
PROPOSED DISTRICT PLAN CHANGE 49 AND VARIATION 3 – PORT NOISE EMISSION LEVELS AND BUILDING INSULATION RULES

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. *Note that some wording changes may be required to Proposed District Plan Change 49 and Variation 3 to align with the proposed plan change for the Central Area rules.*
5. *Delegate to the Portfolio Spokesperson for Urban Development the authority to approve any wording changes to align the wording in Proposed District Plan Change 49 and Variation 3 with the proposed plan change for the Central Area rules prior to notification.*

6. *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*

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 provision 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 5.6 of this report.

Proposed District Plan Change 49 and Variation 3 is 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 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 provisions 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 cross the jurisdictional boundary between the district and 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 L_{dn} and 55dBA L_{dn} contours based on a predicted busy five day period. L_{dn} 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 L_{dn} 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 L_{dn} lies outside the district and inside the Coastal Marine Area. As such, the Port Noise Control Line follows the line of Mean High Water Springs in the Lambton Harbour Area south of Johnston Street.

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 L_{dn} 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	Proposed acoustic insulation standard
Seaward of PNCL (the Inner Port Noise Affected Area)	$D_{nT,w} + Ctr > 35\text{dBA}$
Landward of PNCL (the Outer Port Noise Affected Area)	$D_{nT,w} + Ctr > 30\text{dBA}$

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 L_{dn} 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 which may occur if implementing rules containing two different noise insulation standards relating to different noise sources affecting the same site.

5.3 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.

5.4 Timing and 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 timing of amendments to the Residential and Suburban Centre Areas' provisions however the linkage with the Central Area chapter is potentially problematic. On the 7th September 2006, the Strategy and Policy Committee will consider a paper setting out a proposed plan change for the whole of the Central Area provisions (Proposed Plan Change 48).

The recommended approach is to split the port noise provisions into a variation to Proposed Plan Change 48 (Variation 3) and a Plan Change for 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. Notification of the Proposed Plan Change 49 and Variation 3 would be delayed until after that of the Central Area Plan Change 48. A significant issue is the timing of both Proposed Plan Changes being presented to the Committee particularly that the proposed port noise provisions are being considered in advance of the Central Area plan change. Any issues changes in the wording or intent of Plan Change 48 agreed by the Committee could impact on the port noise provisions. It is recommended that the Portfolio Spokesperson for Urban Development be delegated the authority to approve any wording changes to align the wording in Proposed District Plan Change 49 and Variation 3 with the proposed plan change for the Central Area rules prior to notification.

5.5 Timing and co-ordination with the 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 September 2006.

The intention is to notify the proposed plan changes to the District Plan and the Regional Plan concurrently before the end of 2006. Concurrent notification will enable the holding of joint hearings should this be necessary.

5.6 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.

In July 2006, meetings were also held with Wellington Waterfront Ltd (WWL), CentrePort, Willis Bond Ltd and Wellington International Airport Ltd (WIAL).

Willis Bond made no specific comment at that time and is likely to make submissions on the proposed plan change.

WWL has no objection to adopting the proposed insulation standard for noise sensitive activities if that is the wish of the Council. WWL indicated that the Council could possibly achieve this through non-regulatory means through its ownership structure, however WWL prefers a regulatory approach to be used. WWL indicated that it accepted the need to make increased provision for noise generated by port activities located within the Inner Port Noise Area, but did not support this being extended to cover WWL's area, as WWL consider this unnecessary and would reduce public amenity.

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.

CentrePort generally support the thrust of the Proposed Plan Change and have been closely involved in the development of the draft provisions. However, CentrePort are concerned that any tightening of the noise control provisions in the Lambton Harbour Area may restrict future port operations and that it has no rights or ability to influence the insulation levels if non regulatory methods are used for new developments in the Lambton Harbour Area.

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.

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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