

## Part 6

### PORTZ – Port zone

#### APP39 – Port Noise Management and Mitigation Plans and Port Noise Liaison Committee

The content of this Appendix is currently being reviewed. Any outcomes of this review will be published in the next version of the Draft Nelson Plan.

##### 1. Overview

This appendix prescribes the matters that the Port operator shall include in the Port Noise Management Plan and Port Noise Mitigation Plan required by NOISE-R27.

##### 2. Port Noise Management Plan

###### a. Minimum Port Noise Management Plan provisions

The Port Noise Management Plan required under NOISE-R27.a. shall contain the following:

- i. Port Noise Management Plan objectives.
- ii. Detailed procedures for the implementation of NOISE-R27 including the Port Noise Mitigation Plan outlined in APP39-3. and the establishment and maintenance of a Port Noise Liaison Committee outlined in APP39-4.
- iii. A list of Port Noise Liaison Committee functions.
- iv. Procedures for recommendations of the Port Noise Liaison Committee to be considered and determined by the Port operator. The Port operator shall respond in writing to the Port Noise Liaison Committee within 30 days, unless the parties agree to a different timeframe, to explain its decision with respect to any recommendation of the Port Noise Liaison Committee, and how it proposes to implement any recommendations including timeframes.
- v. Noise modelling; noise monitoring; auditing and reporting procedures.
- vi. Complaint handling procedures.
- vii. Procedures for achieving noise reduction through Port operational procedures and staff and contractor training.
- viii. Procedures for alterations to the Port Noise Management Plan, which shall be by resolution of a majority of the Port Noise Liaison Committee and be ratified by the elected Council.
- ix. A Port Noise Contour Map (see APP39-3.b.i.A. below).

###### b. Minimum Monitoring and Reporting Requirements

The minimum monitoring and reporting requirements are as follows:

- i. The Port operator shall maintain at its expense sound level monitoring equipment and shall arrange for a suitably qualified person to perform continuous monitoring of noise emanating from port activities. The monitoring equipment shall as a minimum record noise level statistics in 15-minute periods so that the  $L_{eq}$ ,  $L_{max}$  and  $L_{90}$  can be determined for each 15-minute period. In addition, the monitoring equipment shall be capable of recording the actual sound when a

pre-set threshold or set of thresholds is exceeded, so that the sound can be listened to at a later time. Recordings shall be kept for a minimum of six months.

- ii. The Port operator shall provide the results of the sound level monitoring to the Nelson City Council and Port Noise Liaison Committee on a monthly basis. The results shall be in summary form showing  $L_{eq}$ ,  $L_{max}$  and calculated  $L_{dn}$  levels within two weeks of the end of each month. Significant port noise emissions shall be highlighted and correlated with port activity, wind speed and wind direction.
- iii. When sound level monitoring indicates that port noise may be exceeding 65 dBA  $L_{dn}$  or 65 dBA  $L_{eq}$  (15 min, 10.00pm - 7.00am) at noise-affected properties that are not shown on the Port Noise Contour Map as eligible for mitigation under APP39-3.a., the results of monitoring shall be recorded, investigated and reported to the Port Noise Liaison Committee. The investigation shall identify as far as possible those noise-affected properties receiving port noise at or above such levels.
  - A. Significant noise event: When sound level monitoring indicates that Port noise may be exceeding 85 dBA  $L_{max}$  between 2200 hrs and 0700 hrs (modelled at the 65 dBA  $L_{dn}$  contour line on the Port Noise Contour Map) the results of monitoring shall be recorded, investigated and reported to the Port Noise Liaison Committee. The investigation shall identify as far as possible the source, and the action that could help prevent recurrence of such significant noise event.
- iv. The Port operator shall produce and include in the Port Noise Management Plan a port noise contour map based on the energy average of the daily  $L_{dn}$  for 5 consecutive busy days. The contour map shall be updated on an annual basis for the first five years, and every two years thereafter. Port noise contours shall be modelled at 1 dB intervals between 55 dBA  $L_{dn}$  and 70 dBA  $L_{dn}$ .
  - A. For the purposes of determining acoustic treatment in accordance with APP39-3. the noise shall be measured or predicted at 1.8 metres above the floor height of the relevant room to be treated.
- v. To ensure the accuracy of the port noise contour map prepared in accordance with paragraph (d), the Port operator shall arrange for a suitably qualified person to perform field verification of calculated sound exposure levels and assessed  $L_{eq}$  (15 min) levels of port noise at monitoring points identified in the Port Noise Management Plan. These monitoring points shall be as decided by agreement between the Port operator's acoustic consultant and the Nelson City Council and, if they cannot agree, then at the points determined by the Nelson City Council.
- vi. Those noise-affected properties eligible for mitigation under APP39-3 shall be identified on the port noise contour map.
- vii. The Port operator shall maintain an Acoustic Certificate Register. A copy of the register and Acoustic Certificates for noise-affected properties shall be supplied to the Nelson City Council. Copies of the register and acoustic certificates shall also be held at the offices of the Port Operator and the Nelson City Council and made available to members of the public on request.
- viii. When a noise complaint is received the Port Operator will immediately advise the Nelson City Council if the complaint is not received through the Nelson City Council.

- ix. The Port operator shall maintain a register of noise complaints and report the details of complaints and action taken to investigate and resolve complaints to the Port Noise Liaison Committee at the earliest opportunity.
- x. Copies of the Port Noise Management Plan, and all reports, minutes, and recommendations considered or made by the Committee and the Port operator, are to be held at the offices of the Port operator and the Nelson City Council and made available to members of the public on request.
- xi. An annual update of noise modelling information is to be made available to property owners whose properties are shown on the current Port Noise Contour Map for the first five years and every two years thereafter.

**c. Procedure for measuring Port noise**

Port noise shall be measured as follows:

- i. In accordance with NZS 6801:2008 Acoustics - Measurement of Environmental Sound, and assessment shall be in accordance with NZS 6809:1999 Acoustics - Port Noise Management and Land Use Planning, provided that:
  - A. subject to sub-clause b.i. of this clause, the Rating Level described in clause 7.3 of NZS 6809:1999 shall be determined for the sole purpose of defining any  $L_{eq}$  (15 min) sound level, required for the purposes of APP39-2. and APP39-3.; and
  - B. adjustments for any special audible characteristic to any  $L_{eq}$  (15 min) made in accordance with clause 7.3 and A6 of NZS 6809:1999 shall, except for audible warning devices, not apply to noise from log and container handling activities. The above exception for log and container handling activities shall also apply to audible warning devices on ships where there is no practical alternative for safety reasons.
- ii. For the purpose of comparison with noise criteria specified in APP39-3. the following will apply:
  - A. In assessing any  $L_{eq}$  (15 min) sound level between 10.00pm and 7.00am the following day, one ship visit of up to five days duration shall be deemed to be one occasion.

**3. Port Noise Mitigation Plan**

**a. Mitigation for noise-affected properties 65 dBA  $L_{dn}$  and above**

- i. The Port operator shall offer to purchase or provide Acoustic treatment for Noise affected properties which:
  - A. are shown on the current Port noise contour map as being 65 dBA  $L_{dn}$  and above; or
  - B. receive a measured 65 dBA  $L_{eq}$  (15 min, 10.00pm – 7.00am) or greater on more than three occasions (more than 24 hours apart) during any rolling 12 month period.
- ii. The following conditions and standards shall apply to the offer to purchase or provide Acoustic treatment:
  - A. The owner of each property shall have the right to elect whether to accept either the offer of purchase or the offer of acoustic treatment and there is no time limit on the owner's acceptance of the offer.

- B. If an owner elects to choose the offer of purchase, the purchase price shall be the fair market value of the property which shall be determined as if the property was not affected by noise from the Port industrial area.
- C. Acoustic treatment of properties shall be carried out by the Port operator in accordance with procedures specified in the Port Noise Mitigation Plan. The Port operator shall not be required to spend on Acoustic treatment more than 50% of the value of the property after deducting the land value for the property.
- D. Where the assessed cost of Acoustic treatment exceeds 50% of the value of the house (excluding land value) the Port operator shall advise the property owner of the cost of Acoustic treatment and offer the property owner the option of making up the difference in the cost of Acoustic treatment to enable the Port operator to obtain an Acoustic certificate, or having the Port operator purchase the property. If the property owner elects purchase of the property the provisions of i. and ii. above and APP39-3.e. shall apply.
- E. If port noise received by a property which has received Acoustic treatment pursuant to this APP39-3. exceeds the Certified level of Port noise for that property, then the Port operator shall offer to either purchase the affected property or to undertake further acoustic treatment, despite the previous election of Acoustic treatment.
  - I. Where as a result of updating the Port Noise Contour Map a property that has previously received Acoustic treatment under the provisions of APP39-3.b. or APP39-3.c. comes within the provisions of APP39-3.a. and above, that property owner shall be entitled to reimbursement of the amount of the property owner's contribution under APP39-3.b. or APP39-3.c., as the case may be.
- F. The provisions of clauses A. and B. above and APP39-3.e. shall apply to the offer made pursuant to clause E.above.
- G. Properties purchased by the Port operator pursuant to APP39-3. may not be used for residential purposes unless they receive Acoustic treatment and have obtained the appropriate Acoustic certificate.
- H. The Port Noise Mitigation Plan shall provide for the time frame and staging of any work required to be implemented by the Port operator in accordance with APP39-3.d. below.

**b. Mitigation for noise-affected properties 60 dBA  $L_{dn}$  and above and less than 65 dBA  $L_{dn}$**

- i. The Port operator shall contribute towards the costs of Acoustic treatment for Noise affected properties which:
  - A. are shown on the current Port Noise Contour Map as being 60 dBA  $L_{dn}$  and above and less than 65 dBA  $L_{dn}$ .
- ii. The requirement to provide Acoustic treatment shall apply as follows:
  - A. The Port operator shall contribute 50% of the cost of Acoustic treatment but shall not be obliged to contribute more than that sum. If the property owner does not decide to contribute the difference, the Port operator shall not be obliged to provide the Acoustic treatment.
  - B. Acoustic treatment of properties shall be carried out in accordance with procedures specified in the Port Noise Mitigation Plan. The Port Noise Mitigation Plan shall provide for the staging of this work in accordance with APP39-3.d. below. The Port operator shall not

be required to spend on acoustic treatment more than 50% of the value of the property after deducting the land value for the property.

**c. Mitigation for noise-affected properties 55 dBA  $L_{dn}$  and above and less than 60 dBA  $L_{dn}$**

- i. The Port Noise Liaison Committee will provide technical advice to the owners of properties. On request by the owner, the Port operator may offer, on the recommendation of the Port Noise Liaison Committee, to contribute up to 50% of the costs of acoustic treatment for properties which are shown on the current port noise contour map as being 55 dBA  $L_{dn}$  and above and less than 60 dBA  $L_{dn}$ . The following conditions shall apply to the provision of technical advice or an offer to provide acoustic treatment:
  - A. Acoustic treatment of noise-affected properties shall be carried out in accordance with procedures specified in the Port Noise Mitigation Plan.
  - B. The Port Noise Mitigation Plan shall provide for the staging of this work in accordance with APP39-3.d. below.

**d. Staging of mitigation for noise-affected properties**

- i. The Port Noise Mitigation Plan shall provide a time frame and procedure for the carrying out of Acoustic treatment and property purchase which shall include:

**A. Stage 1**

The offer required to be made by the Port operator pursuant to APP39-3.a. shall be made within one year of the notification of Variation 07/01 and shall provide for settlement of the purchase or completion of Acoustic treatment, whichever the case may be, within six months of either the fair market value of a property being determined, or the property owner's acceptance of the offer, whichever is the later. In the case of an offer made pursuant to APP39-3.a.ii.E. it shall be made within two months of it being established that the Certified level of Port noise is being exceeded, but otherwise the provisions in this clause for settlement shall apply.

**B. Stage 2**

The Port operator shall make offers to contribute towards the cost of Acoustic treatment in accordance with APP39-3.b. progressively over a five year period from notification of Variation 07/01 proceeding in one decibel intervals from the most affected property to the least affected.

**C. Stage 3**

All requests from property owners in accordance with APP39-3.c. shall be considered by the Port Noise Liaison Committee on a case by case basis and a recommendation made to the Port operator. Not more than three years after the notification of Variation 07/01, the Port Operator shall notify owners of all noise-affected properties receiving 55 dBA  $L_{dn}$  and above and less than 60 dBA  $L_{dn}$  of their eligibility to request technical advice and to be considered for financial assistance for mitigation works.

**e. Procedure for assessing value of properties**

- i. The Port Noise Mitigation Plan shall provide that the fair market value of a property shall be determined as follows:

- A. by agreement between two valuers, one acting for the Port operator and one acting for the property owner; and
  - B. if the two valuers are unable to agree, then the fair market value shall be determined by a valuer agreed upon by the two valuers or, if they are unable to agree on a valuer, then by a valuer appointed by the President of the Nelson Branch of the New Zealand Law Society; and
- for the purposes of determining the value of the house under clauses APP39-3.a.ii.C. and APP39-3.a.ii.D. the provisions of i. above shall apply.

#### **4. Port Noise Liaison Committee**

##### **a. Port Noise Liaison Committee composition**

- i. The Port Noise Liaison Committee required under NOISE-R27.1.c. shall comprise:
  - A. an independent chairperson; and,
  - B. three members appointed by the Port operator; and
  - C. three members appointed by residents living in the Port Hills residential area.
- ii. The Port Noise Liaison Committee shall be constituted as a separate committee from the Port Nelson Environmental Consultative committee, irrespective of whether the two committees have a common or similar membership.
- iii. The Committee shall appoint its own Chairperson in conjunction with the Port operator. The Port operator shall be responsible for the Chairperson's remuneration and expenses which will be set by the Committee after taking advice from an independent firm of chartered accountants with expertise in setting director's remuneration.

##### **b. General Duty to Committee**

- i. Subject to anything to the contrary in this appendix the Port operator shall implement such recommendations of the Port Noise Liaison Committee as can be implemented within budget and without compromising the efficiency, safety and competitiveness of port operations.

##### **c. Role of the Port Noise Liaison Committee**

- i. The Port Noise Liaison Committee shall consider all noise issues arising from the port operation and carry out the functions identified in the Port Noise Management Plan and any functions identified in APP39-4.

##### **d. Port Noise Liaison Committee Resourcing**

- i. The Port operator shall provide for the establishment and support of the Port Noise Liaison Committee as follows:
  - A. The Port operator will provide secretarial and logistic support for the Committee.
  - B. The Port operator shall arrange for the Committee to meet on not less than four occasions each year and shall identify procedures in the Port Noise Management Plan for calling a special meeting of the Committee.

- C. The Port operator shall provide a budget that makes adequate provision for the committee to undertake its functions including the investigation and recommendation of noise reduction measures within the Port operational area.
- D. An annual summary of the activities of the Port Noise Liaison Committee taken from the minutes of the Committee meetings is to be provided to owners of noise-affected properties. The summary shall be provided to any member of the public upon request.