

INTRODUCTION

Our names are Cheryl Adams and Ian Stephenson we are owners and residents of the residential property at 196 Blueskin Rd.

Ian has a Bachelor of Engineering (Honours) in Building Services Engineering, Design and Management from the University of Reading. Ian is a Chartered Professional Engineer and a Member of IPENZ

I myself have a Bachelor of Engineering (Honours 1) in Mechanical Engineering from the University of Canterbury.

We have lived at our current address, 196 Blueskin Road, since mid 2003. The house in which we live was built circa 1970 and therefore precedes the Boiler Point reclamation by approximately 20 years. Our home is located approximately 1.2 km from and with a direct line of sight to Boiler Point.

We have been actively involved in the Next Generation Project Consultative Group since November 2007 and consider that the consultation process has been disjointed, and additionally, in respect to some effects of the project, inadequate. In particular we note the lack of any community consultation following the release of the Noise Assessment and other reports outlining the projects potential in February 2010.

The majority of our concerns will be covered by the Carey's Bay Association's hearing submission and so to avoid repetition we have limited this submission to the subjects of noise and consultation. In particular our concerns relate to the Ports proposal that increased operational noise as a result of project Next Generation progressing would be mitigated by the existing noise regime.

Under the existing regime and with the current level of operational noise it is already at times very unpleasant if windows are left open and often not possible to do so at night for reasons of sleep disturbance. It is also at times difficult, even with windows closed, to enjoy watching television or to read. Whether or not it is possible to enjoy outdoor living, in an area with high outdoor amenity levels, is dependent on the level of Port Noise at any particular time. Typically noise nuisance has been occurring weekly over a period of two days coinciding with the weekly larger ship visit.

With respect to Carey's Bay we note and take exception to the Ports comment as paragraph 81 of their opening submission, "that the Port Noise regime at Port

Chalmers follows a decision of the Environment Court adopting in the District Plan a solution that was offered by Port Otago with the agreement of the Dunedin City Council and other interested parties to resolve the conflict that occurs because residential activity is sited close to a busy working Port”.

Firstly the decision of the Environment court was made following a failed Environment Court Appeal by the Carey’s Bay Residents Association to include enforceable noise limits. We understand that had adequate financial resources been available to the community further legal action in opposition to this decision would have been made.

Furthermore we would note that the proceedings of the Environment Court (reference C150/2003 Paragraph 130) considered that it was possible that the mitigation package could be seen as a license fee to pollute rather than an integration of the various factors under section 5 of the Act to achieve sustainable management of natural and physical resources under the Act. We consider that Port Otago are attempting to use their exemption from normal noise rules under the current regime as just such a license for their proposed expansion plans.

Secondly with respect to Carey’s Bay, residential activity was not sited close to a busy working port but rather the Port expanded into Carey’s Bay and with project Next Generation they propose to expand their activities further. While we accept the Port’s desire to grow as a business we do not consider such expansion should be allowed at the unmitigated expense of the adjacent community. For those deemed significantly noise affected there is no advantage. There is only disruption either in accepting soundproofing or moving on (having been bought out by the port), a loss of property value if they decide to remain, and a significant loss of outdoor amenity. For those not shown on the Port’s noise map as significantly noise affected there is a loss of amenity and property value.

OUR EXPERIENCE WITH THE EXISTING NOISE REGIME

In our experience noise nuisance from the Port’s operations fluctuates depending on how busy the Port is and in particular how intensively they are working at the Boiler Point reclamation. Our first complaints to the Port and DCC noise control were made in April 2006 and related to high impact clashing container noise. With the arrival of the 4100 class of ship a deep pulsating engine noise (sounding bit like a noisy old V8 idling in our drive way) was added to the reason for complaint. More recently the 4100 class ship visiting Port has changed with the replacement ships engine noise being much less of a cause for complaint.

Initially when we complained to Port Otago it appeared there would be some effort made to investigate and take action on our complaints. Unfortunately this investigation and action rapidly declined into efforts by Port Otago to convince us that they were operating within the requirements of the District Plan and therefore had no obligation to take any action to measure, reduce or mitigate noise. In a similar vein DCC noise control initially appeared willing to investigate our complaints but seemed unwilling to take any actual noise readings at our property at the time of noise nuisance as this was generally late at night or in the early hours of the morning. In hindsight we suspect that this reluctance was due to the omission of any enforceable noise limits in the District Plan with which the Port is required to comply with. I.e. there was in effect no enforcement action available to them.

As it seemed impossible for us to obtain any noise measurements at our property from either Port Otago or DCC, despite requests being made on numerous occasions, and due to the unpredictable timing of the noise making it impractical to use a noise consultant, there being none based in Dunedin. We could see no alternative than to purchase, at significant cost, a class one noise meter in order to ascertain whether or not our complaints were reasonable. The results of these measurements over a three month period are attached as Appendix A to this document.

On each occasion where noise has been recorded a full report, including a print out of the recorded noise levels from the noise meter's software, was provided to both Port Otago and DCC. There was however no action taken by either Port Otago or DCC with respect to these complaints other than to record that a complaint had been received.

We refer to Noise Map 70 of the District Plan (attached as Appendix B to this document). Our property (marked) is well within the "L₁₀ 55 Day time/40 Night time within 50m of a residence" zone.

Under the existing regime the Port is exempt from all normal District Plan noise limits for all locations where noise is received, but is only required to provide mitigation for noise received in the residential one zone. We and many others affected by Port noise are in rural or rural residential zones and therefore, under the existing regime, are not eligible to receive mitigation no matter the level of Port Noise received. It therefore appears that the current noise regime greatly increases the level of unreasonableness for noise before any action will be taken for the residential one zone and raises it to an infinite level for areas outside of this zone.

We have more recently corresponded with both DCC and ORC in an attempt to have a more reasonable noise regime put in place. To date we have been unsuccessful in this

endeavour however we note that DCC have requested in their submission that mitigation be provided for all residences receiving noise at greater than normal residential levels. This we consider would be a vast improvement over the current regime.

THE ANTICIPATED EFFECT OF THE PORTS EXPANSION PLANS

We anticipate that in the event of Project Next Generation proceeding, both the level and frequency of noise from Port Otago's operation affecting our home and lifestyle will increase markedly.

We note that the Port's noise consultant has indicated that the noise level in Carey's bay will increase by three to four decibels for the 6000 vessel at the multipurpose wharf over the existing worst case. Although not entirely clear in Mr Ballagh's evidence we believe that the increase noted is in the modelled 5 day Ldn average and will not in fact be representative of actual noise nuisance experienced in Carey's Bay during a larger ship visit. I.e. that the decibel noise increase in Carey's bay during the time of a ships visit will be much higher than the five day average Ldn increase noted.

We believe that noise produced at Port Otago and received at our home would increase significantly in the case of the wharf extension along Boiler Point taking place. This extension would allow ships (with noisy generators) and noisy container unloading operations to locate in our direct line of sight. Currently we have some level of protection from noise from Port Otago's operations due to the local topography shielding us from the main George Street and Multipurpose berths where ships are currently unloaded.

In addition we believe that noise from Port Otago will also increase as a result of larger (likely) noisier ship visits, an increased frequency of ship visits and their generally being a greater number of ships in Port Otago at any one time. It is also anticipated that there will be noise increase due to a significant increase in container handling operations at Port Otago in general but particularly at Boiler Point.

We note that Mr Ballagh in his evidence indicated he was surprised by the noise of the 4100 vessels for their size and thought that they were poorly designed. While this may or may not be the case the Port has indicated on many occasions that they have no control over the type of ship visiting the port and therefore there is no guarantee that a larger, noisier, poorly designed ship will regularly visit the Port and be berthed at Boiler Point in the future. Mr Ballaghs surprise in such an event will be of little consolation to the community.

EXISTING NOISE CONTROL REGIME FAILINGS

Of great concern to us is Port Otago's assertion that operational noise would be managed and mitigated by the existing Dunedin City Council District Plan rules including the Port Noise Management and Mitigation Plans. We do not consider that the existing rules, management and mitigation plans provide adequate protection of the health and wellbeing of the community from the effects of noise from Port Otago.

We consider that the existing Port Noise Management Plan fails to provide adequate protection for the health and wellbeing of the community for reasons as follows:

1. An Ldn 5 day average noise level is normally only intended for use in setting planning provisions (reference - section 6, NZS 6809 Port Noise Management and Land Use Planning). Monitoring of the Ldn 5 day average is normally only intended to help a port manage and predict compliance (reference - section 7, NZS 6809). Contrary to this the modelled Ldn 5 day average appears to have been implemented as the only means of determining actual compliance for Port Otago. Furthermore where the average level is exceeded there is little in the way of enforceable action available.
2. NZS 6809 on which the noise management plan is loosely based, states under clause 7.1.1 that noise limits for port activities are essential and rules in local authority plans must prescribe specific numerical noise limits in a form which will be enforceable. Clause 7.1.2 indicates that short term limits are required to control noise received away from the port. No such limits are currently included in the District Plan with respect to noise from Port Otago.
3. Clause 7.2.5.1 of the Port Noise standard indicates that the Ldn level shall (shall being mandatory) not exceed 65dBA Ldn at or beyond the inner control boundary. It appears that the current monitoring regime for Port Otago sets a higher level of acceptability than this. In addition the standard indicates that the 1 day Ldn should not exceed 68 dBA. The Port Noise Management Plan has no 1 day limit and noise appears to exceed the NZS 6809, 68 dBA 1 day limit on a regular basis. This exceedance of the 1 day Ldn does not however typically result in the rolling 5 day Ldn average being exceeded, as the noise level is averaged over the days before and after each significant noise event. This appears contrary to the intent of NZS 6809 and raises the level of the unreasonableness, of allowable Port Otago noise.
4. For the limited application of Leq measurements under the current regime the 5dBA penalty which should be added (where applicable) if impact or tonal

components exist, has been excluded for container and log handling operations. The Leq measure is an energy average noise level over the period of measurement and as such, it is recognised that as an environmental measure of nuisance, it does not adequately account for impact and tonal components where present. This penalty is therefore required for valid noise measurement in accordance with NZS 6802 (Acoustics – Environmental Noise) and NZS 6809 to properly identify the nuisance caused by such types of noise. It therefore seems unreasonable that this exemption is allowed as it again in effect further raises the level of the unreasonableness for allowable Port Otago noise. All Leq guideline limits and recommendations in New Zealand Environmental Noise Standards indicate that the 5dBA penalty is to be applied where impact or tonal noise components are present.

5. The Port has been granted an exemption from normal District Plan noise rules. The intention of the NZS 6809 standard is that this would normally be the case, where this standard is implemented, but that there would instead be an enforceable noise limit at the inner port noise control boundary to limit noise from a port. The premise being that if noise were adequately controlled at this position and mitigated between the inner (65 dBA) and outer (55dBA) port noise boundaries, noise would be controlled to a reasonable level beyond the 55 dBA boundary. As there are no limits imposed on Port Otago, no such controls are achieved and noise beyond the outer control boundary/mitigation area is known to exceed normal District Plan rules, NZ standard guidelines and World Health Organisation recommendations.

For properties not shown on the Port Noise Contour Map as noise affected there is no enforceable action or mitigation available unless the noise level exceeds 65dBA Leq 15 minutes, which is a significant increase in the noise level which would have received enforceable action under the District Plan rules prior to the exemption. Furthermore the wording of the current District Plan is such that for properties outside of the Residential 1 Zone the Port Otago noise exemption is absolute with no mitigation or enforcement available no matter what the noise level received. With no limit imposed at the inner control boundary we consider it unreasonable that Port Otago is exempt from District Plan rules in areas where they are not required to provide mitigation. I.e. we consider that either an inner port noise control boundary noise limit should be applied or in the absence of this that District Plan noise rules should apply to Port Otago for Port noise received beyond the mitigation zone.

6. Mitigation is only available to the very worst affected residences. This mitigation is in the form of soundproofing and in no way mitigates the loss of outdoor amenity. Incentivizing Port Otago to reduce noise at source is considered the better option as this protects the indoor and outdoor amenity of the entire community. The

current regime fails to do this as is evidenced by around 1.75 million dollars having been spent on soundproofing and property purchase but only around one hundred and twenty seven thousand dollars (hush kits for straddle carriers) spent on noise mitigation at source (reference Port Otago Port Environment Plan 2010 Update).

7. Under the existing regime there is no set monetary amount which the Port is required to provide on an annual basis to undertake its mitigation obligations or a set time frame in which the Port must provide funds to comply with said obligations. A more equitable arrangement may be for the Port to provide a monetary amount equal to an agreed percentage of its total annual turnover for the implementation of noise mitigation measures while the current exemption remains in force. It is noted that the Environment Court (reference - C150/2003 clause 142,) considered that a properly funded and resourced Noise Liaison Committee was essential to the success of any noise mitigation/management approach and that without this the Council would be forced towards enforcement and/or control methods. It is our opinion that the existing Port Noise Liaison Committee funding arrangement does not achieve the Environment Court's original intent of a properly funded and resourced Noise Liaison Committee.
8. Port Otago has a statutory obligation under section 16 of the RMA to ensure that the emission of noise from Port activity is minimised. It also requires them to adopt the best practicable option to ensure that the emission of that noise does not exceed a reasonable level. We further note that NZS 6802:2008 (Acoustics – Environmental Noise) states that the best practical option in relation to the emission of noise, means the best method of preventing or minimising the adverse effects on the environment considering, among other things, certain matters defined in the RMA. It appears that the exemption granted to the Port has resulted in their effectively avoiding these requirements to the detriment of the surrounding community. There are technologies and methods available (noise barriers, shore based power to allow ships generators to be switched off as examples) which could have been implemented by Port Otago in the past to meet their RMA obligation to control noise to a reasonable level. We are concerned that the existing exemption granted to Port Otago removes any emphasis for them to ensure that the emission of noise from their operations is prevented or minimised. It instead provides them with a lower cost option of providing mitigation for only the worst affected properties. Furthermore there is no specified time frame in which the Port is required to meet its current mitigation obligations.
9. Appendix 21A of the DCC district plan indicates that the noise contour map shall be updated on at least an annual basis. Items 2 (v) indicates that to ensure the accuracy of the port noise contour map the Port Operator shall perform field verification of calculated sound exposure levels and assessed Leq(15min) levels at

the agreed monitoring points identified in the port noise management plan. We interpret this as a requirement for Port Otago to carry out field verification of their modelled contours on at least an annual basis however note that such verification has not been carried out since 2003. It therefore appears that the current noise regime is not being properly policed or monitored by either Port Otago, DCC or the Port Environment Liaison Committee.

We do not consider that the existing noise regime provides adequate protection for our health and wellbeing from the effects of noise from Port Otago nor do we consider that they fulfil the requirements of section 16 of the RMA. Currently for our location there is no mitigation available and noise from Port Otago is received on a regular basis and at a level which, but for the district plan exemption, would be subject to enforceable action. We have included a list of the noise levels recorded between 9 May 2008 and 24 August 2008 at the back of this hearing document. It is important to note that in a number of cases the district plan noise map limits have been exceeded by more than 10 dBA and that in layman's terms each 10 dBA increase indicates a doubling of the perceived noise level. I.e. that noise levels perceived as being more than twice as loud as those which would be subject to enforceable action, but for the district plan exemption, are already being received. Furthermore the recorded incidents are a subset of the nuisance noise events received at our property. There were a number of other similar noise occurrences over that period however due to climatic conditions or other factors (eg birdsong during the day) readings were not recorded.

For the reasons outline above we do not consider it reasonable for Project Next Generation to be approved on the basis that noise would be adequately minimised, managed or mitigated by the existing District Plan rules.

We consider that the terms of reference for review of the Project Next Generation Applications should be Policy 12.4 of the Regional Plan: Coast for Otago, with particular regard to the New Zealand Standards referenced therein. In particular the effects of Project Next Generation on the surrounding communities should be considered in relation to the guidelines contained in NZS 6802:2008, section 8.6 Guidelines for the Protection of Health and Amenity, which identifies upper noise limits for residential areas.

We consider that the best practical option to avoid further unreasonable noise in Carey's Bay is to prevent the extension of the multipurpose wharf.

Failing this we believe that the only way to ensure adequate protection from noise from Port Otago is for short term (not averaged over 5 days as is the current situation) limits of some description be imposed.

In the event of it not being possible for Port Otago to implement measures to maintain noise at or below a level consistent with normal residential noise limits for any residence receiving port noise regardless of zoning and when measured in accordance with NZS 6801 (Acoustics – Measurement of Environmental Sound). That Port Otago are required to provide either full mitigation and/or compensation commensurate with the effects of that increased noise on health, wellbeing property and lifestyle.

CONSULTATION

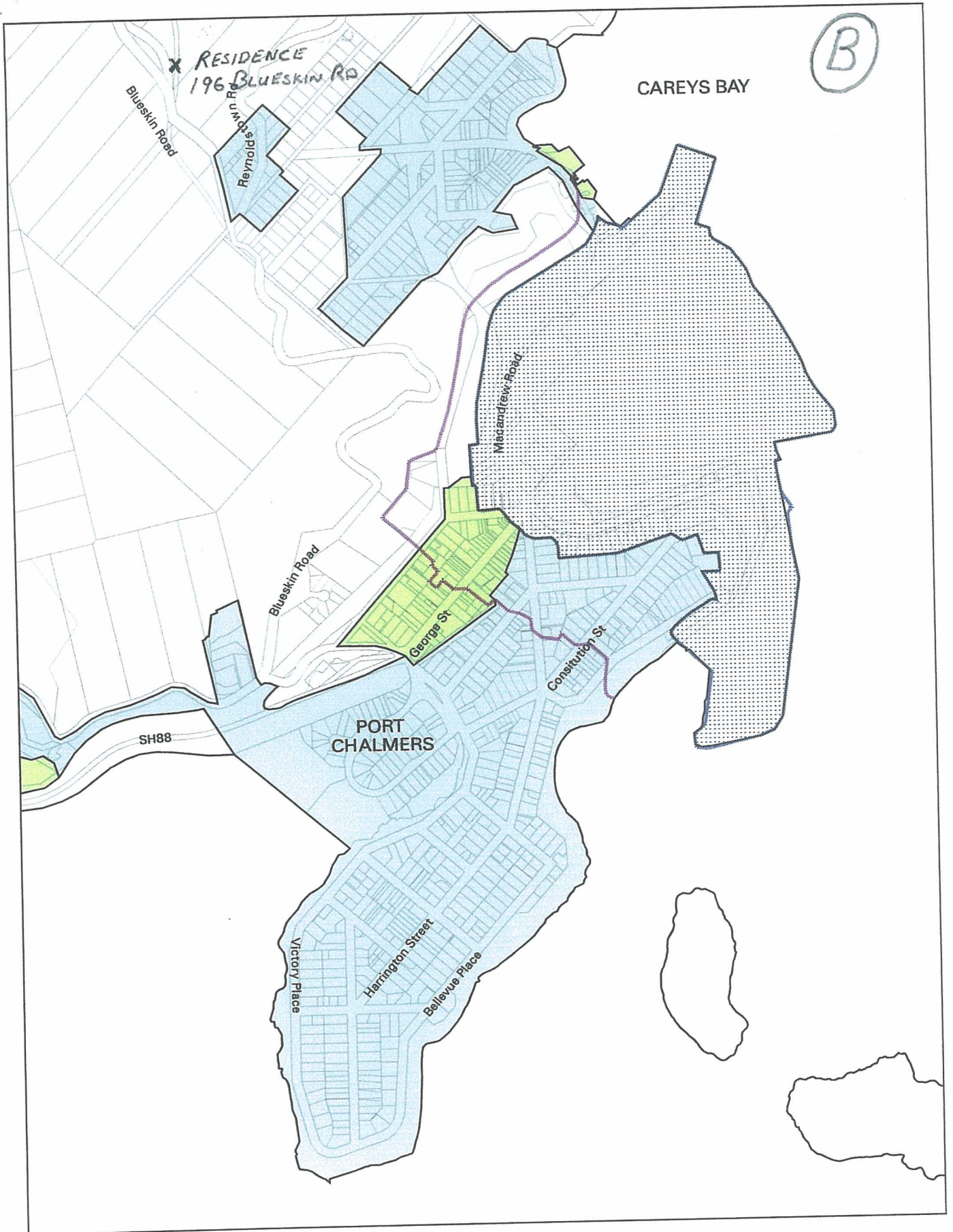
We have been actively involved in the Next Generation Project Consultative Group since November 2007 and consider that the consultation process has been disjointed, and additionally, in respect to some effects of the project, inadequate.

In particular we note the lack of any community consultation following the release of the Noise Assessment and other reports outlining the projects potential in February 2010. Many reports were in fact released with the draft AEE demonstrating Port Otago's apparent unwillingness to seriously consider and incorporate any input from the consultation process.

We also note the apparent change of strategy employed by Port Otago with respect to the role of the project control group during the period we have been involved. In 2007 and 2008 the group was involved in reviewing the terms of reference for assessment of effects reports and the experts involved in preparing those reports reported their preliminary and final findings to the group. At the end of 2008 eight reports had been released to the group, three of these were preliminary. During 2009 there were no meetings and at the first meeting of 2010 the draft AEE was provided with some twenty six reports appended (five of which were not completed at the time)

In addition while we have provided Port Otago with a concerns submission prior to their lodging the Project Next Generation Resource Consent Application. Port Otago have shown little (none that we are aware of) willingness to investigate our concerns, nor to the best of our knowledge, have they addressed them by modifying Project Next Generation to avoid, minimise or mitigate the adverse effects identified.

PORT OTAGO NOISE COMPLAINTS TO PORT OTAGO/DCC NOISE MEASUREMENTS RECORDED AT 196 BLUESKIN ROAD												
DATE AND START TIME	MEASUREMENT PERIOD MINUTES	NOISE DESCRIPTION	LEQ	LEQ CORRECTED	L10	L10 CORRECTED	LMAX	PEAK DBC	DCC District Plan Noise Map Level Exceeded By (dBA)	NZS 6802 Upper Limit Exceeded By (dBA)	NOISE NUISANCE DURATION	PORT OTAGO/DCC ACTION TAKEN
9/05/2008 6:17	00:17:30	Pulsating ships engine noise	45.5	50.5	46.7	51.7	69.5	86.6	11.7	5.5		Complaint recorded, no other known action taken
16/05/2008 6:25	00:35:27	Pulsating ships engine noise	41.8	46.8	42.9	47.9	57	79.9	7.9	1.8		Complaint recorded, no other known action taken
23/05/2008 6:13	00:17:36	Pulsating ships engine noise, clashing container noise	49.4	54.4	52	57	69.4	93.4	17	9.4		Complaint recorded, no other known action taken
23/05/2008 6:38	00:26:40	Pulsating ships engine noise, impulsive clashing container noise	46.6	51.6	48.6	53.6	59	88.7	13.6	6.6		Complaint recorded, no other known action taken
11/06/2008 22:07	00:25:48	Impulsive clashing container noise.	48.7	53.7	47	52	64.7	84.7	12	8.7		Complaint recorded, no other known action taken
13/06/2008 5:44	00:27:55	Pulsating ships engine noise	42	47	44.3	49.3	54.8	76.8	9.3	2		Complaint recorded, no other known action taken
13/06/2008 22:15	00:19:05	Pulsating ships engine noise, impulsive clashing container noise	46.4	51.4	48.1	53.1	65	83	13.1	6.4		Complaint recorded, no other known action taken
20/06/2008 5:06	00:17:38	Pulsating ships engine noise, impulsive clashing container noise	41.5	46.5	42.6	47.6	68.6	91.7	7.6	1.5		Complaint recorded, no other known action taken
26/07/2008 22:29	00:22:29	Pulsating ships engine noise, impulsive clashing container noise	45.7	50.7	47.7	52.7	61.8	94	12.7	5.7		Complaint recorded, no other known action taken
2/08/2008 6:31	00:19:43	Pulsating ships engine noise, impulsive clashing container noise	44.3	49.3	45.3	50.3	63.8	84.1	10.3	4.3	Friday evening through to Saturday morning (while Maersk Duffield in Port)	Complaint recorded, no other known action taken
9/08/2008 7:55	00:19:00	Impulsive clashing container noise, some idling engine noise	49.8	54.8	51.7	56.7	73.4	94.6	16.7	9.8	Saturday morning 6:30 am to 10:30 am	Complaint recorded, no other known action taken
20/08/2008 13:59	00:18:29	Impulsive clashing container noise	49.8	54.8	51	56	78.4	91	1		Majority of the day	Complaint recorded, no other known action taken
23/08/2008 6:15	00:36:14	Impulsive clashing container noise	44.5	49.5	46	51	72.3	82.8	11	4.5	Very early Saturday morning continuing throughout most of Saturday.	Complaint recorded, no other known action taken
24/08/2008 6:38	00:16:29	Idling ships engine/generator noise	49.8	54.8	51.7	56.7	73.4	94.6	16.7	9.8	Very early Sunday morning.	Complaint recorded, no other known action taken



Noise Areas

- 60Dt/Nt dBA*
- 55Dt/40Nt dBA*
- 50Dt/40Nt dBA, 45SP dBA*
- 50Dt/35Nt dBA, 45SP dBA*

55 Dt/40Nt dBA* within 50m of a residence

- Port Outer Control Boundary (See Rules 8.7.2(xi) and 9.7.2(ix))
- Port Noise Boundary (See Rule 21.5.2)

* Refer to Index to Noise Maps for abbreviations



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Map Printed December 2005



Port Chalmers

NOISE

Map 70
Scale 1:7500