

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Proposed Waikato District Plan

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**STATEMENT OF EVIDENCE OF CHRISTOPHER WILLIAM DAY FOR  
PORTS OF AUCKLAND LIMITED IN RELATION TO HEARING 7 –  
INDUSTRIAL AND HEAVY INDUSTRIAL ZONE**

**20 JANUARY 2020**

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## **EXECUTIVE SUMMARY**

### **1. INTRODUCTION**

- 1.1 My full name is Christopher William Day. I am a principal and founding partner of the acoustical consulting practice of Marshall Day Acoustics Ltd. My qualifications and experience are detailed in my primary evidence.
- 1.2 This statement is a summary of my primary evidence and also provides a short response to the evidence of Mr Jon Styles (for Havelock Village Ltd) and the 'Expert Advice' document from Mr Malcolm Hunt to Waikato District Council (WDC) dated 17 January 2020.

### **2. NOISE LIMITS**

- 2.1 The Proposed Plan introduces a night time noise limit of 40 dB  $L_{Aeq}$  to some residential receivers around the Horotiu Industrial Park. This noise limit is generally 3 dB more stringent than the operative plan rules.
- 2.2 Detailed ambient noise measurements in the area show that the existing noise environment is already well above 40 dB, and that 45 dB  $L_{Aeq}$  is a more appropriate night time limit for these areas.
- 2.3 Mr Hunt agrees with the 45 dB limit in paragraph 18 of his 'Expert Advice' document.

### **3. THE NOTIONAL BOUNDARY**

- 3.1 The 'Notional Boundary' concept (a 20m protection zone around dwellings) was developed many years ago to protect residents living in rural areas without unnecessarily overprotecting empty farm land. Mr Hunt and Mr Styles agree with this concept in general.

3.2 The notional boundary concept also generally includes a 'date stamp' where the noise rules apply to dwellings that exist at the time the rule becomes operative. This approach is to avoid the issue known as 'reverse sensitivity' where new dwellings are built much closer to an existing noise source, knowing the noise source exists and then complaining about the noise after moving in.

3.3 The notional boundary and 'date stamping' issues have been debated in hearings on occasions and to assist the profession, the latest revision of NZS6802 (2008 version) has clarified the matter in clause 8.4.8 copied below.

**8.4.8** An important distinction will often need to be made between existing dwellings and potential future dwellings. For reasons now called 'reverse sensitivity', the concept of people coming to a noise source or nuisance not being entitled to an amenity level as if the noise source did not exist has long been upheld. Thus it is common to find the noise assessment location specified as:

'at any point within the notional boundary of an **existing** dwelling'.

Sometimes this is expressed as:

'at any point within the notional boundary of any existing dwelling shown on map X attached', or

'dwellings existing at the date this consent comes into effect'.

3.4 Mr Styles agrees with the date stamp approach with regard to the Huntly Power Station (paragraphs 2.3 to 2.5) and agrees with me in principle in paragraph 3.2 where he states; *"I agree with Mr Day in principle, it can be appropriate in some circumstances to provide certainty to industrial noise makers that they are 'protected' from encroachment by fixing the point at which the noise limits apply into the future"*. However, Mr Styles does not want it to be set as a precedent for the rest of the plan (paragraph 3.3).

3.5 Mr Styles prefers the use of the 'Noise Control Boundary' concept. While I agree with Mr Styles that this is a very useful concept, I understand there is no scope for its introduction at this hearing.

3.6 Mr Hunt also agrees with the date stamp approach with regard to the Huntly Power Station in paragraph 2 of his advice; *"I agree with this recommendation [the date stamp] especially around providing certainty to the noise maker regarding where noise limits apply"*. However, he

'does not support the date stamp approach as a district-wide control' (paragraph 3).

- 3.7 In my opinion, the use of the 'date stamp' for the Horotiu Industrial Park (HIP) controls is not a district-wide control. The HIP contains the POAL's inland freight hub which the s42A report acknowledges, fits the WRPS definition of "regionally significant industry". The date stamp should be applied "to provide certainty to the noise maker regarding where the noise limits apply" (Mr Hunt's words).
- 3.8 If the date stamp were not applied, a farmer could at any time in the future, build a house close to the inland freight hub and close down the operation by enforcement of 'non-date stamped' noise rule. The POAL Auckland port has had reverse sensitivity effects for years from residents who have moved into Parnell knowing the port makes noise.
- 3.9 I agree with the New Zealand Standard's recommended approach (8.4.8) of specifying, "...within the notional boundary of any dwelling existing at the [specify the date when the Plan will become operative]".
- 3.10 The Proposed Plan adopts the 'notional boundary' concept for other industrial zones such as the Heavy Industry Zone – Huntly Power Station (21.2.3.2) and the Nau Mai Business Park (20.5.6). I recommend the 'date stamped' notional boundary be used for the Horotiu Industrial Park.
- 3.11 Mr Arbuthnot has recommended modifications to the noise rules to rectify these issues in his evidence.

**Christopher Day**

**20 January 2020**