

**IN THE MATTER**

of the Resource Management Act 1991 ('the Act')

**AND**

**IN THE MATTER**

of an appeal pursuant to Clause 14 of the First Schedule of the Act

**BETWEEN**

**PORT OF TAURANGA LIMITED**

(ENV-2011-AKL-000111)

Appellant

**AND**

**TAURANGA CITY COUNCIL**

Respondent

**BEFORE FOR THE ENVIRONMENT COURT**

Environment Judge M Harland sitting alone under section 279 of the Act

**IN CHAMBERS** at Auckland

**CONSENT ORDER**

**Introduction**

1. The Court has read and considered the appeal and the memorandum of the parties dated 16 September 2011.
2. No person has given notice of an intention to become a party to this appeal under s.274.
3. The Court is making this order under section 279(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 the present purposes that:
  - (a) All the parties to the proceedings have executed the memorandum requesting this order; and
  - (b) All the 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 Act, including in particular Part 2.



**Order**

4. Therefore the Court orders, by consent, that the appeal be allowed and that Rule 4E.2.5 be amended as follows:

**4E.2.5 Port Industry Zone and Noise Control Boundary Requirements**

- a) The long-term average sound level (*Ldn*) from all activities within the *Port Industry Zone* shall not exceed 55 dBA at any point outside the 55 dBA noise control *boundary* (*Diagram 4, Section 7, Plan Maps Part B*), nor 65 dBA at any point outside the 65 dBA noise control *boundary*;
- b) No single 15-minute sound measurement level shall exceed 65 dBA *Leq* between 2200 and 0700 at any point outside the 65 dBA noise control *boundary*;
- c) The *night-time* maximum sound level (*Lmax*) shall not exceed 85 dBA at any point outside of the 65 dBA noise control *boundary*;
- d) Between the 55 dBA *Ldn* and 65 dBA *Ldn* noise control boundaries (*Diagram 4, Section 5, Plan Maps Part B*), additions to existing *buildings* beyond 25% of existing *gross floor area*, new residential activities, visitor accommodation, homestay, *schools* and *tertiary education premises* and health centres shall meet either of the following requirements:
- i) All *habitable room(s)* shall be designed by a suitably qualified acoustic engineer to ~~not exceed 35dBA<sub>Leq</sub>~~ achieve 45dBA *Ldn* within that room. Where exterior windows and/or doors need to be closed to achieve this internal level a ventilation system shall be provided that is capable of providing an airflow that is where there is provision for adequate ventilation with all exterior windows and/or doors closed. For the purpose of this rule adequate ventilation shall be a system capable of providing an air flow controlled within the range of 5 to 10 air changes per hour throughout the *habitable rooms* of the *building*. For the avoidance of doubt the internal design of 45dBA *Ldn* shall include noise from both the *Port Industry Zone* and any ventilation system operating at its design rating; or
- e) Sound levels shall be measured in accordance with *NZS 6801:2008 Acoustics - Measurement of Sound* and assessed in accordance with *NZS 6802:2008 Acoustics - Environmental Noise* ~~*NZS6809:1999 Acoustics - Port Noise Management and Land Use Planning*~~, or any superseding codes of practice and/or standards.

5. There is no order as to costs.
6. This appeal is otherwise dismissed.

DATED this

26<sup>th</sup>

day of

September

2011

M Harland

M Harland  
Environment Judge

