

Nelson Resource Management Plan: Proposed Variation 07/01 - Port Noise

Summary of Submissions & Further Submissions

February 2008



NELSON CITY COUNCIL

0701 Port Noise Variation

Sub#: 1 **Submitter:** Sinner, Jim

New definitions to support the mitigation approach

Statement# 1

Oppose

Details: I do not have any firm views on the overall approach, but the proposed rules provide no protection for students at Auckland Point School from Port Noise that could impact adversely on teaching and learning.

Remedy: [3] Amend MW.126A to insert the words "educational or" before the words "residential purposes".

Amendments to reflect proposed approach to noise management, including deletion on the Noise Limit Line

Statement# 2

Oppose

Details: The proposed rules provide no protection for students at Auckland Point School from Port Noise that could impact adversely on teaching and learning.

The wording of rule INr.40 needs to be amended to avoid making redundant the existing controls on noisy activities within the Port Industrial Area e.g. sand-blasting at the slipway.

I support the requirement that the Port Operator conduct continuous monitoring at a location in the Port Hills.

The mitigation plan should require the Port Operator to notify owners of all noise affected properties at least every three years of their eligibility for technical and financial assistance for mitigation works.

The Port Noise Liaison Committee should have an independent chair i.e. someone who is not an employee of the Port Operator.

- Remedy:**
- [1] Amend Rule INr.38 to replace the second to last sentence in the Permitted column with the following: "This rule does not apply to (a) noise generated by the Airport and received within the Airport Effects Control Lines, or to (b) noise generated within the Port Operation Area and received within the Port Effects Control Overlays".
 - [2] Amend Rule INr.40 to include the following words at the bottom of the Permitted column: "Noise from activities in the Port Industrial Area must also comply with the conditions of Rule INr.38, except within the Port Effects Control Overlays".
 - [4] Amend the definition of Port Effects Control Overlay at AD11.3.14 to state that the boundaries of the overlays will be adjusted when the Port Noise contours are updated as required by AP29.A.2.i(d), and explain the process by which this will happen.
 - [5] Amend Rule INr.40 to ensure that noisy activities within the Port Industrial Area are still subject to controls as necessary to protect workers and other activities within the Port Industrial Area.
 - [6] Retain the requirement for the Port Operator to carry out continuous monitoring as per AP29.A.2.
 - [7] Amend provision AP29.A.3.i(a)ii to clarify that Port Noise measurements shall not be adjusted to exclude noise from log handling activities.
 - [8] Amend AP29.A to specify that, for the purpose of determining whether Auckland Point School is exposed to noise that exceeds the thresholds for mitigation specified in the Plan, measurement shall be based on noise levels between 8:30am and 3:30pm.
 - [10] Amend AP29.B.4.1 by inserting after "iii) Stage 3" the following: 'Not more than three years after the notification of Variation 07/01, the Port Operator shall notify owners of all noise-affected properties receiving between 55dBA and 60dBA of their eligibility to request technical advice and financial assistance for mitigation works from the Port Noise Liaison Committee'.
 - [11] Amend AP29.B.4.1 by inserting a new paragraph at the end as follows: "iv) Ongoing works. Not less than every three years after notification of Variation 07/01, the Port Operator shall notify owners of all noise-affected properties of their eligibility to request technical advice and financial assistance for mitigation works from the Port Noise Liaison Committee".
 - [12] Amend AP29.C.1 by inserting the following at the end: 'AP29.C.1.ii The Port Noise Liaison Committee shall elect, for such term as the Committee may decide, a chairperson from among its own members or may elect a person not otherwise appointed to the Committee, except that in either case the person elected may not be an employee of the Port Operator. The chairperson shall have an ordinary vote in all matters before the Committee and in the case of a tie shall have a casting vote'.

Amended acoustic insulation requirements for new residential units and alterations to existing residential units

Statement# 3

Oppose

Details: Alterations to existing buildings (including houses) should only be required to comply with the 40dBA standard for new sleeping areas (Rule REr.65A).

Remedy: [9] Amend Rule REr.65A in the Permitted column by replacing the words "the building is" with the words "any new sleeping areas are".

Further Sub#: X1 Statement: 1 Further Submitter: Ward, David and Jocelyn

Oppose We oppose the submission of Mr Sinner, statement 3.
We oppose the suggested amendment of rule REr.65A (remedy no. [9]).

Further Sub#: X2 Statement: 1 Further Submitter: Nelson Waterfront Protection Association

Support in part Nelson Waterfront Protection Association (NWPA) agrees with remedy [7] that provision AP29.A.3i(a)ii should be amended to clarify that Port Noise measurements shall not be adjusted to exclude noise from log handling activities. NWPA agrees with remedy [12], that the proposed amendment to AP29.C.1.ii to provide that a chairperson should be elected to the Port Noise Liaison Committee, however such a person is not to be an employee of the Port Operator.

Further Sub#: X3 Statement: 1 Further Submitter: Residents' Representatives of the Port Nelson Liaison Committee

Support Agree that Auckland Point School should be included in the area that is eligible for assistance with acoustic insulation if required.

Further Sub#: X4 Statement: 1 Further Submitter: Port Nelson Limited

Support The Port supports remedy [1] as it provides clarification for the circumstances when this rule does not apply, however, the suggested wording omits reference to the Airport Effects Control Overlay (and "overlays" is unnecessarily plural").

Oppose The Port opposes remedy [2] as it misunderstands the relationship between the rules INr.40 and INr.38 and the proposed amendment would fail to give proper effect to the intent of the Variation.

Oppose The Port opposes remedy [4]. Flexibility in the Port Noise contours is to ensure that mitigation offered by the Port is always consistent with the current Port Noise environment; the Port noise management and mitigation plans, being located outside the proposed Plan, will not need a formal process to be updated. The Port Effects Control Overlay is located within the proposed Plan and will require a Variation/Plan change to update it, this formal process may not need to occur every time the Port Noise contours are updated, but will depend on the appropriateness of the acoustic insulation/ventilation requirements owners are required to comply with to ensure new dwellings or additions meet the specified design standard. See original further submission for examples.

Oppose The Port opposes remedy [5] because the Variation as proposed already provides adequately for this situation.

Oppose The Port opposes the provisions set out in remedy [6] requiring continuous monitoring and considers them unnecessary, inappropriate and unjustifiable in acoustic and resource management terms.

Oppose Remedy [7] misunderstands the purpose of the exclusion for log handling. The exclusion only relates to adjustments for special audible characteristics not noise from log handling per se.

Sub#: 2 Submitter: Gibbons Holdings Ltd

Clarification of 'Port Industrial Area' and 'Port Operational Area'

Statement# 1

Oppose

Details:

Please refer to the full submission's preamble for general submission discussion and background.

Specific provisions of concern in the 07/01 Variation include:

- [a] MW.145 Port Industrial Area definition: the planning map should include the area within the Boulder Bank from the point of entry into the Harbour through the Cut within the Port Industrial Area.
- [b] MW.145Ai) Sources of noise should not be confined to ships "at berth" but also within the Port (hence the previous submission seeking the extension of the identification of "Port Industrial Area") - it is nonsense to try and limit the area under control when access to and from the terrestrial part of the Port is required over the width of the bay and noise should not be excluded from control there.

Remedy:

- [a] MW.145 Extend the defined area on the planning map and definition to include the area within the Boulder Bank from the point of entry into the Harbour through the Cut thereby extending the noise control provision over the whole of the area which is in truth "the Port Industrial Area" including the area for access to it.
- [b] MW.145Ai) Extend the defined area (both definition and planning maps) to include ships from the time they enter and until the time they leave the Harbour through the Cut.

Oppose

Details:

Please refer to the full submission's preamble for general submission discussion and background.

Specific provisions of concern in the 07/01 Variation include:

- [c] IN1.3 Port Industrial Area. The emphasis now given is not accepted. The focus of the proposed plan change is "noise". There should be no need (nor has the Section 32 Analysis addressed) restrictions on the types of activities that can be located in the area. For the purpose of the proposed variation the Port Industrial Area is simply a definition relevant to noise effects. The insertion of the words "or the Port" is not accepted for that same reason. There is no Section 32 Analysis sufficient to justify that provision.
- [d] INr.23. The submitter does not accept the inclusion of the words "Port Area and are essential ancillary activities" in the provision. The change is not relevant to "noise" which it is meant to be what Variation 07/01 is all about.
- [e] AP29.A.1.i.d) Minimum Port Noise Management Plan Provisions. The effectiveness of the Committee is compromised by the reliance on a Port Operator to accept the recommendations. There is no obligation on the Port Operator to accept the recommendation and thus the provisions effectively give the Port Operator power of veto over the Committee rendering the Committee nugatory.
- [f] AP29.A.2.a) Record of Recordings. The requirement to keep recording for a minimum of 7 days is inadequate. There is a good chance that they would have been destroyed before there is any possibility of follow up and hopefully resolution to the problem.
- [g] AP29.A.2.d) - Contour Map. It is not clear why the Contour Map should revolve around a "busy 5 day operating scenario". The map should have regard to tidal effects of the Port activities, in particular the extent to which ships arriving or leaving are directed by the tides.
- [h] AP29.A.2.j) - Public Access. Public access to information should not be confined to the Port Noise Management Plan but extended to include all reports, and minutes considered by the Committee. The public should have access to all deliberations of the Committee including reports, minutes and recommendations.
- [i] AP29.A.3.1.b) Procedure for measuring Port Noise. The measure and focus should not be "ship visits" as implied but rather "noise".
- [j] AP29.C.1 - Port Noise Liaison Committee. There is a lack of balance in membership of the Committee in favour of Port users/owners. In the normal course Council's involvement on the Committee would be entirely appropriate for it to fulfil its statutory role but it is compromised in so doing by its 50% ownership of Port Nelson, appointment of directors from the Council or at the Council's behest, and its monitoring enforcement procedures. There is a lack of clarity as to what constitutes "Port Hills residential area" and there is no clarity on how it is proposed that representatives be identified, elected and what are Committee Members ongoing qualifications to be on the Committee is. The submitter makes the same observation in respect of the selection of Port user representatives. There is a real risk of the Port Noise Liaison Committee and its existence and task being little more than lip service.
- [k] AP29.C.4.d) Port Noise Committee Resourcing. The Submitter does not agree that access to the deliberations of the Committee should be confined to owners of "noise affected properties". Such a suggestion presumes there is some definitive contour line that clearly sets the line of demarcation. Furthermore it ignores the interests of the "port users" who, it is proposed, would have representation on the Committee. In any event, the deliberations of the Committee should be open to the whole of the public i.e. TDC is there to serve the interest of the public, so is NCC, so equally are elected Councillors, and therefore transparency to the public is imperative.
- [l] The Variation 07/01 does not achieve the imperatives of the Resource Management Act 1991.

Remedy:

- [c] IN1.3 Port Industrial Area. Delete the clause in its entirety.
- [d] INr.23. Delete the words "Port area and are essential ancillary activities" from Variation 7.
- [e] AP29.A.1.i.d) Minimum Port Noise Management Plan Provisions. The Management Plan should impose a requirement on the Port Operator to respond in writing to the Committee within 30 days, unless the parties agree a different timeframe, on how it proposes to implement any recommendations including timeframes. This would add transparency to the Port Operators consideration to Committee requests.
- [f] AP29.A.2.a) Record of Recordings. Recordings to be kept for a period of not less than 6 months.
- [g] AP29.A.2.d) Contour Map. Amend the wording to read "a Port noise contour map based on a busy 14 day operating scenario".
- [h] AP29.A.2.j) - Public Access. Extend the provision to enable public access to all reports, minutes and recommendations considered or made by the Committee and requiring all dealings between the Committee and PNL to be the subject of written record.
- [i] AP29.A.3.1.b) Procedure for measuring Port Noise. Delete this subclause in its entirety.
- [j] AP29.C.1 - Port Noise Liaison Committee. The Port Noise Liaison Committee should consist of a mix of membership with a rating in favour of residents (potentially affected by the Noise) and be given "teeth" (see submission above) so that its recommendations are required to be implemented.
- [k] AP29.C.4.d) Port Noise Committee Resourcing. Delete the words "owners of noise affected properties" and insert the words "any persons having an interest created in the public at large."

Further Sub#: X2	Statement: 2	Further Submitter: Nelson Waterfront Protection Association
-------------------------	---------------------	--

Support in part Nelson Waterfront Protection Association (NWP) supports remedy [a]: an extension of the definition of the Port Industrial Area to cover ships as they enter the Cut.
 NWP supports remedy [e]: that AP29.A.1.i.d) should be revised to give the Port Noise Liaison Committee (PNLC) "teeth" and require accountability on the part of the Port Operator so that it so that it must respond in writing to the PNLC on how and when it proposes to implement any of the PNLC's recommendations.

Further Sub#: X4	Statement: 2	Further Submitter: Port Nelson Limited
-------------------------	---------------------	---

Oppose The Port considers remedies [a] and [b] would require a change to the definition of Port Noise as is opposed. This part of the proposed Variation has adopted the provisions of the Port Noise Standard NZ6809:1999 Acoustics – Port Noise Management and Land Use Planning which exclude ships at berth. In addition ships not at berth are not generally a source of noise complaints at Port Nelson.

Oppose Remedy [g] – AP29.A.2.a. The contour map has been developed using the accepted procedures of the Port Noise Standard NZ6809:1999 Acoustics – Port Noise Management and Land Use Planning.

Sub#: 3 **Submitter:** Bateup, Suzanne Elizabeth

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Oppose

Details: I live in Cleveland Terrace. We are often aware of Port Noise, our guests comment on it and it wakes us at night.

Reasons: Current noise levels are too high, particularly at night time. If noise disturbs people in Cleveland Terrace, it must be far worse for people living closer to the Port.

Remedy: I would like controls and monitoring amended so that noise levels are reduced below their current levels.

Further Sub#: X1 Statement: 2 Further Submitter: Ward, David and Jocelyn

Support We support the submission of Suzanne Bateup.
The Plan fails to prevent an increase in Port Noise from occurring.
The Plan fails to contribute 50% more for houses should the noise contour move so that they become subject to the 'over 65db' area.
A rule is required setting the current noise as the maximum i.e. present noise contour should not move further outward.

Further Sub#: X5 Statement: 1 Further Submitter: Matthews, Arthur William and Dorothy Catherine

Support Disturbance at night is a problem on our hill when the Port is active [Cleveland Terrace], especially with periodic crashes when the cranes dump their loads.

Further Sub#: X6 Statement: 1 Further Submitter: Hunter, Burke

Support There is more Port noise that can be heard through the night. As the Port becomes busier the noise level increases, this should be carefully monitored.

Further Sub#: X7 Statement: 1 Further Submitter: Davies, Austin and Belinda

Support We too are conscious of noise from the Port, and at times are disturbed by it at night – particular in summer when windows need to be open. We're therefore concerned about any extension of Port activity and the affect this would have on residents living closer than we do.

Further Sub#: X8 Statement: 1 Further Submitter: Hawthorne, Susan Louise

Support Concern for increased noise levels, especially at night time.

Further Sub#: X9 Statement: 1 Further Submitter: Strickland, Belinda Rebecca

Support I would be very concerned about the increase in noise. Currently we are made aware of the Port Noise when they are working at night.

Sub#: 4 **Submitter:** Alliance Group Ltd - Nelson Plant

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Oppose

Details: The 07/01 variation may put unnecessary conditions on the Port, which in turn may affect the Port's efficient operations.

- Reasons:**
- [1] Noise limits may affect the efficient running of the Port, e.g. working all night.
 - [2] Curfews could see shipping services deciding its all too difficult in Nelson and go elsewhere. This would be a loss to the Nelson economy and an increase in costs for exporters.
 - [3] The Port already has a responsibility to ensure noise does not exceed a reasonable level under the RMA 1991. They don't need any conditions over and above that.
 - [4] They have proven that they recognise they have a responsibility to cause as little interference with residents enjoyment of their residential properties whilst still maintaining an efficient and effective operation.
 - [5] The Port must continue to be left to work with the residents as they have been doing over the years and allowed to investigate their own alternatives for noise control as new, cost efficient technology becomes available.

Remedy: Delete the 07/01 Variation entirely.

Further Sub#: X1 Statement: 3 Further Submitter: Ward, David and Jocelyn

Oppose We oppose the submission of Alliance Group.
We disagree with the suggested remedy.

Sub#: 5 **Submitter:** Newnham, Ross Andrew

Section 32 Evaluation

Statement# 1

Support in part

Details: Plan supported if amended as below (re: ambiguity in Section 32 Report, paragraph 4.4: Port Chalmers Mitigation Approach).

- Reasons:** The bulleted paragraph headed "Greater than 65dBA Ldn" is ambiguous in two respects:
- [1] The first part of the paragraph should include the word "either" to make it clear an alternative choice is proposed. It should also state that it is the owner's choice.
 - [2] The phrase "all existing dwellings not already able" is unclear as it is not a matter of being 'able' to meet the required levels but one of already meeting or not meeting those levels.

Remedy: Amend as follows [underlined indicates addition, ~~striketrough~~ indicates deletion]:
"The Port operator is required to either offer to purchase, or provide insulation at the owners choice to, all existing dwellings that do not currently not already able to meet the indoor..."

Further Sub#: X1 Statement: 4 Further Submitter: Ward, David and Jocelyn

Support We support the submission of Ross Newnham.
The suggested remedy removes ambiguity.

Further Sub#: X3 Statement: 3 Further Submitter: Residents' Representatives of the Port
Nelson Liaison Committee

Support Wording is currently confusing and ambiguous. The proposed wording clarifies the matter and removes all possible confusion.

Sub#: 6 **Submitter:** Auckland Point School

New definitions to support the mitigation Approach

Statement# 1

Oppose

Details: Auckland Point School is concerned the proposal does not include adequate protection for the School. Legal uncertainty is created by the wording regarding the Port operational area.

- Remedy:** [3] Amend MW.126A to insert the words "educational or" before the words "residential purposes".

Oppose

Details: Auckland Point School is concerned the proposal does not include adequate protection for the school; and that the Port Noise Liaison Committee should be chaired by someone other than an employee of the Port Operator.

Reasons: Please refer to full submission for general points in preamble, including interference with teaching and learning at Auckland Point School; and a potential conflict of interest regarding Port Noise Liaison Committee.

- Remedy:**
- [1] Amend rule INr.38 to replace the 2nd to last sentence at the bottom of the column marked "Permitted" with the following: "This rule does not apply to (a) noise generated by the Airport and received within the Airport Effects Control Lines, or to (b) noise generated within the Port operational area and received within the Port Effects Control Overlays".
 - [2] Amend rule INr.40 to include the following words at the bottom of the column marked "Permitted": "Noise from activities in the Port industrial area must also comply with the conditions of Rule INr.38, except within the Port Effects Control Overlays".
 - [4] Amend the definition of Port Effect Control Overlays and AD11.3.14 to state that the boundaries of the overlays will be adjusted when the Port Noise Contours are updated as required by AP29.A.2.i(d), and explain the process by which this will happen.
 - [5] Amend rule INr.40 to ensure that noisy activities within the Port Industrial Area are still subject to controls as necessary to protect workers and other activities within the Port Industrial Area.
 - [6] Retain the requirement for the Port Operator to carry out continuous monitoring as per AP29.A.2.
 - [7] Amend provision AP29.A.3.i(a)ii to clarify that Port Noise measurements shall not be adjusted to exclude noise from log handling activities.
 - [8] Amend AP29.A to specify that, for the purposes of determining whether Auckland Point School is exposed to noise that exceeds the thresholds for mitigation specified in the plan, measurement shall be based on noise levels between 8.30am and 3.30pm.
 - [9] Amend appendix 29 by inserting, at the end of AP29.C.1, the following: AP29.C.1.ii. The Port Noise Liaison Committee shall elect, for such term as the Committee may decide, a chairperson from among its own members or may elect a person not otherwise appointed to the committee, except that in either case the person elected may not be an employee of the Port Operator. The chairperson shall have an ordinary vote in all matters before the Committee and in the case of a tie shall have a casting vote.

Further Sub#: X2 Statement: 1 Further Submitter: Nelson Waterfront Protection Association

Support in part Nelson Waterfront Protection Association (NWP) agrees with remedy [7] that provision AP29.A.3i(a)ii should be amended to clarify that Port Noise measurements shall not be adjusted to exclude noise from log handling activities. NWP agrees with remedy [9], the proposed amendment to AP29.C.1.ii to provide that a chairperson should be elected to the Port Noise Liaison Committee, however such a person is not to be an employee of the Port Operator.

Further Sub#: X3 Statement: 2 Further Submitter: Residents' Representatives of the Port Nelson Liaison Committee

Support Agree that Auckland Point School should be included in the area that is eligible for assistance with acoustic insulation if required. Support the proposal for an independent chair of the Port Nelson Liaison Committee.

Further Sub#: X4 Statement: 3 Further Submitter: Port Nelson Limited

- Support** The Port supports remedy [1] as it provides clarification for the circumstances when this rule does not apply, however, the suggested wording omits reference to the Airport Affects Control Overlay (and "overlays" is unnecessarily plural).
- Oppose** The Port opposes remedy [2] as it misunderstands the relationship between the rules INr.40 and INr.38 and the proposed amendment would fail to give proper effect to the intent of the Variation.
- Oppose** The Port opposes remedy [4]. Flexibility in the Port Noise contours is to ensure that mitigation offered by the Port is always consistent with the current Port Noise environment; the Port Noise management and mitigation plans, being located outside the proposed Plan, will not need a formal process to be updated. The Port Effects Control Overlay is located within the proposed Plan and will require a Variation/Plan change to update it, this formal process may not need to occur every time the Port Noise contours are updated, but will depend on the appropriateness of the acoustic insulation/ventilation requirements owners are required to comply with to ensure new dwellings or additions meet the specified design standard. See original further submission for examples.
- Oppose** The Port opposes remedy [5] because the Variation as proposed already provides adequately for this situation.
- Oppose** Remedy [7] misunderstands the purpose of the exclusion for log handling. The exclusion only relates to adjustments for special audible characteristics not noise from log handling per se.

Sub#: 7 **Submitter:** Weyerhaeuser New Zealand Inc

Clarification of 'Port Industrial Area' and 'Port Operational Area'

Statement# 1

Support

Details: Weyerhaeuser NZ Inc. (WNZI) Manages 78,000ha of plantation forest in the Nelson/Marlborough Regions and is a major customer of Port Nelson. WNZI Supports chapter 2; MW 154: Definitions for "Port Noise".

Reasons: WNZI Supports the exclusion of noise from vehicles on public roads from the definition of Port Noise. This exclusion recognises that Port Nelson has little ability to control noise levels or mitigate the effects of vehicles on Rocks Rd: a major access way for Nelson and one that contains several residential apartment blocks.

Remedy: Retain plan change to exclude noise from vehicles on public roads from the definition of Port Noise.

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 2

Support

Details: WNZI Supports option 3 (Port Chalmers Mitigation Approach) which requires the Port Operator to be responsible for the management of activities giving rise to noise as well as the mitigation of adverse effects of noise in adjacent areas..

Reasons: Adoption of measures that have been tested and endorsed by the Environment Court, in the case of Port Chalmers, is sensible and realistic. This option ensures minimal disruption to shipping services as there is no need under this option for a curfew. WNZI notes the requirements under the RMA that noise must not exceed reasonable levels and considers this statutory constraint will ensure the balance between competing use; being shipping operations and residential properties is maintained. Any disruption to current shipping services would have significant impact on WNZI's ability to viably export logs/lumber and maintain supply to overseas markets.

07/01 is an appropriate planning measure as Port activities were being undertaken long before majority of residential buildings were constructed.

Remedy Retain plan change so that the Port Operator is responsible for the management of activities giving rise to noise including mitigation of adverse effects.

Further Sub#: X4 Statement: 4 Further Submitter: Port Nelson Limited

Support The Port supports statement 1 - the retention of the definition of Port Noise which excludes noise from vehicles on public roads.

Sub#: 8 **Submitter:** ENZA Ltd

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Support

Details: ENZA supports the variation to provide contributions towards the cost of acoustic insulation to properties in the vicinity of Port Nelson.

Reasons: Any curtailment of Port operations would restrict our ability to load export apple and pear crops, with the risk of missing key market opportunities. This would in turn hurt the grower economy and Nelson economy.

Remedy: Retain plan change to provide contributions towards the cost of acoustic insulation to properties in the vicinity of Port Nelson.

**Further Sub#: X10 Statement: 1 Further Submitter: Nelson Forests Limited (NFL)
[Formerly Weyerhaeuser NZ Inc]**

Support NFL supports the Port assuming financial responsibility for the acoustic insulation of properties most affected by Port Noise. As noted by ENZA any curtailment of Port operations would restrict exporters' ability to ship their product – which would have ramifications for the Region.

Sub#: 9 **Submitter:** Northrop, Ian Richard

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Oppose

- Details:**
- [1] AP.29.A.2(a). The Port Operator should not be responsible for its own noise monitoring.
 - [2] Moving of noise line must not make it easier for the Port Operator to build and work an extension to Main Wharf South (MWS).
- Reasons:**
- [1] A conflict of interest arises if the Port Operator or Nelson City Council monitors noise at the Port.
 - [2] The Port Operator, with certain consents could build an extension to MWS now. However that could not work because of noise constraints. If noise line is moved then it may give the Port Operator carte blanche to extend and work an extension to MWS.
- Remedy:**
- [1] Ensure that noise is monitored by a third party.
 - [2] Assurance that extension to noise line will not enable the Port Operator to build and work extension to MWS without proper consultation.

Further Sub#: X3 Statement: 4 Further Submitter: Residents' Representatives of the Port Nelson Liaison Committee

Support There is a potential for conflict of interest with Port Nelson or Nelson City Council responsible for noise monitoring – there should be an independent alternative available. We oppose moving the noise line.

Sub#: 10 **Submitter:** Nelson Waterfront Protection Association

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Oppose

- Details:**
- Please see full submission for complete text. Main paragraphs are summarised below.
- The Nelson Waterfront Protection Association (NWWA) opposes the proposed Variation as it is deficient and unworkable. There are no enforceable noise limits on Port activities and the mitigation and compensation package is inadequate. NWWA has no confidence that the Port Operator will "adopt the best practical option to ensure that the emission of noise from that land or water does not exceed a reasonable level", or that the adverse effects of Port Noise on health and wellbeing of the local communities will be adequately avoided, remedied, or mitigated as required under the Resource Management Act 1991.
- Reasons:**
- [7] The proposed Variation imposes no enforceable limits on Port activities and there is an absence of real consequences in the event of a breach (e.g. enforcement action or a curfew) or adequate incentives to reduce noise at source.
 - [10] The proposed Variation is ambiguous as to whether any enforceable noise limits apply to activities in the wider Port Industrial Area (INr.37, INr.38 and INr.40).
 - [12] There are significant gaps in the compensation package and therefore the incentive for the Port Operator to reduce noise (AP29.B) E.g. if a property owner cannot meet their part of the costs they will be left with no other option other than the offer of purchase. The Port Operator should be required to meet the full costs of mitigating the adverse noise effects of its activities.
 - [14] No mitigation is provided for outdoor living areas (except for the unenforceable obligation of the Port Operator to minimise noise at sources as far as practical). Hegley Acoustic Consultants advised desirable level for outdoor living at 55dBA (20/12/05). Outdoor living is as essential part of the lifestyle of many Port Hills residents.
 - [15] NWWA considers the proposed measurement system for triggering mitigation measures inadequate. The 5 day rolling average measurement will enable the Port Operator to "maximise noise". The Leq (15 minute) measurement at night may not capture the unacceptable one-off noises that currently occur (such as the dropping of a container) which seriously affects residents sleep, and as a result, their physical and emotional wellbeing.
 - [16] The composition of the proposed Port Noise Liaison Committee is weighted in favour of the Port Operator. Equal representation from i) the Port Operator, ii) Nelson City Council, iii) Representatives of the residents living in the Port Hills residential area, and iv) Representatives of the Port Industrial Area users and cargo owners. As Nelson City Council is a shareholder and the Port Operator and its tenants will likely share the same commercial imperatives, 3 of the 4 representatives appear to be ad idem. It appears difficult to see the representation as being "equal".
- Remedy:**
- [19] Withdraw the proposed variation and recommence extensive consultation with affected parties before re-notifying a new amended Variation; or
 - [20] Decline the Proposed Variation, or
 - [21] Amend the proposed variation so as to:
 - a) Impose enforceable noise limits on Port Activities;
 - b) Implement an effective noise monitoring and measurement system;
 - c) Provide a compensation package adequate to remedy or mitigate the adverse noise effects on the health and well being of the local communities that cannot be avoided;
 - d) Establish a Port Nelson Liaison Committee with truly equal representation; and
 - e) Impose any other measures required to ensure that the health and wellbeing of the local community is adequately recognised and provided for.

Further Sub#: X1 Statement: 5 Further Submitter: Ward, David and Jocelyn

Support in part We support in part the submission of the Nelson Waterfront Protection Association. There is nothing in the Plan preventing an increase in Port Noise other than contributions to insulation. The Plan fails to contribute 50% more for houses should the noise contour move so that they become subject to the 'over 65db' area. A rule is required setting the current noise as the maximum i.e. the present noise contour should not move further
We support suggested remedy no. [21].

Further Sub#: X3 Statement: 5 Further Submitter: Residents' Representatives of the Port Nelson Liaison Committee

Support Agree with all points raised but in particular reason [16] as it directly affects our roles as representatives for over 261 residences. We suggest that under reason [21]d) at least 6 representatives of the residents/owners be on the Port Noise Liaison Committee.

Further Sub#: X4 Statement: 5 Further Submitter: Port Nelson Limited

Oppose Port Nelson opposes remedies [19], [20] and [21]. Considerable consultation has already occurred. The imposition of enforceable noise limits within the Plan goes against the philosophy of the proposed Variation which uses noise contours to trigger mitigation to affected property owners, conferring a financial incentive for the Port to manage its activities appropriately. Should noise increase, the noise contours will move and the Port will have to pay mitigation costs to more properties. By identifying the L_{dn} and L_{eq} values in this way to act as triggers and provide the appropriate acoustic design parameters, L_{max} will also be effectively controlled.

Sub#: 11 Submitter: [Duplicate]

Submission# 11 was a duplicate of an existing submission

Sub#: 12 Submitter: Port Nelson Limited

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Oppose

Details: Please refer to the full submission for detailed explanations of the following points:

- [3.1] Port Nelson Limited (the Port) supports the overall philosophical approach adopted in 07/01, but
- [3.2] Opposes generally the objectives and policy framework as it does not contain the necessary amendments to provide a strong enough objective and policy framework to implement the proposed approach and methods adopted.
- [3.3] Heritage provisions.
- [3.4] Outdoor living Environments.

Reasons and Remedies: As submission 12 is of considerable length and detail, the following list represents issue headings only. Please refer to the full submission for detailed explanation of the following points:

- [4.1] MW71A: Habitable Space;
- [4.2] Definition MW.111A: Mechanical Ventilation and Appendix 19.2ii a) or b);
- [4.3] AD11.3.14: Port Effects Overlay;
- [4.4] DO12.1.2: Future expansion at the Port Industrial Area;
- [4.5] DO12.1.3, DO12.1.3.i, DO12.1.3.ii, DO12.1.3.iii, DO12.1.3.iv, DO12.1.3.v: Noise effects;
- [4.6] DO12.1.4, DO12.1.4.i, DO12.1.4.ii: Management of noise receiving environment;
- [4.7] DO12.1.4.iv: Management of noise receiving environment;
- [4.8] DO12.1.5, DO12.1.5.i: Management of noise receiving environment;
- [4.9] RE2.1, RE2.1.viii, RE2.1ix: Noise;
- [4.10] REr.65A and associated rules in other zones including SCR.69A and INr.71A and associated Appendix 19 (Acoustic Insulation Requirements), including AP19.2: Port Effects Control Overlay;
- [4.11] INd.3: Description of Port Industrial Area;
- [4.12] IN2.2: Nuisances;
- [4.13] INr.40: Port Noise Management Plan;
- [4.14] CM3.1. CM3.1.i: Coastal Marine Area;
- [4.15] AP29, AP29.A.2.i.a) to e) and (f): Continuous monitoring and other related provisions;
- [4.16] AP29.B, AP29.B.1 and AP29.B.2: Port Noise Mitigation Plan;
- [4.17] AP29.B.4: Staging of mitigation for noise-affected properties;
- [4.18] AP29 Generally;
- [4.19] General.

Further Sub#: X2 Statement: 4 Further Submitter: Nelson Waterfront Protection Association

- Oppose** Nelson Waterfront Protection Association (NWPWA) opposes Port Nelson Limited's (PNL) submission in its entirety as it seeks changes to the proposed Variation that further undermine the extent to which it provides for the health and wellbeing of NWPWA residents. For example:
- (i) PNL suggest amendments to DO12.1.3 and DO12.1.3i to acknowledge that the management of Port activities can not reasonably achieve compatibility with outdoor living, and should only include indoor living (Paragraphs [3.4] and [4.5]). NWPWA considers that Port activities should aim to achieve compatibility with both indoor and outdoor living.
 - (ii) PNL proposes exemptions from the requirement to provide acoustic treatment (Paragraphs [3.3] and [4.16]). The currently proposed 50% contribution does not adequately meet the needs of the house owners. NWPWA seeks a 100% contribution from the Port Operator.
 - (iii) NWPWA objects to the 'watering down' of the nuisance policy (IN2.2: Paragraph [4.12]), and seeks that it remains unchanged.
 - (iv) NWPWA opposes the proposed changes to the noise management and mitigation plans, including that continuous noise monitoring should not be required (Paragraph [4.15]). NWPWA opposes the proposed deletion of the provision for mitigation to be offered where a property receives trigger levels on more than 3 occasions in a 12 month period (and rely on the noise contour lines alone) (Paragraph [4.16]). NWPWA opposes the proposed changes to the timeframes for the provisions of acoustic treatment (Paragraph [4.17]).

**Further Sub#: X10 Statements: 2-4 Further Submitter: Nelson Forests Limited (NFL)
[Formerly Weyerhaeuser NZ Inc]**

- Support** NFL supports the overall approach which requires the Port Operator to be responsible for managing the activities giving rise to noise, as well as mitigation of the adverse effects of noise in the adjacent areas (Point [3.1]). Adoption of measures that have been tested and endorsed by the Environment Court, in the case of Port Chalmers, is sensible and realistic.
- Support** The management of reverse sensitivity issues must be recognised as a significant factor contributing to the efficient and effective operation of the Port and requires addressing in the Variation (Point [4.5]).
- Support** NFL agrees with the submitter that any new activities planned for the Port Effects Overlay that are noise sensitive should be limited (Point [4.6]). It is recommended that consent be sought from Port Nelson, as an affected party, prior to considering any resource consent applications by such activities. Alternatively reword Policies, Rules and Explanations to ensure new noise-sensitive activities are limited in the Port Effects Control Overlay, and in particular the Port side of the 65dBA Ldn contour.

Sub#: 13 Submitter: Ward, David & Jocelyn

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Oppose

- Details:** [1] REr.64 – Do not support increasing the net area to 600m².
- Reasons:** [1] The issue is noise, not numbers of dwellings. If acoustic insulation is required, that should be sufficient.
- Remedy:** [1] In REr.64.1 delete the reference to "Port Effects Overlay".

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 2

Support

- Details:** [2] AP29.B.1 – Support noise mitigation
- Reasons:** [2] Support noise mitigation measures, although the measures should be in keeping with existing architectural style when being retro-fitted to existing dwellings.
- Remedy:** [2] AP29.B.1 – include a statement to the effect that any acoustic treatment carried out will be in keeping with the existing architectural style of the house being treated.

Further Sub#: X2 Statement: 3 Further Submitter: Nelson Waterfront Protection Association

- Support in part** Nelson Waterfront Protection Association (NWPWA) supports in part Statement 2 of Submitter 13, in that the proposed amendment to provision AP29.B.1 should include a statement that any acoustic treatment carried out will be in keeping with any existing architectural style of the house being treated. NWPWA sees it as necessary that the market value of the noise affected properties is not compromised.

Further Sub#: X3 Statement: 6 Further Submitter: Residents' Representatives of the Port Nelson Liaison Committee

Support Support statements (1) and (2); noise is the issue and as there are a considerable number of period houses they should be reinstated after insulation according to their original style and characteristics.

Further Sub#: X4 Statement: 6 Further Submitter: Port Nelson Limited

Oppose Re: 600m² provision (Statement 1). Port Nelson does not support the deletion of the Port Effects Overlay in REr.64.1. This provision already existed in the proposed Plan prior to the Variation. It is considered appropriate to limit the number of people exposed to Port Noise by limiting infill.

Sub#: 14 Submitter: Norman, Annabel Claire

Revision and updating of the Port Noise Contours

Statement# 1

Oppose

Details: Reconsider properties in Stanley Crescent not shown as affected by noise to place these properties on the plan as affected by noise.

Reasons: As a resident in Stanley Crescent I am affected by Port Noise at night. Particularly loud is movement of machinery and shifting of logs. The logs are located outside the restricted Port area but often work is going on in these areas at night. The greatest noise disturbances come from the old site of Nelmac (cnr QEII drive and Haven Rd) also logs stored just off Vickerman St. The noises include the loading and movement of logs, machinery noises and in particular reversing alarms on machinery.

Remedy: Amend to include more properties affected by noise – those on the east end of Stanley Crescent and Beachville Crescent, Maori Rd.

Sub#: 15 Submitter: Robertson, Bruce

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Oppose

Details: [1] Port noise levels as stated are non conclusive to actual noise levels.

[2] The only option for noise control is a 12pm – 6am curfew (all berths) – option 5.

Reasons: [1] The Port did two weeks of study into Port Noise levels, one week was over Christmas (my home was used as a noise level test site)

[2] Nelson will always remain a small feeder port

Remedy: [1] I believe that 1 full year of 24hr noise recording needs to be taken from at least 3 different locations

[2] As with airports, a curfew between 12pm and 6am

Revision and updating of the Port Noise Contours

Statement# 2

Oppose

Details: [3] Option 2 and 3 of assessment options and Port acoustic contributions to home owners

Reasons: [3] The difference between Port contribution for above 65dBA and 60-65dBA should be a sliding scale in acoustic noise control. If you have noise levels of 65dBA Port will pay up to 50% of value of property in acoustic noise control. If you have noise levels of 64dBA Port will only pay 50% of Acoustic treatment.

Remedy: [3] The pay out of Port Noise acoustic treatment should be on a sliding scale (if curfew is not successful)

Further Sub#: X3 Statement: 7 Further Submitter: Residents' Representatives of the Port Nelson Liaison Committee

Support Support both statements with a proposed curfew of midnight to 6am. Possible scepticism over noise recording; where a dispute arises over noise level recording an independent recording should be obtained at the expense of Port Nelson or Nelson City Council.

Further Sub#: X4 Statement: 7 Further Submitter: Port Nelson Limited

Oppose The noise environment around the Port is already well understood and continuous monitoring is unnecessary. Curfews will substantially affect the efficient and effective operation of this tidal Port.

Sub#: 16 Submitter: [Withdrawn]

Submission# 16 was withdrawn 16 September 2007

Sub#: 17 Submitter: Evans, William Peter Pressley

Section 32 Evaluation

Statement# 1

Oppose

Details: When my home was built in the 1920's (facing east) the Port was out of sight, out of mind, and generally out of earshot. The property now faces the reclaimed Port Industrial Area, but is not close to or insight of the cargo container servicing wharfs. The property is just inside the outer control boundary of the 55dBA zone line on the Appendix 3 Port Noise Control Map.

Reasons: My hearing is good and there is insignificant road noise here. I have not been troubled by any Port Noise from Port operations since the removal of the woodchip piles when dozers worked them at night several years ago.

I believe currently there is no need for acoustic noise abatement protection at this location nor is there likely to be in the future. There was no sample monitoring site close to my home (only several hundred metres away) and I question the sensitivity of the current plat (contour map) in this area.

Section 32 Evaluation point 4.3 (Option 2) requires compliance incurring expensive improvement and development costs without any guarantee of assistance if and when they are required. Those properties on the opposite (western) side are much closer to and in some cases in sight of the container cargo servicing wharfs and subject to clanging container strops and Haven Road traffic are not to be subject to these expensive compliance requirements in their properties.

Remedy: I note further ongoing acoustic testing will be done and that zones may change. Hopefully affected properties will be more finely defined, but in the meanwhile I believe it is unreasonable to require those properties on the eastern face of the hillside (which at the time of development no existing or future Port activity was considered likely to cause disturbance or to disadvantage them as the proposed variation suggests) be required to spend substantial sums on acoustic protection of a situation they are not responsible for, may not be needed, and has no a guarantee of financial assistance.

To require compulsory increased acoustic protection without guarantee of financial compensation is not equitable; if the Port operations require changes they should pay for them on basis of better defined assessment based on need, complaints and equity.

Sub#: 18 Submitter: Nelson Pine Industries Ltd

Amendments to reflect proposed approach to noise management, including deletion of the Noise Limit Line

Statement# 1

Support

Details: Port Nelson is a critical facility for the region and must be able to run 24 hours a day unimpeded.

Reasons: The proposed variation provides a fair and reasonable way forward to address noise issues with neighbours.

Remedy: Adopt proposed variation as notified.

**Further Sub#: X10 Statement: 5 Further Submitter: Nelson Forests Limited (NFL)
[Formerly Weyerhaeuser NZ Inc]**

Support NFL agree with the submitter that Port Nelson is a critical facility for the region and must be able to operate 24 hours a day unimpeded. Any disruption to current shipping services would have a significant impact on NFL's ability to viably export logs/lumber and maintain supply to overseas markets.

Addresses of Submitters and Further Submitters

Sub #	Furth. Sub #	Name	Address
1		Jim Sinner	27 Victoria Heights, Nelson
2		Gibbons Holdings Ltd	c/o McFadden McMeeken Phillips Solicitors, PO Box 656, Nelson
3		Suzanne Bateup	48 Cleveland Terrace, Nelson 7010
4		Alliance Group Ltd (Nelson Branch)	Private Bag 26, Nelson (Attn: Terry Kreft)
5		Ross Newnham	57 Queens Rd, Nelson, 7010
6		Auckland Point School	111 Haven Road, Nelson, 7010 (Attn: Gaye Evans)
7	#10	Nelson Forests Limited (NFL) (Formally Weyerhaeuser New Zealand, Inc.)	Private Bag 5, Richmond (Attn: Jenny Beale/Phil Madill)
8		ENZA LTD	484 Nayland Rd, Stoke, Nelson (Attn: Murray Sollitt)
9		Ian Northrop	P O Box 3270, Richmond 7050
10	#2	Nelson Waterfront Protection Association	c/o Anderson Lloyd Lawyers, Otago House; Cnr Moray Pl and Princes St, Private Bag 1959, Dunedin (Attn: Lauren Semple)
12	#4	Port Nelson Limited	c/o Duffill Watts & King Limited, 236 Armagh St; PO Box 13 875, Christchurch (Attn: Janice Carter)
13	#1	David & Jocelyn Ward	62 Queens Rd, Nelson 7010
14		Annabel Norman	25 Stanley Cres, Nelson 7010
15		Bruce Robertson	26 Mt Pleasant Ave, Nelson 7010
17		William Evans	22 Victoria Hts, Nelson 7001
18		Nelson Pine Industries Ltd.	PO Box 3049, Richmond 7031 (Attn: Philip Wilson)
	#3	Residents Representatives on Port Nelson Noise Liaison Committee	c/o Susan Thomas, 181 Ranzau Rd, Hope
	#5	Arthur and Dorothy Matthews	40 Cleveland Tce, Nelson 7010
	#6	Burke Hunter	44 Cleveland Tce, Nelson 7010
	#7	Austin and Belinda Davies	39 Cleveland Tce, Nelson 7010
	#8	Susan Hawthorne	44 Cleveland Tce, Nelson 7010
	#9	Belinda Strickland	42 Cleveland Tce, Nelson 7010