

# ***Report of the Hearing Committee***

- ***Proposed District Plan Change 49***
- ***Proposed District Plan Variation 3***

September 2007

## REPORT OF THE HEARING COMMITTEE

<b>SUBJECT:</b>	<b>District Plan Change 49 – Port Noise and Building Insulation provisions</b>
	<b>District Plan Variation 3 – Additions to Proposed District Plan Change 48 (Central Area review) – Port Noise Provisions</b>
<b>HEARING COMMITTEE:</b>	<b>Commissioners Ian Hutchings (Chair), Leonie Gill, Sally Baber</b>
<b>DATE OF HEARING:</b>	<b>2<sup>nd</sup> July 2007</b>

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## 1. Recommendations

### 1.1 District Plan Change 49

It is recommended that Wellington City Council:

1. *Receive the information*
2. *Approve the District Plan Change 49 – Port Noise and Building Insulation Provisions as notified with the following additions, amendments and deletions resulting from consideration of submissions*
  - 2.1 *That in the definition of Port Related Activities in Chapter 3.10, the words “and adjacent Coastal Marine Area” are added after “Port Redevelopment Precinct”*
  - 2.2 *That a new definition of Port Noise Affected Area is added to Chapter 3.10 Definitions as follows*

**“PORT NOISE AFFECTED AREA:** *means the Inner Port Noise Affected Area or the Outer Port Noise Affected Area as shown on the planning maps*
  - 2.3 *That a new definition of Port Noise Control Line is added to Chapter 3.10 Definitions as follows*

**“PORT NOISE CONTROL LINE:** *means the line at or beyond which the rules controlling the emission of noise from Port Related Activities apply and where the noise from Port Related Activities is monitored”*
  - 2.4 *That a new sentence is added at the end of paragraph 3 to the explanation to Policy 4.2.2.3 as follows:*

*“Where a new residential development is within an area included in both the airnoise boundary and Port Noise Affected Area, then the rules relating to airnoise will apply.”*

- 2.5 That a new paragraph 4 is added to the explanation of Policy 4.2.2.3

*“The provisions for managing the effects of noise from port related activities are based on an assessment of the particular characteristics of port noise, port operations and the relevant surrounding environment. Different provisions may be adopted in respect of the reverse sensitivity effects of other noise generating activities, as each activity can have different noise characteristics. For example, noise from the Wellington International Airport activities is different to noise from port activities.”*

- 2.6 That the explanation after rule 5.1.3 is amended and after ‘within’ the following words are added “the Port Noise Affected Area which are also within”

- 2.7 That the words ‘noise sensitive’ are deleted from Rule 5.3.14.4 and replaced by ‘reverse sensitivity’

- 2.8 That the words ‘Outer Residential’ be replaced by ‘Suburban Centre’ in the introduction to Chapter 6

- 2.9 That a new sentence is added to the end of paragraph 4 to the explanation to Policy 6.2.1.2 as follows:

*“For any new residential development within the airnoise boundary that is also within the Port Noise Affected Area, the rules relating specifically to residential development within the airnoise boundary will apply. For all other new noise sensitive activities within the airnoise boundary that are also within the Port Noise Affected Area, the rules addressing reverse sensitivity effects from port noise will apply.”*

- 2.10 That the following is added after the second paragraph of the explanation of Policy 6.2.2.3

*“The provisions for managing the effects of noise from port related activities are based on an assessment of the particular characteristics of port noise, port operations and the relevant surrounding environment. Different provisions may be adopted in respect of the reverse sensitivity effects of other noise generating activities, as each activity can have different noise characteristics. For*

*example, noise from the Wellington International Airport activities is different to noise from port activities.”*

- 2.11 *That the words “and the adjacent Coastal Marine Area” be added after ‘Operational Port Area’ in the first paragraph of the explanation to rule 7.1.1.1*
  - 2.12 *That the first sentence of the second paragraph of explanation to rule 7.1.1.1 be deleted*
  - 2.13 *That the words ‘Port Related Activities within’ be added after ‘Noise from’ in the second paragraph of the explanation to rule 7.1.1.1*
  - 2.14 *That the words ‘at least 2 times per year at 4 points’ and ‘supplied in a twice yearly’ be deleted from rule 7.1.1.1.6 and the word ‘report’ be replaced by ‘reported’*
  - 2.15 *That the word ‘restricted’ be replaced by the word ‘full’ in the explanation following rule 7.1.1.10.1*
  - 2.16 *That the following assessment criteria be added to rule 7.4.4*
    - “7.4.4.6 *whether the development is likely to lead to potential conflict with and cause adverse effects on port activities, where the site is within the Port Noise Affected Area”*
  - 2.17 *That the reference to 13.6.2.1.4a in Appendix Y be amended to refer to rule 7.1.1.1.5*
3. *That all submissions and further submissions be accepted or rejected to the extent that they accord with the above recommendations.*

## **1.2 District Plan Variation 3**

It is recommended that Wellington City Council:

4. *Receive the information*
5. *Approve the District Plan Variation 3 – Additions to District Plan Change 48 (Central Area review) – Port Noise Provisions as notified with the following additions, amendments and deletions resulting from consideration of submissions*
  - 5.1 *That in the definition of Port Related Activities in Chapter 3.10, the words “and adjacent Coastal Marine Area” is added after “Port Redevelopment Precinct”*

- 5.2 That a new definition of Port Noise Affected Area is added to Chapter 3.10 Definitions as follows

**“PORT NOISE AFFECTED AREA:** means the Inner Port Noise Affected Area or the Outer Port Noise Affected Area as shown on the planning maps

- 5.3 That a new definition of Port Noise Control Line is added to Chapter 3.10 Definitions as follows

**PORT NOISE CONTROL LINE:** means the line at or beyond which the rules controlling the emission of noise from Port Related Activities apply and where the noise from Port Related Activities is monitored

- 5.4 That the words ‘Noise from’ are deleted from the beginning of the explanation to Policy 12.2.2.4

- 5.5 That the second paragraph of the explanation to Policy 12.2.2.4 be amended to read

“Noise generated in the Coastal Marine Area (which includes the InterIslander Terminal Wharves at Kaiwharawhara and other port company city wharves, and the wharf areas of Queens Wharf, Taranaki Street Wharf and Overseas Passenger Terminal Wharf in the Lambton Harbour Area) is subject to the Regional Coastal Plan administered by Greater Wellington Regional Council.”

- 5.6 That the second sentence in rule 13.6.2.1.4b be amended to read:

“This monitoring will be undertaken in accordance with the Port Noise Management Plan and the information shall be reported to Wellington City Council.”

- 5.7 That Map 2 be amended and the Port Noise Control Line be terminated at the boundary between the road reserve and the Lambton Harbour Development Area at Johnston Street

6. That all submissions and further submissions be accepted or rejected to the extent that they accord with the above recommendations.

## 2. Introduction

This report sets out the deliberations and decisions of the Hearing Committee of the issues raised in the submissions on the Plan Change 49 (DPC 49) and Variation 3 (DPV 3) relating to port noise.

DPC 49 and DPV3 amend the permitted noise levels from Port Related Activities in the Operational Port Area generally in line with those recommended in the “New Zealand Standard NZS 6809:1999 – Acoustics - Port Noise Management and Land Use Planning”. The amended provisions 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 port noise management plan to be developed by CentrePort.

Port Related Activities can occur in both the district and the Coastal Marine Area and to ensure a consistent approach to dealing with their effects, the Wellington Regional and City Councils agreed to work together with CentrePort to address the issue.

The Plan Change and Variation were both notified in December 2006. Hearings were held on 2<sup>nd</sup> July 2007 at Wellington City Council offices jointly with Hearings on Plan Change 1 to the Regional Coastal Plan as they all deal with issues relating to noise from Port Related Activities.

The Officer’s Report on the plan change and variation was distributed to submitters and further submitters prior to the hearing.

The Hearing Committee gave careful consideration to all the issues raised by the submitters, including those issues elaborated on in presentations by the submitters who appeared before the Committee.

The following discussion sets out the key issues and the Committee’s reasons for making its decision.

### **3. Plan Change 49**

Plan Change 49 introduces a new definition for ‘Port Related Activities’. In addition, it amends the provisions managing port noise from the Operational Port Area and adjacent Coastal Marine Area in the Suburban Centres zone and introduces acoustic insulation standards for noise sensitive activities in the Suburban Centres and Residential Areas.

#### **3.1 Plan Change 49 submissions**

Six submissions were received and they are summarised in Appendix 2. Two further submissions were made by BARNZ and CentrePort. The decisions of the Hearing Committee on these submissions and their reasons are set out below.

##### **3.1.1 General**

**CentrePort** submitted in general support of the intent and content of the Plan Change and requested that the changes are implemented with the exception of those areas identified in its submission. The Hearing Committee accepts in part this submission.

Other submissions by **CentrePort** are addressed below.

### 3.1.2 Definitions

#### Golden Bay Cement and Firth Industries

**Golden Bay Cement and Firth Industries** partially opposed the Plan Change. The submitter sought clarification of the definition of Port Related Activities as to whether **Golden Bay Cement and Firth Industries** were captured by the definition. The submitter sought amendment of the definition so that industrial activities which have an operational or locational synergy with the port are clearly included in the definition as follows (amendments sought are underlined):

**PORT RELATED ACTIVITIES** (*For the purpose of rules and standards relating to port noise*): means activities within the Operational Port Area and the Port Redevelopment Precinct including:

- the berthing, departure and movement of ships,
- ~~storage and cargo handling,~~
- the handling of goods and passengers,
- all activities associated with the movement, storage and handling of cargo
- industrial activities which source raw materials or goods through the port, or which contribute to the operation of the port, or support other activities in the vicinity of the port or the Central Area, and
- any activities (including construction, maintenance and repair) associated with buildings, machinery and equipment used in connection with the port or its administration.

*Activities not directly connected to the operation of the port such as office activities, retail activities, and other non-port uses within the Operational Port Area and Port Redevelopment Precinct are excluded*

A further submission by **CentrePort** opposes this amendment.

**Golden Bay Cement and Firth Industries** have made a similar submission on the definition for Port Related Activities in Variation 3 and Coastal Plan Change 1.

#### **Consideration**

The Hearing Committee considers that whilst some of the activities undertaken by **Golden Bay Cement and Firth Industries**, such as the unloading of coastal cement tankers are captured by the definition of Port Related Activities, the processing, packaging and final distribution of the product are not. The location of these latter activities is not inherently required to be located in the Operational Port Area. The Hearing Committee consider only those activities which are directly linked to the port operations should be included in the definition.

The Hearing Committee heard evidence from Dr Wassilieff on behalf of CentrePort that the packing and processing of the product was carried out in an open ended shed which resulted in the noise being highly directional. Whilst the noise from the processing was likely to be in excess of the limits set by the Port Noise Control Line and the existing Central Area noise rules, the surrounding noise environment was also very loud due to the close proximity of the railway and motorway. The directional nature of the noise also resulted in the maximum noise levels being directed away from nearby residential areas.

The Hearing Committee considers it appropriate that the effects of noise generated by the processing, packaging and final distribution of product by **Golden Bay Cement and Firth Industries** are managed by the activity provisions in the Central Area.

### ***Decision***

The Hearing Committee does not accept the submission to amend the definition of Port Related Activities. The Committee also rejects the submissions making similar points on Variation 3 and Plan Change 1 to the Regional Coastal Plan.

### **ONTRACK**

**ONTRACK** requested that the definition of Port Related Activities be clarified to ensure that it excludes railway activities within the Thorndon ferry terminal premises. **ONTRACK** have made similar submission to Variation 3 and Coastal Plan Change 1.

### ***Consideration***

The definition of Port Related Activities includes all activities undertaken when shipping freight and cargo. To this extent, the Committee considers that railway activities in the Thorndon ferry terminal are included in the definition of Port Related Activities when they are associated with the loading or unloading of a ship or ferry. Evidence provided in the Officers report noted that the noise modelling undertaken during the development of the Plan Change and used to establish the location of the Port Noise Control Line included noise sources from the InterIslander Ferry Terminal. These noise sources included railway activities associated with the loading and unloading of ships. The Hearing Committee heard that the level of activity on which the noise modelling is based is set at an anticipated activity level 10 years time and is over and above that of current activity levels. The Hearing Committee considers this adequately addresses the submitters concerns.

### ***Decision***

The Hearing Committee rejects this submission.

### **CentrePort**

**CentrePort** requested that the definition of Port Related Activities is amended. This is to reflect that the modelling of areas affected by noise emitted from the port is based on noise emitted from both the land and Coastal Marine Area. The suggested amendment is as follows:

***PORT RELATED ACTIVITIES (For the purpose of rules and standards relating to port noise): means activities within the Operational Port Area, ~~and~~ the Port Redevelopment Precinct and adjacent Coastal Marine Area including the berthing, departure and movement of ships, storage and cargo handling, handling of goods and passengers, all activities associated with the movement, storage and handling of cargo, any activities (including construction, maintenance and repair) associated with buildings, machinery and equipment used in connection with the port or its administration.***

***Activities not directly connected to the operation of the port such as office activities, retail activities, and other non-port uses within the Operational Port Area and Port Redevelopment Precinct are excluded***



**CentrePort** requested two new definitions are added to the Plan Change, these define the Port Noise Affected Area and Port Noise Control Line. The submitter considered that the new definitions clarify the terminology in the Plan Change. The requested definitions are:

***PORT NOISE AFFECTED AREA:*** means the Inner Port Noise Affected Area or the Outer Port Noise Affected Area

***PORT NOISE CONTROL LINE:*** means the line at or beyond which the rules controlling the emission of noise from Port Related Activities apply and is measured

### ***Decision***

The Hearing Committee accepts the inclusion of the addition to the definition of Port Related Activities and the suggested additional definitions with the following minor amendments

***PORT NOISE AFFECTED AREA:*** means the Inner Port Noise Affected Area or the Outer Port Noise Affected Area as shown on the planning maps

***PORT NOISE CONTROL LINE:*** means the line at or beyond which the rules controlling the emission of noise from Port Related Activities apply and ~~are~~ measured where the noise from Port Related Activities is monitored

### **3.1.3 Policies and Rules**

#### ***Wellington International Airport Limited (WIAL)***

**WIAL** opposed the Plan Change and sought that all changes to the policies and rules in the Suburban Centre and Residential Areas be deleted. **WIAL** argued that the changes will leave the airport protections currently provided within the Air Noise Boundary open to challenge. Its concern was that the provisions protecting the airport operations would be undermined and would 'result in increased restrictions on an already tightly constrained operation'. A further concern was that the Plan Change may sway the outcomes of the LUMIN study. **BARNZ** made a further submission in support of this submission in its entirety.

In the alternative, **WIAL** requested that their submission be accepted in part and the Plan Change be amended to the extent that new noise sensitive activities be made a discretionary (unrestricted) activity in those areas of the Residential and Suburban Centre Areas that are within the Port Noise Control Line. This is the area referred to in the Plan Change as the Inner Port Noise Affected Area.

CentrePort made further submissions in opposition to the submission by **WIAL**.

#### ***Consideration***

At the hearing, the planner for **WIAL** presented evidence that the characteristics of noise from the airport and port are very similar. **WIAL** was concerned that the inconsistency between the proposed provisions to manage the reverse sensitivity effects from the airport and port would erode the provisions to protect the airport. Such an

erosion would allow further challenges to these provisions and potentially increasing noise sensitive development within the airnoise boundary.

In addition, the planner for **WIAL** stated that acoustic insulation on its own would not prevent adverse effects from noise and complaints. Exposure to high levels of noise remains when windows and doors are opened and people spend time outside.

**CentrePort's** noise consultant indicated that the provisions proposed for port noise would not be suitable to manage the effects of noise from the airport. Dr Wassilieff stated that the characteristics of noise from the two operations are completely different in terms of timing, duration, tonal frequency and directional nature. This view was similar to that stated by the noise consultant for **WIAL** who stated that *'aircraft noise does not contain a low frequency character like the ships berthing at Wellington'*. Dr Wassilieff also stated to the Committee that the standard for noise insulation in the port noise plan change and Central Area takes into account the low frequency noise characteristics of the noise sources. Noise from airport operations does not contain the same level of low frequency noise and therefore the noise insulation standard used in the port noise plan change is wholly inappropriate for the airport environment.

The Hearing Committee notes that the potential for conflict between the two noise management regimes around the airport and the Operational Port Area. The Committee supports the presumption that the rules relating to the airport noise are dominant in areas within both the Port Noise Affected Areas and air noise boundary.

The Hearing Committee does not consider the Plan Change pre-empts or influences the outcomes of the LUMIN study particularly given the evidence heard that each management regime is tailored to the particular circumstances of the airport and Operational Port Area. **WIAL's** planner at the hearing indicated that **WIAL** are primarily responsible for carrying out the LUMIN study and therefore have sufficient input into the study to ensure the results are tailored to the airport environment only. Further, the issue of precedent argued by **WIAL** does not apply where situations are not similar which the Committee has heard is the case when comparing the different characteristics of noise from port and airport activities.

With regard to the alternative submission by **WIAL**, the Hearing Committee notes that this Plan Change inserts noise insulation conditions for noise sensitive activities in the Residential and Suburban Centre rules. This provides a more consistent approach for all activities affected by both airport and port noise. Where more onerous provisions apply within the airnoise boundary for residential activities, these are 'carved out' of the current plan change and remain unchanged.

### ***Decision***

The Hearing Committee considers that a statement clarifying the basis for each noise management regime should be included in the Plan Change as a result of a submission by **BARNZ** discussed below. The submission by **WIAL** is rejected.

The Hearing Committee considers that the current structure of the rules addresses any potential conflict and the alternative submission by **WIAL** is rejected.

## Board of Airline Representatives New Zealand

**BARNZ** generally supported the Plan Change as it ‘seeks to recognise the importance of regional significant infrastructure and the reverse sensitivity effects’ from nearby noise sensitive activities. However **BARNZ** raised a number of concerns regarding the potential impact that this Plan Change may have on Wellington International Airport, and the outcome of the LUMIN study referred to above. In addition, **BARNZ** questioned whether the acoustic insulation standard proposed is the most appropriate and whether the Plan Change is consistent with the Port Noise Management Standard. **BARNZ** requested that the Plan Change be declined and deferred until the completion of the LUMIN study.

**BARNZ** requested, in the alternative, that modifications are made to the Plan Change to address their concerns or that additional evidence be provided to demonstrate that the Plan Change is the most appropriate.

**BARNZ** made the same submission to Variation 3 and Coastal Plan Change 1.

CentrePort made further submissions in opposition to submissions BARNZ.

### ***Consideration***

As discussed above, the Hearing Committee considers there is no potential for conflict between the Plan Change provisions and those of the Airport. Technical advice from Council’s noise consultant and the evidence presented at the hearing by **CentrePort’s** noise consultant indicates that the proposed approach using an acoustic insulation standard for the building envelope is the most appropriate mechanism in a variable noise environment with a significant low frequency noise component. The approach is consistent with that used in the Central Area noise provisions of the Wellington District Plan and is appropriate for the nature of port noise and aims to provide for an approximate internal noise environment of 35dBA. The noise insulation standard within the airnoise boundary requires the development to achieve an internal noise environment of 45dBA  $L_{dn}$ . As the  $L_{dn}$  standard includes a 10dBA penalty for night time noise, the Committee understands that these standards achieve approximately the same internal noise environment.

### ***Decision***

The principal submission by BARNZ is rejected. The alternate submission is accepted in part and the Hearing Committee considers that these concerns will be addressed by adding:

- (i) a new sentence at the end of paragraph 3 to the explanation to Policy 4.2.2.3 as follows:

*“Where a new residential development is within an area included in both the airnoise boundary and Port Noise Affected Area, then the rules relating to airnoise will apply.”*

- (ii) a new sentence to the end of paragraph 4 to the explanation to Policy 6.2.1.2 as follows:

*“For any new residential development within the airnoise boundary that is also within the Port Noise Affected Area, the rules relating specifically to residential development within the airnoise boundary will apply. For all other new noise sensitive activities within the airnoise boundary that are also within the Port Noise Affected Area, the rules addressing reverse sensitivity effects from port noise will apply.”*

- (iii) a new paragraph 4 to the explanation to Policy 4.2.2.3 and adding a new paragraph after the second paragraph of explanation to Policy 6.2.2.3 as follows:

*“The provisions for managing the effects of noise from port related activities are based on an assessment of the particular characteristics of port noise, port operations and the relevant surrounding environment. Different provisions may be adopted in respect of the reverse sensitivity effects of other noise generating activities, as each activity can have different noise characteristics. For example, noise from the Wellington International Airport activities is different to noise from port activities.”*

### *New Zealand Shipping Federation*

The **New Zealand Shipping Federation (NZSF)** opposed the changes to the policies and rules of the Plan Change and sought that all changes are deleted. The principle reasons are the potential to undermine the provisions protecting the airport operations and the significant extra cost for existing port operations as a result of changes in operations to mitigate noise which may lead to port operations shifting to other, less restricted ports.

**NZSF** made the same submission to Variation 3 and Coastal Plan Change 1.

CentrePort made further submissions in opposition to the submission NZSF.

### ***Consideration***

The Hearing Committee heard evidence that there was little consultation between CentrePort and its shipping users regarding this Plan Change and that the Shipping Federation have concerns regarding further development of the port land for non port users.

The Hearing Committee considers the issues raised by **NZSF** are important as the port operation is a significant industry for the city and region. The proximity of existing residential development to CentrePort operations is a significant issue for the city, as it is for other ports such as Port Chalmers and Lyttleton.

The Port Noise Control Line takes into account the predicted growth in port operations over the next 10 years. The Committee considers that this is appropriate as it allows the port the flexibility to locate its activities within its own Operational Port Area and the Port Redevelopment Area. The Plan Change will require all new noise sensitive activities wishing to locate near the port to acoustically insulate the building envelope to mitigate any potential adverse effects of noise from port operations. The acoustic insulation standard takes into account the special tonal characteristics of port noise and Council’s technical advice is that this will adequately protect both the port operations

and users of the acoustically insulated buildings. The Committee considers these controls adequately mitigate the concerns raised by **NZSF**.

***Decision***

The submission by **NZSF** is rejected.

**ONTRACK**

**ONTRACK** submitted in support of the amendments to Policy 4.2.2.3 ‘Control the adverse effects of noise within Residential Areas’. The submitter considers these provisions recognise the importance of protecting the Operational Port Area against the potential reverse sensitivity impacts of nearby noise sensitive environments. No amendments are requested.

**ONTRACK** submitted in support of the proposed additions to rules 5.1.3.8a, 5.1.3.8a.1, and 5.2.1. **ONTRACK** submitted in support of the addition of rule 5.3.14, particularly the inclusion of the assessment criteria 5.3.14.4 and 5.3.14.5. The submitter considers it appropriate for the Council to recognise how development can create reverse sensitive issues.

**ONTRACK** submitted in support of the proposed additions to rules 7.1.1 and 7.1.2 to include a permitted activity condition for acoustic insulation of habitable rooms to be used by noise sensitive activities. The submitter also supported the inclusion of the proposed additions to rules 7.3.1.15.3 and 7.3.1.15.4. The submitter considers that these additions will provide greater protection against reverse sensitivity within the Port Noise Affected Areas and will create greater certainty around existing operators within the Port Noise Affected Areas.

CentrePort made further submissions in support of submissions by ONTRACK.

***Decision***

The Hearing Committee accepts these submissions and recommends the following minor amendment to rule 5.3.14.4

*“5.3.14.4 Whether the development is likely to lead to potential conflict with and cause adverse effects, including ~~noise sensitive~~ reverse sensitivity effects, on port activities.”*

**Golden Bay Cement and Firth Industries**

**Golden Bay Cement and Firth Industries** submitted in support of requiring acoustic insulation of all ‘habitable rooms’ on sites within a defined ‘Port Noise Affected Area’ as these provisions improve the management of noise generated in the Operational Port Area. No amendments are requested.

The submitter also supported the acoustic insulation provisions in Variation 3 and Coastal Plan Change 1.

CentrePort made a further submission in support of the submission by Golden Bay Cement and Firth Industries.

### ***Decision***

The Hearing Committee accepts this submission.

### ***CentrePort***

#### ***Submission***

**CentrePort** requested a minor amendment to the wording of the second sentence of the explanation after rule 5.1.3 as follows:

*“Acoustic insulation is required in areas affected by port noise to mitigate potential adverse effects on residents. The construction of new residential buildings within the Port Noise Affected Area which are also within the airnoise boundary is excluded from the port noise insulation rule (Rule 5.1.3.8) as the existing provisions for airport noise are adequate to also manage port noise.”*

#### ***Decision***

The Hearing Committee accepts this submission to clarify the workings of the rule.

#### ***Submission***

**CentrePort** requested that the port company are considered an affected party in relation to developments that do not meet the acoustic insulation requirements in the permitted activity rules in the Plan. **CentrePort** sought to add the sentence at the end of the non-notification statement after rules 5.3.14 and 7.3.1.7a

*“However, the port company will always be considered to be an affected person in terms of such applications.”*

#### ***Decision***

The Hearing Committee was not persuaded that CentrePort should always be considered an affected party as this is a technical standard that any new development must demonstrate it meets. The Hearing Committee rejects this submission and recommends that no change be made to the non notification statements in 5.3.14 and 7.3.1.7a.

#### ***Submission***

**CentrePort** requested a minor amendment to the introduction to Chapter 6 and requested the following amendment:

*“~~The Outer Residential~~ Suburban Centres Area adjacent to the Operational Port Area in Miramar is affected by noise from port activities. The Plan includes specific provisions to provide for this.”*

#### ***Decision***

This submission is accepted as this is the zoning immediately adjacent to the Miramar and Burnham Wharf area.

#### ***Submission***

**CentrePort** requested the deletion of rule 7.1.1.1.6 relating to the ongoing compliance monitoring of port noise. **CentrePort** considers that the monitoring should be provided within the context of the Port Noise Management Plan rather than the District Plan.

Rule 7.1.1.1.6 states that

*“The port company shall undertake a noise monitoring programme to ensure that noise from Port Related Activities comply with condition 7.1.1.1.5 at the Port Noise Control Line. This monitoring will be undertaken at least 2 times per year at 4 points in accordance with the CentrePort Noise Management Plan and the information shall be supplied in a twice yearly report to Wellington City Council.”*

**CentrePort** contended that given the location of the Port Noise Control Line is based on the predicted growth of the port over the next 10 years such compliance monitoring is likely to be unnecessary. **CentrePort** argued that if monitoring shows that the port company is complying with the noise standards, then it wouldn't be necessary to monitor so frequently. To amend the monitoring regime would require a Plan Change to enable greater flexibility in the monitoring regime.

### ***Consideration***

The Hearing Committee accepts in part this submission as the matter is able to be addressed through the Port Noise Management Plan and this is required under rule 7.1.1.1.7 to be developed to the satisfaction of the Council. However, the Hearing Committee is also cognisant of the submission made by the **Committee of the Waterloo on Quay Body Corporate no 309984** to Variation 3 which requested that the procedures for monitoring of noise from port related activities are improved. The Committee's views are discussed further below when addressing this submission.

### ***Decision***

The Hearing Committee considers that the rule be amended to read:

*“7.1.1.1.6 The port company shall undertake a noise monitoring programme to ensure that noise from Port Related Activities comply with condition 7.1.1.1.5 at the Port Noise Control Line. This monitoring will be undertaken ~~at least 2 times per year at 4 points~~ in accordance with the CentrePort Noise Management Plan and the information shall be ~~supplied in a twice yearly reported~~ to Wellington City Council.”*

### ***Submission***

**CentrePort** requested minor wording amendments to the explanation to rule 7.1.1.1 as set out below:

*“Noise from Port Related Activities within the Operational Port Area and the adjacent Coastal Marine Area is measured and assessed in terms of NZS 6809:1999 – “Acoustics – Port Noise Planning and Land Use Planning”. This provides for management of noise from Port Related Activities and is based on a combination of short term and long term noise limits measurable at a specific Port Noise Control Line. Plan Map 55 indicates the areas that are affected by port related noise, where effects must be managed and special acoustic insulation provisions apply. These requirements are included in the relevant Area rules.*

*Noise generated in the Coastal Marine Area (which includes the wharf areas at Miramar) ~~will also be measured and assessed~~ is included in the measurement and*

*assessment of port noise in terms of NZS 6809:1999, using the Port Noise Control Line. Noise from the Coastal Marine Area is subject to the Regional Coastal Plan administered by Greater Wellington Regional Council.*

*The port company will manage noise from Port Related Activities in the Operational Port Area and the Coastal Marine Area through the operation of the Port Noise Management Plan. Regular monitoring will test the effectiveness of the management plan and its implementation in managing port noise.”*

### **Decision**

The Hearing Committee accepts this submission in part and recommends the following amendments to the explanation:

*“Noise from Port Related Activities within the Operational Port Area and the adjacent Coastal Marine Area is measured and assessed in terms of NZS 6809:1999 – “Acoustics – Port Noise Planning and Land Use Planning”. This provides for management of noise from Port Related Activities and is based on a combination of short term and long term noise limits measurable at a specific Port Noise Control Line. Plan Map 55 indicates the areas that are affected by port related noise, where effects must be managed and special acoustic insulation provisions apply. These requirements are included in the relevant Area rules.*

*~~Noise generated in the Coastal Marine Area (which includes the wharf areas at Miramar) will also be measured and assessed in terms of NZS 6809:1999, using the Port Noise Control Line.~~ Noise from Port Related Activities within the Coastal Marine Area is subject to the Regional Coastal Plan administered by Greater Wellington Regional Council.*

*The port company will manage noise from Port Related Activities in the Operational Port Area and the Coastal Marine Area through the operation of the Port Noise Management Plan. Regular monitoring will test the effectiveness of the management plan and its implementation in managing port noise.”*

### **Submission**

**CentrePort** requested a minor wording change to the explanation following 7.1.1.10.1 where there is an incorrect reference to the status of activities in Rule 7.4.4 in the second sentence. The submitter requested that the word ‘restricted’ be changed to ‘full’.

**CentrePort** requested that the reference to rule 13.6.2.14a in Appendix Y be amended to refer to rule 7.1.1.1.5.

### **Decision**

These submissions are accepted as they correct typographical errors.

### **Submission**

**CentrePort** also requested an additional criterion be added to rule 7.4.4 specifically relating to port noise which reads:



7.4.4.6 *Whether the development is likely to lead to potential conflict with and cause adverse effects on port activities, where the site is within the Port Noise Affected Area.*

### ***Decision***

The Hearing Committee recommends that a similar criterion be added to rule 7.4.4.

## **4. District Plan Variation 3**

District Plan Variation 3 includes the new definition for ‘Port Related Activities’ and amends the provisions managing noise from the Operational Port Area in the Central Area zone. In addition, it introduces a higher acoustic insulation standard for new noise sensitive activities in the Inner Port Noise Affected Area.

### **4.1 Variation 3 submissions**

Seven submissions were received and they are summarised in Appendix 3. Two further submissions have been made by BARNZ and CentrePort. These are discussed further below.

#### **4.1.1 General**

##### **Committee of the Waterloo on Quay Body Corporate**

The **Committee of the Waterloo on Quay Body Corporate No. 309984 (Apartments at Shed 21, 28 Waterloo Quay)** raised the issue of the circumstances of the Shed 21 apartments being adjacent to the Operational Port Area. The Body Corporate requested that the unique circumstances of Shed 21 being situated on port land be acknowledged and taken into account in relation to all decisions on port operations.

The **Committee of the Waterloo on Quay Body Corporate No. 309984 (Apartments at Shed 21, 28 Waterloo Quay)** also requested that the procedures for monitoring port noise emission levels be improved.

CentrePort made further submissions in opposition to the submission by the Committee of the Waterloo on Quay Body Corporate (Apartments at Shed 21, 28 Waterloo Quay).

### ***Consideration***

This submission is accepted in part. The purpose of the Variation is to mitigate the impact of port noise on noise sensitive activities through requiring acoustic insulation to a higher level in areas affected by high levels of port noise. The Council is not able to direct CentrePort to take the location and circumstances of Shed 21 into account when managing its port operations, however, it must comply with the noise standards set out in the plan. However, the Variation and Plan Changes require the port to develop a Port Noise Management Plan. This Management Plan is required to address issues such as the design and location of new or extended port activities and identify techniques that will be considered to reduce the emission of noise over time and indicate which of these techniques will be adopted to achieve realistic objectives in managing noise.

The Variation and Plan Change establish a regular monitoring regime for port noise. In addition, as noted above, the Port Noise Management Plan will enable the port to

explicitly consider the major noise sources and potential mitigation options and will outline the monitoring regime to be undertaken.

In addition, the Plan Changes and Variation require CentrePort to establish a Port Noise Liaison Committee (which may be provided through the functions of the Port's existing Environmental Consultative Committee) to ensure ongoing liaison with affected parties is maintained. The Hearing Committee would expect that the results of the monitoring of noise from port related activities would be made available to this Liaison Committee.

The Hearing Committee considers that the Management Plan is a key instrument in mitigating and managing noise from port related activities. The Plan will cover the jurisdictional areas of the coastal marine area and the district. The Committee may make recommendations to amend the outline of the Management Plan in Variation 3, it does not have the jurisdiction to amend the outline of the Management Plan in either District Plan Change 49 or Plan Change 1 to the Regional Coastal Plan. For consistency between plans, the Hearing Committee does not support any amendments to Variation 3 but recommends to the City Council and Greater Wellington that the following points should be considered:

- the Management Plan should be completed by the end of 2008
- the Management Plan should be widely available to the general public through a range of media including the CentrePort website
- there should be a dedicated complaints number that is widely advertised
- the mutual co-existence of port and noise sensitive activities in close proximity is sufficiently important that it be addressed by a dedicated committee including representatives from CentrePort, the shipping industry, the City and Regional Councils, business owners in the Port Redevelopment Area and nearby residential developments. Shed 21 is the closest residential development to port operations and should have a representative on the committee in addition to residents representatives from Wadestown, Highland Park, Miramar and other affected areas
- the procedures outlined in the Management Plan to deal with complaints are proactive and have a limit on the time taken to address and respond to complaints.

### ***Decision***

The submissions by the Committee of the Waterloo on Quay Body Corporate (Apartments at Shed 21, 28 Waterloo Quay) are supported and no amendments are recommended.

### ***CentrePort***

**CentrePort** submitted in general support of the intent and content of the Variation and requested that the changes are implemented with the exception of those areas identified in its submission.

### ***Decision***

The Hearing Committee accepts in part this submission.

#### 4.1.2 Definitions

##### Golden Bay Cement and Firth Industries

**Golden Bay Cement and Firth Industries** partially opposed the Variation. The submitter sought clarification of the definition of Port Related Activities as to whether **Golden Bay Cement and Firth Industries** were captured by the definition.

CentrePort made further submissions in opposition to the submissions by Golden Bay Cement and Firth Industries.

##### *Decision*

This submission is rejected for the reasons given in section 3.1.2 above.

##### ONTRACK

**ONTRACK** requested that the definition of Port Related Activities is clarified to ensure that it excludes railway activities within the Thorndon ferry terminal premises.

##### *Decision*

This submission is rejected for the reasons given in section 3.1.2 above.

##### CentrePort

**CentrePort** requested that the definition of Port Related Activities is amended as detailed in section 3.1.2 above. **CentrePort** also requested two new definitions are added to the Variation as requested to Plan Change 49.

##### *Decision*

For the reasons given in section 3.1.2 above, the Hearing Committee supports these submissions and recommends the inclusion of the following definitions

***PORT NOISE AFFECTED AREA:*** means the Inner Port Noise Affected Area or the Outer Port Noise Affected Area as shown on the planning maps

***PORT NOISE CONTROL LINE:*** means the line at or beyond which the rules controlling the emission of noise from Port Related Activities apply and where the noise from Port Related Activities is monitored

#### 4.1.3 Policies and Rules

##### Wellington International Airport Limited (WIAL)

**WIAL** opposed the Variation and sought that all changes to the policies and rules in the Central Area be deleted for similar reasons outlined in section 3.1.3.

In the alternative, **WIAL** requested that their submission be accepted in part and the Variation be amended to the extent that new noise sensitive activities be made a discretionary (unrestricted) activity in Central Area that is within the Port Noise Control Line. This is the area referred to in the Plan Change as the Inner Port Noise Affected Area.

CentrePort made further submissions in opposition to the submission by WIAL.

***Decision***

The Central Area and Air Noise Boundary do not overlap and the Hearing Committee considers that the issues raised in the submission are not substantiated for those areas where there is no overlap. The submission by **WIAL** is rejected.

The alternative submission by **WIAL** is rejected for the reasons outlined above and in section 3.1.3.

**BARNZ**

**BARNZ** have made the same submission to Variation 3 as Plan Change 49 and the Hearing Committee make a similar response to the points they raise as detailed above in section 3.1.3.

CentrePort made further submissions in opposition to the submission by BARNZ.

***Decision***

The Hearing Committee does not support their alternative submission for Variation 3 and considers that the suggested amendments to the Residential and Suburban Centre rules adequately addresses their concerns.

**New Zealand Shipping Federation**

The **New Zealand Shipping Federation (NZSF)** opposed the changes to the policies and rules in the Variation 3 and sought that all changes are deleted. Their submission was the same as that for Plan Change 49.

CentrePort made further submissions in opposition to the submission NZSF.

***Consideration***

As noted above, the Port Noise Control Line takes into account the predicted growth in port operations over the next 10 years. The Committee considers that this is appropriate as it allows the port the flexibility to locate its activities within its own Operational Port Area and the Port Redevelopment Area. The Committee heard from CentrePort that they are aware of the issues of locating noise sensitive activities in the Port Redevelopment Area, although they are likely to want to include a hotel or motel development in the Area. The Plan Change will require all new noise sensitive activities wishing to locate near the port to acoustically insulate the building envelope to mitigate any potential adverse effects of noise from port operations. The acoustic insulation standard takes into account the special tonal characteristics of port noise and Council's technical advice is that this will adequately protect both the port operations and users of the acoustically insulated buildings.

The Hearing Committee does not support removal of all changes to the noise insulation rules in the Variation as these will require higher acoustic insulation standards in the Port Redevelopment Area for all new noise sensitive activities. Without the amendments to the Central Area rules (PC48) included in this Variation, the lesser noise insulation standards for the Central Area will apply to new noise sensitive activities in

the Port Redevelopment Area, consequently reducing the level of protection from reverse sensitivity effects for shipping operations.

***Decision***

The submission by NZSF is rejected.

***Golden Bay Cement and Firth Industries***

**Golden Bay Cement and Firth Industries** sought clarification of the application of the Central Area rules in Plan Change 48 relating to noise from fixed plant.

***Consideration***

The Central Area rules apply to the processing, packaging and final distribution of the product and as noted above, the Hearing Committee does not support the submitters request to include all of the activities undertaken by **Golden Bay Cement and Firth Industries** in the definition of Port Related Activities. The submissions and hearing process for Plan Change 48 is the most appropriate mechanism to address of whether **Golden Bay Cement and Firth Industries** be exempt from the fixed plant noise provisions.

***Decision***

As such, the Hearing Committee does not support the submission.

***Submission***

**Golden Bay Cement and Firth Industries** submitted in support of requiring acoustic insulation of all 'habitable rooms' on sites within a defined 'Port Noise Affected Area' as these provisions improve the management of noise generated in the Operational Port Area. No amendments are requested. The submitter also supported the acoustic insulation provisions in Plan Change 49 and Coastal Plan Change 1.

CentrePort made further submissions in support of the submissions by Golden Bay Cement and Firth Industries.

***Decision***

This submission is accepted.

***ONTRACK***

**ONTRACK** submitted in support of the acoustic insulation requirements set out in '13.6.1.2.1 Noise Insulation'. The submitter considers these provisions recognise the strategic and economic importance of the port area.

CentrePort made further submissions in support of the submission by ONTRACK.

***Decision***

The Hearing Committee accepts this submission.

## CentrePort

**CentrePort** requested a number of minor amendments to the explanation of Policy 12.2.2.4.

### **Decision**

This submission is accepted in part. The request by the submitter that the last sentence of the explanation is deleted is rejected. The Hearing Committee recommends the explanation be amended to read:

*“~~Noise from p~~Port Related Activities can be noisy and can occur at all times, and specific noise standards are set for these activities by means of a noise control line shown on the Plan Maps. The effects of port noise from the Central Area extend into nearby Suburban Centre and Residential Areas, and the rules for these areas require acoustic insulation for noise sensitive activities.*”

*Noise generated in the Coastal Marine Area (which includes the ~~Ferry Wharf~~ InterIslander Terminal Wharves at Kaiwharawhara and other port company city wharves~~wharfs~~, and the wharf areas of Queens Wharf, Taranaki Street Wharf and Chaffers Overseas Passenger Terminal Wharf in the Lambton Harbour Area) is subject to the Regional Coastal Plan administered by Greater Wellington Regional Council.*

*The port company will manage the noise generated in the Operational Port Area and the Coastal Marine Area through the operation of the Port Noise Management Plan. Regular monitoring will test the effectiveness of the management plan and its implementation in managing port noise.”*

### **Submission**

**CentrePort** requested that rule 13.6.2.1.4b be deleted for similar reasons as detailed in section 3.1.3.

### **Decision**

The Hearing Committee accepts that the monitoring regime should be able to be modified as the results of the initial monitoring are reported. This submission is accepted in part and the Hearing Committee recommends that the rule be amended to read:

*“13.6.2.1.4b The port company shall undertake a noise monitoring programme to ensure that noise from Port Related Activities comply with condition 13.1.1.1.4a at the Port Noise Control Line. This monitoring will be undertaken ~~at 4 points typically noted for noise nuisance at least 2 times per year~~ in accordance with the Port Noise Management Plan and the information shall be ~~supplied in a twice yearly reported~~ reported to Wellington City Council.”*

#### **4.1.4 Maps**

##### *Committee of the Waterloo on Quay Body Corporate*

**The Committee of the Waterloo on Quay Body Corporate No. 309984 (Apartments at Shed 21, 28 Waterloo Quay)** requested that the Port Noise Control Line (PNCL) run along the east (seaward) side of Shed 21.

CentrePort made further submissions in opposition to the submission by the Committee of the Waterloo on Quay Body Corporate (Apartments at Shed 21, 28 Waterloo Quay).

##### ***Consideration***

The location of the PNCL is based on modelling of the existing port noise environment as required by the Port Noise Management Standard. The PNCL also sets the boundary between inner and outer Port Noise Affected Areas. With the PNCL in its current location on the western side of Shed 21, if these apartments were to be developed with the Variation place, the apartments would be required to be acoustically insulated to the higher standard rather than the standard which applies to the remainder of the Central Area.

The noise from Port Related Activities close to Shed 21 is within the proposed levels in the Variation. Shifting the Port Noise Control Line to the seaward side of the apartments would mean that it would be difficult for the shipping company and CentrePort to comply with the noise standards. It is recognised that the apartments were constructed with full knowledge of the proximity of noisy port activities and the developer provided for this in the sale and purchase agreements of the units.

##### ***Decision***

This submission is rejected.

##### *CentrePort*

**CentrePort** requested that the Port Noise Control Line as shown on Map 2 should stop at Johnson Street on Customhouse Quay rather than turning east to meet the Coastal Marine Area. This area is an active and busy wharf area used by a range of small vessels and their associated activities. The submitter argued that it is not practical to measure compliance at this point; rather that compliance should be set at a distance from the active port area.

##### ***Consideration***

The Hearing Committee heard from CentrePort's noise expert that noise from port related activities is unlikely to comply with the port noise emission standards if measured at mean high water springs in the north Queens Wharf area. The Committee agrees that the intent of the Plan Change is to allow for the current levels of activity at the wharves.

##### ***Decision***

As such, the Hearing Committee accepts the submission and recommends that the Port Noise Control Line end at the boundary between the road reserve for Customhouse Quay and the Lambton Harbour area at Johnston Street. A similar recommendation is made to changes to the Regional Coastal Plan.

## **5. Conclusion**

Five out of the eight submissions received on the Plan Change and Variation were in opposition or partial opposition to the proposed changes to the District Plans. Whilst these submissions raised significant issues, particularly with regard to the potential impact on Wellington International Airport, the Hearing Committee considers that any potential impact is sufficiently mitigated through the provisions of the Plan Changes and Variation and the recommended amendments in this report.

The Hearing Committee recommends that the Plan Change and Variation should be approved with the additions, amendments and deletions recommended in this report.