 2 and 5 as well as 8. As a result, it appears intentional that these three Activity Areas were excluded from the provisions in the Queenstown Airport Mixed Use Zone. It is therefore recommended that this relief is rejected. As above, this submission point was also emphasised in the written evidence presented by Remarkables Park at the hearing.

Recommendation

Reject relief sought for reasons outlined above.

Explanation

The submission point is rejected as there is no evidence that the exclusion of this Activity Area was an anomaly as suggested by Remarkables Park. As outlined above, it appears that it was deliberately excluded along with Activity Areas 2 and 5. There was no evidence presented to the Hearings Panel to suggest otherwise.

iii) This submission also seeks that Rule 6.2.5.2 iv (b) be reinstated.

Discussion

The submitter states that this rule provides protection from noise arising from activities outside the Remarkable Park Zone. The current District Plan text, however, does not include the above provision (b) and therefore it is unclear as to where this relief is sought. The rule currently reads:

Rule 6.2.5.2 iv Noise

On any site, activities shall be conducted such that the following noise levels are not exceeded at any Residential Zone boundary or any boundary of Activity Areas 1,3,4,6 and 7 of the Remarkables Park Zone:

- 0800-2000 hrs 55dBA L₁₀ (Monday –Saturday)
- 2000-0800 hrs 45dBA L₁₀ and 70dBA L_{max}

Decision

This part of the submission is also rejected as the existing rule does not include provision (b) as stated in the submission.

Explanation

This submission point is rejected for the reason outlined above.

Arthurs Point Protection Society Incorporated

The submission by the Arthurs Point Protection Society Incorporated (27/39/1) raises a number of concerns with the Plan Change and considers that the “*proposed changes will significantly increase noise level rules in the District Plan*”. The submission also considers that the Section 32 assessment is insufficient and does not adequately assess the costs and benefits of the Plan Change or assess effects on property owners common law rights to quiet enjoyment due to increasing noise rules, loss of building rights, and imposition of Building Act costs to insulate buildings near noise sources proposed. Concern over the lack of community consultation on the proposed changes is also raised. The Arthurs Point Protection Society request that QLDC withdraw Plan Change 27, undertake consultation and then prepare a further Section 32 report for notification.

The submitter seeks the following relief:

- i) Withdraw Plan Change and undertake further public consultation and new Section 32 report.**

Further Submission

A further submission by Mike Dunn and Becky Ozanne supports the submission for APPSI with reference to the opposition to introducing the new noise standards NZS6807 1994 and NZS 6802 2008 to the District Plan. The submitter considers that the LAeq measurement (50 percentile noise) is a relaxation from the current 10th percentile noise. The submission further states that the impact on the Arthurs Point residents has not been assessed properly and that Plan Change 27A “*should not be introduced by a Council that is concerned about the amenity values of its community.*” The relief sought is consistent with that sought above.

Lakes Consulting Limited lodged a further submission in support of this submission.

Discussion

As discussed above, Dr Chiles has advised the Council that the proposed Plan Change will not have a perceivable increase in noise levels. Further to this, it is noted that the LAeq is not a 50th percentile but rather an “energy average”.

Decision

Reject the above submission point. The further submissions received by Mike Dunn, Becky Ozanne and Lakes Consulting Ltd are also rejected.

Explanation

As the proposed Plan Change will not increase noise levels, any adverse effects on the Arthurs Point residents will be negligible. As a result, this submissions are rejected.

D and J Baird

D and J Baird (27/40/1) submit that the noise provisions within the Gibbston Valley Character Zone should not be subject to any changes.

The submitter seeks the following relief:

- i) Object to any changes to the Gibbston Valley Zone noise provisions**

Discussion

The proposed changes to the Gibbston Valley noise provisions will not exacerbate any perceivable noise levels in this zone. The Plan Change will introduce reference to the updated New Zealand Standards and will amend the existing provisions so that they are consistent with those in other zones. Any adverse effects from this change in respect to noise levels will be negligible.

Decision

Reject the above submission for reasons outlined above.

Explanation

This plan change will not result in an increase in noise levels in the Gibbston Valley Zone.

Michael Clark

Michael Clark (27/42/1) opposes the Plan Change and seeks that no change is undertaken to the District Plan provisions due to concern regarding a potential increase in noise levels.

The submitter seeks the following relief:

- i) Withdraw Plan Change, undertake further consultation with community groups and prepare a further Section 32 report.**

Further Submission

Lakes Consulting Limited lodged a further submission in support of this submission.

Discussion

As outlined above, any potential effects from the proposed changes to the noise provisions will be negligible.

Decision

Reject the above submission and further submission for reasons outlined above.

Explanation

The proposed Plan Change will not result in a noticeable increase in noise levels.

W E and M Cooper Village Green Family Trust

The submitter (27/54/1) opposes the Plan Change “*until the applicant guarantees that there is no liberalisation of the existing noise levels*”.

The submitter seeks the following relief:

- i) No liberalisation of existing noise levels**

Further Submission

Lakes Consulting Limited lodged a further submission on behalf of those parties listed in Proforma 2 in support of the submission point that the Plan Change be withdrawn but opposes the relief sought to retain the status quo.

Discussion

It is not the intent of the Plan Change to alter permitted sound levels. The permitted levels, however, should be easier to enforce by introducing more robust assessment methods, which as stated is the purpose of the Plan Change. Due to the difference in the way noise is measured under the new updated New Zealand Standards, in some instances the numerical sound levels may be slightly higher, but within the context of the more robust assessment regime the resulting difference should generally not be perceivable. There should not be any instances where levels could significantly increase.

As noted above, Warren Cooper gave evidence at the hearing in support of his submission and specifically stated that he supported the Plan Change to update the

standards as long as there was no liberalisation of existing noise limits, with particular reference to the Town Centre provisions.

Decision

Reject submission insofar as to its opposition to the Plan Change. Reject the submission in support of the withdrawal of the Plan Change by Lakes Consulting Limited.

Explanation

As outlined above, any increase in noise levels will be negligible.

Peter Fleming and Associates

This submitter (27/49/1) states that they support and oppose the Plan Change. The submission states *“we support the “noise pollution” Plan Change 27A although we are not totally clear as to its objectives”*. The submitter questions what effect the Plan Change will have on noise pollution in licensed areas. The submission also opposes the Plan Change as *“the agenda behind the Plan Change is not explained in a rational and professional manner”*. Particular reference is made to the effects of noise from aircraft noise on townships and residential and rural areas.

The submitter seeks the following relief:

- i) Abandon Plan Change as it fails to provide a satisfactory Section 32 analysis**

Further Submission

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in support of this original submission.

Discussion

As stated, the purpose of the Plan Change is to update existing references to New Zealand Standards in the District Plan that are currently out of date with *“best practice”* in respect to the measurement of noise. It is not intended to increase the level of noise permitted in the district and subsequently the Plan Change does not include any changes to the permitted noise levels in each zone. Furthermore, the proposed amendments will not change the level of aircraft noise in the district.

As noted above, this submitter gave evidence in opposition to the Plan Change on the basis that the Plan Change was unnecessary and would only increase existing noise levels.

Decision

Reject the above submission and further submission for reasons outlined above.

Explanation

On advice received from Dr Chiles, the above submission has been rejected as there will not be a perceived increase in noise levels as a result of this Plan Change.

Good Group Limited and Westwood Group Holdings Limited

This submission (27/43/1, 27/43/2) supports revising the noise standards but is concerned that the proposed method of noise measurement may be harder to comply with due to a longer measurement period. The submitter states that even when restaurants and bars are operating in a responsible manner it can be difficult to comply with the noise limits especially when outdoor areas are frequented by patrons. Furthermore, the submitter considers that the proposed new requirement for activities to comply with noise limits in the adjoining zone is too onerous and also considers the current noise limits in the town centre too restrictive.

The submitter seeks the following relief:

- i) Oppose Rule 10.6.5.2**
- ii) Support Plan Change but consider further review of noise limits in District Plan should be undertaken along with a further Plan Change**

Further Submission

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in support of the submission that Rule 10.6.5.2 should be deleted. The submitter also supports the submission point that the Plan Change needs to address all the issues.

This submission is opposed through a further submission by Church Lane No.5 Limited. This submission considers that due to the mixed use activity permitted in the town centre relaxing the noise standards will adversely affect visitor accommodation and residential premises and activities.

Discussion

The proposed Plan Change will change the way noise is measured under the updated standards. While there may be some minor leniency in respect to some noise sources, compliance with the current noise standards will still be required. Further to this, the current provisions require Town Centre activities to comply with noise limits in adjoining zones and therefore the proposed new provisions will not exacerbate any existing restrictions. As a result, any perceivable effects, over and above those effects already permitted under the District Plan, will be negligible.

In respect to noise measurement, the measurement period required by NZS 6802:2008 is no longer duration than required by NZS 6802:1991. Both require a representative period. The assessment is now required to be over 15 minutes but for a steady sound a shorter representative measurement could be used as the basis for assessment.

Tim Walsh of Southern Planning Group Limited gave evidence at the hearing on behalf of Westwood Group Holdings Limited in support of the Plan Change, with the exception of the proposed rule to require activity in the Queenstown Town Centre zone to comply with noise provisions in any adjoining zone. The submitter recognised that this was an existing requirement but considered it too onerous on Town Centre activities.

Decision

Reject the submission point and further submission to delete Rule 10.6.5.2. Accept submission by Church Lane No. 5 insofar as its opposition to this submission point.

Explanation

The above submission point is rejected as the Plan Change does not exacerbate any existing restrictions on activity within the Town Centre. It is noted, however, that it is likely that Council will be undertaking a complete review of its noise provisions over the next three years as sought by this submitter.

Dame Elizabeth Hanan

This submission (27/44/1) states that the noise levels are too high in the Residential and Rural General Zone, including noise from helicopter landing areas.

The submitter seeks the following relief:

- i) That noise levels be reduced particularly in the Rural General zone**

Further Submission

A further submission was received by this submitter in support of her original submission. It requested the following:

“Nothing in the standards shall be used to increase noise limits in condition of resource consents or rules in plans.”

“Flight sectors should be restricted to avoid residential areas as far as it is practical to do so”.

Further to this, the submission states that night time levels should be lower than those stated in the Plan Change.

Discussion

The noise limits are not under consideration as part of this Plan Change and therefore there is no ability through this process to change the existing provisions in the District Plan. A complete review of the noise provisions would need to be undertaken in order to review the noise limits.

Decision

Reject the above submission and further submission for reasons outlined above.

Explanation

The recommendation in the above submission falls outside the scope of this Plan Change.

John Murray Hanan

This submitter (27/46/1) states that he opposes the increase in noise levels in the rural area. The submission states that *“NZS 6807 should not be adopted as present shrinking rural areas are tourist vistas and ought to be in same category as protected overflight sites like Milford Track.”* It also states that the night noise level would be held at current lower levels of 35dBA and that the proposed amendments to the district plan should be deleted.

The submitter seeks the following relief:

- i) Delete proposed amendments, retain the old standards NZS6802 and retain current night levels.

Discussion

As outlined, the expert advice received by Dr Chiles confirms that there will not be a perceivable increase in noise levels as a result of introducing NZS 6807. Further to this, it is also noted that 35dBA is not a current noise limit under the District Plan.

Decision

Reject the above submission for reasons outlined above.

Explanation

The submission point is rejected as the proposed amendments will not increase existing noise levels.

Heliworks Queenstown Helicopters Limited

The submission from Heliworks (27/45/1) supports the Plan Change stating “*the plan change seeks to make reference to the most up to date standards. In doing so, the ambiguities and inefficiencies of the 1991 standards will be rectified*” and further states “*the result of the changes will ensure that the references to noise standards are up to date taking account of the developments in research and understanding of acoustics and refer to standards which reflect industry best practice and achieve consistency in assessment*”

The submitter seeks the following relief:

- i) **Proceed with Plan Change as notified.**

Further Submission

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in opposition to the submission point that the Plan Change meets the requirements of the RMA.

Discussion

The above submission supports that intent of the Plan Change specifically acknowledging the benefits of explicitly referencing NZS 6807:1994 in the District Plan. Sean Dent of Southern Planning Group presented evidence on behalf of Heliworks in support of their original submission.

Decision

Accept the above submission for reasons outlined above. Reject the further submission by Lakes Consulting Limited in opposition to the submission.

Explanation

The submission in support of adopting NZS6807:1994 is accepted as this amendment to the District Plan will provide for more clarity around the assessment and measurement of helicopter noise.

Veronica and Michel Logez

This submission (27/47/1) opposes the plan change as it considers that it has not been prepared in accordance with RMA Section 32 costs, benefits and alternatives and is not in accordance with the objectives and policies contained in the District Plan. Relief sought includes withdrawal of the plan change, consultation with community groups and a new Section 32 report prepared and notified.

The following relief is sought by the submitter:

- i) The plan change has not been prepared in accordance with the Section 32 of the RMA, and not in accordance with the objectives and policies contained in the District Plan.**

Further Submission

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in support of this original submission.

Discussion

This submission is consistent with several of the previous submissions stating that the Plan Change should be withdrawn, further consultation carried out and a new Section 32 analysis prepared. As outlined above, the process and analysis carried out for this Plan Change is considered to meet the requirements of the Act.

Decision

Reject submission and further submission for reasons outlined above.

Explanation

The submission point is rejected because the Plan Change process is considered sufficient to meet the requirements of the Act.

Clifton Denzil Palmer

The submitter (27/48/1) states that *“the entire Plan Change is too difficult to understand as to the actual practical effect, and increased leniency is proposed when the opposite should be.”* The Plan Change is opposed stating that with the benefits of new technology, noise limits should be tightened up not loosened as is proposed.

The submitter seeks the following relief:

- i) Oppose the Plan Change as noise limits should be tightened up not loosened.**

Further Submission

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in support of this submission point that the plan change should be withdrawn.

Discussion

The Hearings Panel accepted advice from Dr Chiles who confirmed that the proposed new standards will not result in a perceived increase in noise levels in the district.

Decision

Reject above submission and further submission for reasons outlined above.

Explanation

This submission point is rejected as a result of the expert advice received that confirmed that noise levels will not be loosened as stated above.

Marc Scaife

The submission by Marc Scaife (27/51/1) states *“that there is no point in tinkering with technical issues relating to aircraft noise measurement at this state; what is needed is a comprehensive, district wide policy framework for assessing the adverse impact of light aircraft and the setting up of a regulatory framework to reduce this impact.”* The submission raises the following issues;

1. The impact and cumulative effect of aircraft on the public at large needs to be considered, not just those effects around landing sites;
2. A regulatory approach, such as the use of standards, to measuring aircraft should not be used due to the inherent diversity and complexity required when considering such activities on a case by case basis;
3. The impact of low aircraft extends beyond the issues of noise as it also involves effects such as loss of privacy;
4. The impact of a light aircraft in the current unregulated flight path is highly unpredictable and can occur on private land as well as public. A noise standard to control these effects cannot be applied or relied on.

The submitter seeks the following relief:

- i) Undertake a systematic review of the entire light aircraft issue.

Discussion

The relief sought in this submission is outside the scope of this Plan Change.

Decision

Reject above submission for reasons outlined above.

Explanation

The proposed relief is rejected as it falls outside the scope of the Plan Change and would be better considered as part of a full review of the District Plan noise provisions.

Victoria Shaw

Victoria Shaw (27/52/1), from Eichardts Hotel, submitted in opposition to the Plan Change. The submitter considers that the Plan Change will result in a substantial increase in noise levels and that there was a lack of due process given to the Plan Change, including the lack of public consultation and the limited submission period. The submission seeks that *“the Plan Change be withdrawn, publicly consulted on and a new RMA Section 32 report prepared and re-advertised”*

The submitter seeks the following relief:

- i) Withdraw Plan Change due to lack of public consultation, and increase in noise levels that will result. Undertake public consultation, and prepare a further Section 32 report.**

Further Submission

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in support of this original submission.

Discussion

As above, the above submission raises points addressed in several other submissions. As outlined, the level of consultation and detail of analysis is considered adequate and therefore withdrawing the Plan Change and repeating the Plan Change process is not considered necessary.

Decision

Reject the above submissions for reasons outlined above.

Explanation

The Plan Change is considered sufficient to meet the requirements of the Act.

Spire Luxury Hotels Limited

This submitter (27/53/1) is concerned about the effects on night time noise in the town centre as a result of the Plan Change. The submitter considers that introducing the new assessment methodology is at odds with the underlying aims of the District Plan with respect to noise levels. Further to this, the submission states that *“the plan change sends out the wrong message to bar owners and operators that are presently flouting the laws”*. It further states that emphasis needs to be focused on businesses containing noise within their premises rather than trying to accommodate technology for measuring noise outside these buildings. The submitter is concerned over the lack of public consultation *“especially as the effects will be more than minor if applied to the town centre at night time”*.

The submitter seeks the following relief:

- i) Town Centre night time hours be withdrawn and the status quo night time provisions be retained in this zone.**

Further Submission

A further submission from Church Lane No 5 Limited was received in support of this original submission.

Lakes Consulting Limited lodged a further submission on behalf of those parties listed above, in support of the submission point that the Plan Change should be withdrawn, but in opposition to retaining the existing Town Centre Rules.

Discussion

The night time noise limits will not be relaxed as a result of this Plan Change. An amendment to the town centre sub zone noise limits has been made in order to rectify an existing anomaly where the District Plan currently fails to provide for any noise limits in this zone between the hours of 0800 and 0900. The provision currently identifies the night time hours from 2200 - 0800 and the daytime hours 0900 – 2200. This is obviously an oversight in the drafting of these provisions and it is proposed to

correct this so the day time hours read 0800-2200, so that the provisions are consistent with the daytime hours in all other zones.

Further to this, the current noise standards referenced in the District Plan are outdated and the method of assessment and measurement of noise does not reflect industry best practice. Updating the way noise is measured under the District Plan will have negligible adverse effects, over and above those already existing, on noise levels in both the town centre and the wider district.

Decision

Reject the above submission, and further submissions by Lakes Consulting Limited insofar as withdrawing the plan change and by Church Lanes No. 5 Limited in support of the original submission.

Explanation

The above submission is rejected due to the reasons outlined above.

Richard Bowman

This submitter (27/41/1) opposes the Plan Change if it is to result in any increase to noise levels in relation to the landing and operation of helicopters in and around residential properties.

Discussion

As outlined above, any adverse noise effects as a result of the Plan Change will be negligible over and above those effects already existing.

Decision

Reject the above submission for the reason identified above.

Explanation

The submission is rejected as based on advice received from Dr Chiles there will not be a perceivable increase in noise levels associated with helicopter landing areas.