

IN THE MATTER of the Resource Management Act 1991
AND

IN THE MATTER of appeals under clause 14 of Schedule 1
to the Act

BETWEEN GIBBONS HOLDINGS LIMITED

(ENVY-2009-WLG-000084)

NELSON WATERFRONT

PROTECTION ASSOCIATION

(ENVY-2009-WLG-000086)

Appellants

AND

NELSON CITY COUNCIL

Respondent

BEFORE THE ENVIRONMENT COURT

Environment Judge B P Dwyer sitting alone pursuant to section 279 of the Act.

IN CHAMBERS

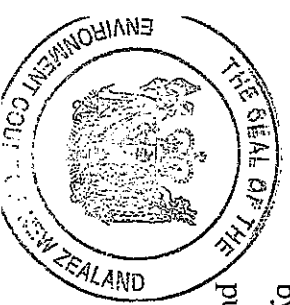
CONSENT ORDER

Introduction

[1] The Court has read and considered the appeals, the respondent's replies and the memorandum of the parties received 21 November 2011.

[2] Nelson Forests Ltd, Nelson Pine Industries Ltd and Port Nelson Ltd each gave notice of an intention to become a party under s274, and have signed the consent memorandum setting out the relief sought. M Surcouf also joined the appeal, but later withdrew.

[3] The Court is making this order under s279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

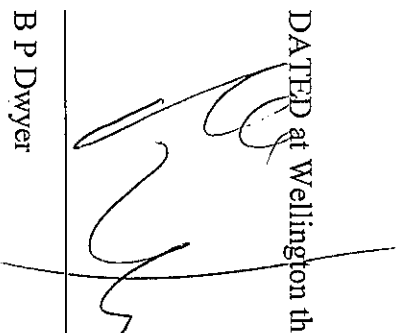


- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Resource Management Act, including in particular Part 2.

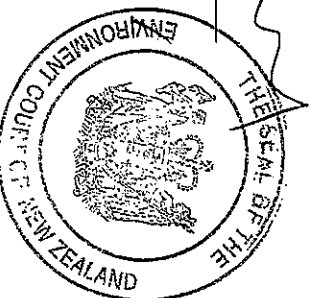
Order

- [4] The Court orders, by consent, that the amendments to Appendix 29 set out in clause 1 in the attached schedule shall be made to Variation 07/01 to the Nelson Resource Management Plan (Port Noise Variation).
- [5] The Court notes the concurrent agreement of the parties to amend the Port Noise Management Plan in accordance with clause 2 in the attached schedule.
- [6] The appeals are otherwise dismissed.
- [7] There is no order as to costs.

DATED at Wellington this 17th day of December 2011



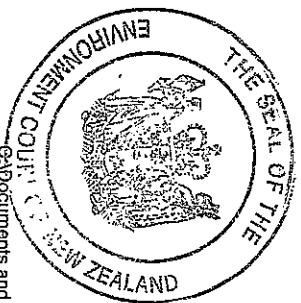
B P Dwyer
Environment Judge



SCHEDULE OF AMENDMENTS

1. Amend Appendix 29 to the Nelson Resource Management Plan as follows:
 - (i) AP29.A.1.i The Port Noise Management Plan required under Rule 1Nr.40.1(a) shall contain the following:

....
 - (h) 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.
 - (ii) AP29.A.2.i The minimum monitoring and reporting requirements are as follows:
 - (a) 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 for at least the first five years. The monitoring equipment shall
 - ...
 - (iii) AP29.A.2.i(c1) – to be inserted after AP29.A.2.i(c):
 - (c1) Significant noise event: When sound level monitoring indicates that Port Noise may be exceeding 85dBAL_{max} between 2200 hrs and 0700 hrs (modelled at the 65dBAL₅₀ 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.
2. Amend the Port Nelson Noise Management Plan (adopted 14 October 2010) as follows:
 - (i) Clause 14.1 Significant Noise Event
PNL is committed to minimising the clangs and bangs associated with operations, particularly at night. To reduce the potential for occurrence of noise events which exceed 85dBAL_{max}....
 - (ii) Clause 14.1.3 i
(i) Identify the source of the L_{max} exceedance event and investigate its cause. Video monitoring footage of port activity will be used where possible to investigate the source of Port Noise in order to reduce the occurrence of significant noise.
 - (iii) Clause 14.1.3 ia (to be inserted after clause 14.1.3 i)
ia Record and analyse noise levels from the continuous noise monitor, including Noise events (including sound recordings). Short report, and half second SPL for the 15 minute interval.



(iv) Add new clause 14.1.4 as follows:

14.1.4 PNL will also investigate and report the highest three L_{max} readings per calendar month in excess of $75dBAL_{max}$ 2200 hours – 0700 hours (modelled at the $65dBAL_{dn}$ contour line on the Port Noise Contour Map) such investigation to be identical to sub-clauses i,ii and iv in clause 14.1.3 above and shall be reported as part of the monthly reporting requirements of AP29.9.A.2 (b).

(v) Appendix B Noise Complaints Procedure

3. Gatehouse staff to notify Foreman of noise complaint and to outline #2 above. Foreman is to take steps to immediately investigate the cause of the noise event and if caused by port operations to take appropriate action to prevent or reduce the likelihood of recurrence.

(vi) Appendix B clause 6c

c. Identify Port operations occurring around the time of complaint. Video monitoring footage of port activity will be used where possible to investigate the source of Port Noise, in order to reduce the occurrence of significant noise.

(vii) Appendix B clause 6e

e. Report back to the complainant within 5 working days of the complaint being made the outcome of the investigation.

(viii) Appendix B clause 7

7. Complaint and investigation report tabled at next PNL meeting to include complainant satisfaction to PNL response and a review of actions undertaken.

(ix) Clause 16.2

16.2 This plan may be altered by resolution of the PNL in accordance with AP29.A.1.(h).

(x) Clause 16.4 – add new clause

16.4 This plan will be amended in accordance with the amendments agreed at Environment Court mediation, as set out in clause 2 of the schedule to the consent memorandum dated 10 November 2011 in ENV WLG 2009 084 and 086.

