
Proposed District Plan Change 49 and Variation 3 – Port Noise Emission Levels and Building Insulation Rules – Updated report

1. Purpose of Report

The purpose of this report is to seek approval from the Committee to notify the proposed District Plan Change 49 and Variation 3 – Port Noise (jointly referred to as the “plan change” and the “Proposed Plan Change”).

This plan change proposes to amend the permitted noise levels from port related activities in the Operational Port Area in line with those recommended in the “New Zealand Standard NZS 6809:1999 – Acoustics - Port Noise Management and Land Use Planning”. In addition, the proposed plan change adds the requirement for noise sensitive activities within the port noise affected areas to acoustically insulate all new habitable rooms.

2. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Agree to notify Proposed District Plan Change 49 and Variation 3 (attached as Appendix One of this report) in accordance with the First Schedule of the Resource Management Act 1991.*
3. *Agree to adopt the Section 32 report for Proposed District Plan Change 49 and Variation 3 (attached as Appendix Two of this report).*
4. *Delegate to the Portfolio Spokesperson for Urban Development the authority to approve any minor editorial changes to Proposed District Plan Change 49 and Variation 3 prior to notification.*
5. *Delegate to the Portfolio Spokesperson for Urban Development the authority to approve an amendment to the maps of Proposed District Plan Change 49 and Variation 3 to make the Port Noise Control Line in the Lambton Harbour Area south of Johnston Street consistent with the location of the line in the Proposed Regional Port Noise Coastal Plan Change.*

6. *Note that the District Plan provisions do not apply in the Coastal Marine Area and that any resource consent for the Overseas Passenger Terminal will be considered in terms of the Regional Coastal Plan provisions.*

3. Executive Summary

The provisions managing the effects of noise from port activities in the District Plan were appealed to the Environment Court by CentrePort in 1999.

Negotiations to resolve this reference resulted in a Consent Order which agreed that these provisions would remain as an interim measure and that the Council (and CentrePort) would initiate a Plan Change to implement NZS 6809:1999 “Acoustics – Port Noise Management and Land Use Planning” in conjunction with Wellington Regional Council. This Proposed Plan Change addresses this requirement.

The draft provisions in the Proposed Plan Change set out:

- maximum permitted levels for noise from port related activities
- acoustic insulation standards for noise sensitive activities in areas identified as being subject to noise from port related activities
- an outline for a noise management plan to be developed by CentrePort.

Where the area affected by noise from port related activities is within the airnoise boundary, the Proposed Plan Change relies on the existing airport noise rules to manage the effects of port noise.

The draft provisions have been developed over a period of years with a number of rounds of consultation on the proposed provisions with affected parties. Statutory consultation has been completed in July 2006. The outcome of consultation is described in Section 5.7 of this report.

The Committee considered the Proposed Plan Change on 17th August 2006. As a result of the Committees deliberations, the Committee agreed to lay the report on the table in order that officers may further consider the acoustic insulation requirements for the Overseas Passenger Terminal building. An agreement has been reached whereby the berthing of ships at OPT is limited to a maximum of 5 events per year, which officers consider means that the noise environment around OPT is similar to that experienced in the rest of the Central Area.

Proposed District Plan Change 49 and Variation 3 are included as Appendix One. The Section 32 report is appended as Appendix Two.

4. Background

4.1 Legislative Requirements

The purpose of the Resource Management Act, 1991 (RMA) is to promote the sustainable management of natural and physical resource. This places a

mandate on the Council, through the District Plan, to ensure the noise environment is managed in the most sustainable way and that any adverse effects of noise generating activities are avoided, remedied or mitigated.

Section 16 of the RMA requires that every occupier of any land, premises and Coastal Marine Area must:

‘adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level’

Section 32 of the RMA requires that the Council considers alternatives, and assesses benefits and costs, before adopting any new District Plan provision. The Council must be satisfied that any proposed provision is necessary in achieving the purpose of the Act, and is the most appropriate means of achieving sustainable management.

The Section 32 report for the proposed plan change is attached as Appendix Two.

4.2 Current District Plan provisions for Port Noise

The Operational Port Area is defined in the District Plan as the area extending from the northern boundary of the Lambton Harbour Area in the south to Kaiwharawhara in the north and is bounded by Aotea and Waterloo Quays in the west and the Coastal Marine Area to the east. In addition, the Operational Port Area includes the wharves and adjacent land at Burnham Wharf in Evans Bay.

The current provisions in the District Plan to manage port noise were carried over from the Transitional District Plan. The provisions place restrictions on port noise when received (or measured) in a residentially zoned area. During daytime, the port noise cannot exceed background noise levels by more than 10dBA. At night (between 10.30pm to 6am), the following noise limits apply:

- 50dBA L10 when measured at Sar Street
- 45dBA L10 when measured in any other residentially zoned area
- Single noise events cannot exceed 75dBA, or background noise plus 30dBA, whichever is lower.

These provisions were appealed to the Environment Court by CentrePort in 1999. Negotiations to resolve this reference resulted in a Consent Order which agreed that these provision would remain as an interim measure and a statement to be included in the District Plan to the effect that

“Council and CentrePort will jointly take steps to initiate a Plan Change to implement NZS 6809:1999 “Acoustics – Port Noise Management and Land Use Planning” in conjunction with Wellington Regional Council after the (District) Plan is operative”.

(Explanation to Rules 7.11 and 13.1.1 of the District Plan)

The need for a plan change stems from this Consent Order. A similar settlement was reached on the Regional Coastal Plan between CentrePort and Greater Wellington.

This proposed plan change is the result of work undertaken jointly between CentrePort, Greater Wellington and Wellington City Council.

4.3 NZS 6809:1999 – Acoustics – Port Noise Management and Land Use Planning

The standard for the management of noise from operational ports is NZS 6809:1999 “Acoustics – Port Noise Management and Land Use Planning” (the Standard). The Standard has been developed as ports are not network utility operators for the purposes of Part VII of the Act and do not have the ability to designate land for their purposes, unlike airports. It aims to facilitate the long-term compatibility of ports and their neighbours. This is achieved through a three part approach to managing the noise from ports which:

1. sets limits on the noise produced by port activities (both existing and predicted levels over at least a 10 year period)
2. applies land use restrictions in nearby areas affected by port noise to reduce the impacts of noise exposure on new, and in some cases existing noise sensitive activities i.e. a noise insulation rule
3. establishes a noise management plan and a port noise liaison committee.

The Standard was developed by a range of industry stakeholders, noise and planning experts. It recognises that port activities which may generate noise are included within and across the jurisdictional boundary between the district and the Coastal Marine Area, and that in applying the standard, a level of co-operation is required between the relevant district and regional authorities.

5. Discussion

5.1 Defining the Port Noise Affected Areas and the Port Noise Control Line

Both the Port Noise Affected Areas and the Port Noise Control Line have been established through modelling of the existing and predicted areas subject to agreed levels of port noise. The model takes into account the nature and location of the noise sources, topography of the area and predictions for future noise propagation. For the purposes of establishing the Port Noise Control Line, the modelling takes into account noise sources located on land, wharves and ships at berth.

The Standard requires the prediction of the 65dBA Ldn and 55dBA Ldn contours based on a predicted busy five day period. Ldn is a measure of the

average noise over a complete day, with a 10dB penalty applied to night-time noise measurements.

The Port Noise Affected Areas are developed from the modelled contours, following cadastral boundaries. The Port Noise Control Line is defined as the 65dBA Ldn noise contour and is where compliance with the Plan rules can be assessed.

In all areas except the Lambton Harbour Area, the Port Noise Control Line in the Proposed Plan Change follows that proposed by the modelling work undertaken by CentrePort. The vessels berthed at the wharves in the Lambton Harbour Area are potential noise sources which may have effects on the activities in the waterfront area. However, the modelling work predicts that the majority of the area affected by noise emissions predicted in the modelling to be above 65dBA Ldn lies outside the district and inside the Coastal Marine Area.

5.2 Reverse sensitivity and acoustic insulation

The Port Noise Standard suggests, as a minimum, that new development comply with an internal noise standard of 45dBA Ldn with the doors and windows closed for any noise sensitive activity within the Port Noise Affected Area. The form of this rule follows the approach used at the Airport.

In developing the Central Area provisions for noise, it was shown that there were problems in adapting an indoor sound level standard for the variable noise environment that is a feature of the Central Area including both the entertainment districts and the Operational Port Area. It is proposed that the rules relating to port noise follow the method used as part of the inner city noise rules that specify a minimum acoustic performance of the building envelope as the insulation standard. This method is based on the latest international standards and has been shown to work well for Central Area apartments and other noise sensitive activities.

The Port Noise Standard also suggests that inside the Port Noise Control Line all new noise sensitive activities should be prohibited activities and only in exceptional circumstances should they be discretionary activities. However, given the general permissive approach of the Plan provisions particularly in the Central Area, it is considered reasonable to follow a similar permissive approach to noise sensitive activities within the identified port noise affected areas.

For the main Operational Port Area, the Proposed Plan Change follows a similar philosophy as the existing District Plan rules for the Central Area and permits noise sensitive activities provided they comply with specified noise insulation standards. These are:

Port Noise Affected Area Seaward of PNCL (the Inner Port Noise Affected Area)	Proposed acoustic insulation standard $D_{nT,w} + C_{tr} > 35\text{dBA}$
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Landward of PNCL
(the Outer Port Noise Affected Area)

$$D_{nT,w} + C_{tr} > 30\text{dBA}$$

The higher acoustic insulation requirement is proposed as activities within the Port Noise Control Line are likely to be subject to higher levels of noise which may include low frequency sound, for example from ships engines and generators.

For Burnham Wharf, the Proposed Plan Change generally relies on the Airport Noise rules to manage noise sensitive activities. The Airport Noise rules require all new residential properties to achieve an internal noise environment of 45 dBA Ldn inside any habitable room with the doors and windows closed. The noise insulation standard is expressed in a different manner to that proposed for the remainder of the Proposed Plan Change. Both methods achieve a similar internal noise environment with respect to port noise. The port noise standard is not recommended to be implemented within the airnoise boundary to avoid any potential conflicts that may occur if implementing rules containing two different noise insulation standards relating to different noise sources affecting the same site.

5.3 Overseas Passenger Terminal

At the meeting in August 2006, Willis Bond, as preferred developers of the OPT site, made a presentation to the Committee that stated that the likely cost of providing acoustic insulation to the standard required in the Inner Port Noise Affected Area would add approximately \$7-9 million to the cost of developing the OPT. As a result of this and further deliberations by the Committee, the paper was laid on the table to enable officers to have further discussions with affected parties.

Since this time, Willis Bond and Wellington Waterfront have reached an agreement that limits the use of the Overseas Passenger Terminal to a maximum of five events per year up to a cumulative total of 20 days. These would be for maritime emergencies or events of national importance. CentrePort has agreed its in principle to this arrangement.

Under the agreement it will be necessary to move the OPT from the high noise, Inner Port Noise Affected Area, into the lower noise, Outer Port Noise Affected Area. This is acceptable to Willis Bond as they will be required to insulate to $D_{nT,w} + C_{tr} > 30\text{dBA}$, the equivalent of the insulation standard for apartments in the Central Area of the city.

The agreement requires a change to the planning rules outlined in the August report. As the OPT is in the Coastal Marine Area, outside the jurisdiction of Wellington City's District Plan the amended noise rules will be covered by the Regional Coastal Plan.

It is now proposed that the Port Noise Control Line be stopped at Johnston Street in both the District and Regional Coastal Plans, to exclude the OPT from

the area that requires higher noise insulation. A mechanism will also be included in the Regional Coastal Plan to control noise from ships berthed at OPT for the maximum of five events provided for each year.

At present, Greater Wellington is still considering the proposed amendments. Recommendation 5 in this report has therefore been drafted to cover any necessary changes that might arise. The Committee will be updated on progress at the briefing meeting prior to its deliberations.

5.4 Port Noise Management Plan

CentrePort has developed a draft Noise Management Plan. Officers have sighted earlier versions of the draft Plan and made suggested additions and amendments so that the draft Management Plan meets the proposed requirements for a port noise management plan as set out in the Proposed Plan Change.

CentrePort has an established Environmental Liaison Committee with membership from WCC, Greater Wellington, local residents associations and other key stakeholders. It is intended that this committee will deal with any noise complaints and act as the Port Noise Liaison Committee proposed as part of the Port Noise Standard.

5.5 Co-ordination with the Proposed Central Area Chapters Plan Change 48

The proposed approach to managing noise from port activities requires changes to the provisions for Residential Areas, Suburban Centres and the Central Area. There are no particular issues with the amendments to the Residential and Suburban Centre Areas' provisions. The changes to the Central Area provisions are presented as a variation to Proposed Plan Change 48 (Variation 3) and the changes to the Residential and Suburban Centre Areas are a Plan Change to the Residential and Suburban Centres Areas. This has the advantages of enabling the port noise provisions to be considered as a 'whole package' through the hearings process and minimises any potential conflict with the approach proposed in Proposed Plan Change 48.

Proposed Plan Change 48 has been notified and submissions close on Monday 27th November 2006. There are no provisions relating to the management of noise from port activities in this plan change and any development of noise sensitive activities in the Inner Port Noise Affected Area would have to meet acoustic insulation standard in the remainder of the Central Area. This would mean that any building constructed or modified for a new noise sensitive activity in the Inner Port Noise Affected Area would have insufficient acoustic insulation to mitigate the effects of the existing and predicted noise environment.

5.6 Timing and co-ordination with the Greater Wellington Regional Council

The proposed approach requires that the Proposed Plan Change for port noise be carried out in conjunction with a similar plan change to the Regional Coastal Plan developed by Greater Wellington. This is because noise from port activities is generated from within the Coastal Marine Area as well as within the district. Discussions have been held with representatives of Greater Wellington regarding both the timing and content of the Proposed Plan Change to the Regional Coastal Plan. Officers from Greater Wellington have indicated that the Regional Council will consider a proposed plan change to align wording proposed in the District Plan Change with that in the Coastal Plan in early December 2006.

The intention is to notify the proposed plan changes to the District Plan and the Regional Plan concurrently in early 2007. Concurrent notification will enable the holding of joint hearings should this be necessary.

5.7 Consultation

Consultation has been carried out targeting residential areas surrounding CentrePort in January 2002, March 2005 and July 2006. Some concerns have been raised about the proposals from affected parties in the residential areas, these have mainly related to the general noise environment including noise from bar music, motorway, rail yards and ferry terminals plus the issue of reverse sensitivity, in that the dwellings are required to insulate rather than the noise generators reducing the noise emissions.

Consultation has also been carried out at in March 2005 and July 2006 with the developers, owners and operators of commercial premises on the waterfront, residential apartments on the waterfront (July 2006 only), Wellington Airport, Wellington Tenth Trust, Ngati Toa and the Ministers of Environment, Transport and Conservation.

Between July and November 2006, a number of meetings were held with Wellington Waterfront Ltd (WWL), CentrePort, Willis Bond Ltd and Wellington International Airport Ltd (WIAL).

Willis Bond presented to the Committee in August 2006 that the then proposed provisions in the Port Noise Plan Change would adversely affect the commercial viability of the OPT redevelopment. Since this time, they have indicated to Wellington Waterfront that they are satisfied with agreed limitations on number, type and duration of ship berthing at OPT. This is discussed further in section 4.3.

WWL have indicated that it accepts the need to make increased provision for noise generated by port activities located within the Inner Port Noise Area, but did not support this area covering all of the Lambton Harbour Area. WWL consider this is not required to manage reverse sensitivity issues for port

activities and could potentially reduce public amenity in the southern part of Lambton Harbour. They have indicated that they have no objection to stopping the Port Noise Control Line at Johnston Street.

WIAL raised concerns over the potential inconsistencies between how port noise and airport noise are dealt with in the District Plan if the proposed plan change were adopted. This has been discussed on a number of occasions with officers from both the Regional and City Council. In addition, WIAL have approached CentrePort directly to discuss their position that any noise sensitive activities within the High Port Noise Affected Area should be discretionary activities. Neither officers nor CentrePort support this position as it is inconsistent with the permissive nature of the District Plan and the higher acoustic insulation requirements in the High Port Noise Affected Area adequately mitigate the adverse affects of port noise.

CentrePort generally support the thrust of the Proposed Plan Change and have been closely involved in the development of the draft provisions. There are on-going discussions to resolve the OPT issue with Greater Wellington officers. CentrePort have indicated they would support the stopping of the Port Noise Control Line at Johnston Street.

6. Conclusion

A plan change is required to update the provisions in the District Plan in line with the port noise management standard – NZS 6809:1999 “Acoustics – Port Noise Management and Land Use Planning” and the decision of the Environment Court in 2000.

Since August 2006, Wellington Waterfront have reached agreement in principle to limit the number type, duration of ships berthing at Overseas Passenger Terminal. This has the effect of managing the potential noise environment at OPT to meet the criteria for inclusion in the Low Port Noise Affected Area, requiring acoustic insulation to the same standard as generally required for noise sensitive activities in the Central Area.

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Supporting Information

1) Strategic Fit / Strategic Outcome

The Proposed Plan Change and Variation are key elements for the implementation of the Urban Development Strategy and support the outcomes for achieving a more liveable city set out in that document.

2) LTCCP/Annual Plan reference and long term financial impact

Relates to updating the District Plan. Project is part of the District Plan Team budget

3) Treaty of Waitangi considerations

There are no specific Treaty of Waitangi implications

4) Decision-Making

The proposals to change the District Plan are in accordance with the Consent Order signed in the Environment Court and the Council policy expressed in the Urban Development Strategy.

5) Consultation

a) General Consultation

All ratepayer residential affected parties have been identified and sent information relating to the proposed plan change. A number of submission periods have been held throughout the development of the Proposed Plan Change.

In addition, information and an invitation to comment on the Proposed Plan Change have been sent to commercial developers, owners and operators in the Kaiwharawhara, Lambton Harbour and Miramar areas. Feedback is included in section 5.8 in the body of the report and in the Section 32 Report.

Wellington Airport, Wellington Waterfront, statutory authorities and iwi have been consulted. All feedback received is summarised in section 5.8 in the body of the report and in the Section 32 Report.

b) Consultation with Maori

The information pamphlet was sent to iwi and the issue raised by the Director Treaty Relations at the regular meetings with Wellington Tenth and Ngati Toa.

6) Legal Implications

The timing and notification of this plan change have been reviewed by the Council's legal advisors.

7) Consistency with existing policy

The Proposed Plan Change is consistent with an agreed direction included within the District Plan and the Urban Development Strategy.

Appendix One – Proposed Plan Change Provisions

Appendix Two – Section 32 Report