

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

**Decision No. [2022] NZEnvC 168**

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First  
Schedule to the Act

BETWEEN FONTERRA LIMITED

(ENV-2018-CHC-251)

Appellant

AND DUNEDIN CITY COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 5 September 2022

---

**CONSENT ORDER**

---

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Dunedin City Council is to amend the provisions of the proposed Dunedin City Second Generation District Plan as set out in Appendix 1, attached to and forming part of this order; and



(2) the appeal by Fonterra Limited (DCC Reference numbers 136 and 158) is resolved by this order.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

## REASONS

### Introduction

[1] This consent order relates to the appeal by Fonterra Limited (DCC Reference numbers 136 and 158) regarding acoustic insulation, management of noise and setbacks at the Fonterra site in Mosgiel in the proposed Second Generation District Plan ('2GP').

[2] I have read and considered the consent memorandum of the parties dated 11 August 2022 and the affidavit of Peter Benjamin Rawson affirmed on 19 August 2022.

[3] The memorandum of the parties summarises the agreement reached between the parties as follows:

- (a) amend the 2GP Planning Maps to add a mapped area called the 'Fonterra noise control mapped area' which will sit over Rural (Taieri Plain) zoned land;
- (b) add a different standard in to Rule 9.3.6 Noise which sets a bespoke noise limit for the new Fonterra noise control mapped area measured at the furthest boundary of the Fonterra noise control mapped area over Rural (Taieri Plain) zoned land. This has the effect of changing the noise limit in Rule 9.3.6.3 'Those parts of a rural zone that are within 350m of the Industrial Zone' from 50 dB LAeq (15 min) to 55 dB LAeq (15 min) over the 7.00pm to 10.00pm period. The proposed 55 dB LAeq (15 min) over the 7.00am to 7.00pm (daytime) period

and 45 dB LAeq (15 min) over the 10.00pm to 7.00am (night-time) period will remain the same as in Rule 9.3.6.3; and

- (c) add a new clause to Policy 9.2.2.2, Rule 9.3.1 Acoustic Insulation and Rule 16.5.1 Acoustic Insulation, which requires acoustic insulation of noise sensitive activities, within rural zones, within the Fonterra noise control mapped area.

[4] Mr Rawson has satisfied me that the agreement reached between the parties above is appropriate and consistent with achieving the relevant objectives of the 2GP.

[5] The court will only make orders if it is satisfied it is appropriate to do so and where there is no relationship between the provisions proposed to be amended by the consent order and other appeals before the court.

[6] Mr Rawson has assessed the other appeals on decisions on 2GP and advises that there is no overlap between appeals that would prevent a consent order from being issued. In addition, Mr Rawson says that no appeal on 2GP has the potential to amend the policy framework of 2GP in a way that would change their assessment of the changes set out in the memorandum.<sup>1</sup>

### **Other relevant matters**

[7] Oceana Gold New Zealand Limited, Gary Pollock and Jane McLeod gave notice of an intention to become a party under s274 of the Resource Management Act ('the RMA' or 'the Act') and have signed the memorandum setting out the relief sought.

[8] For completeness, I record the parties' attestation that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the

---

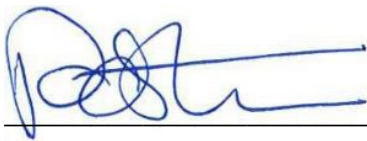
<sup>1</sup> Affidavit of P B Rawson affirmed 19 August 2022 at [31]-[34].

relevant requirements and objectives of the Act including, in particular, Pt 2.

[9] The parties agree costs should lie where they fall and accordingly no order for costs is sought.

### **Outcome**

[10] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.

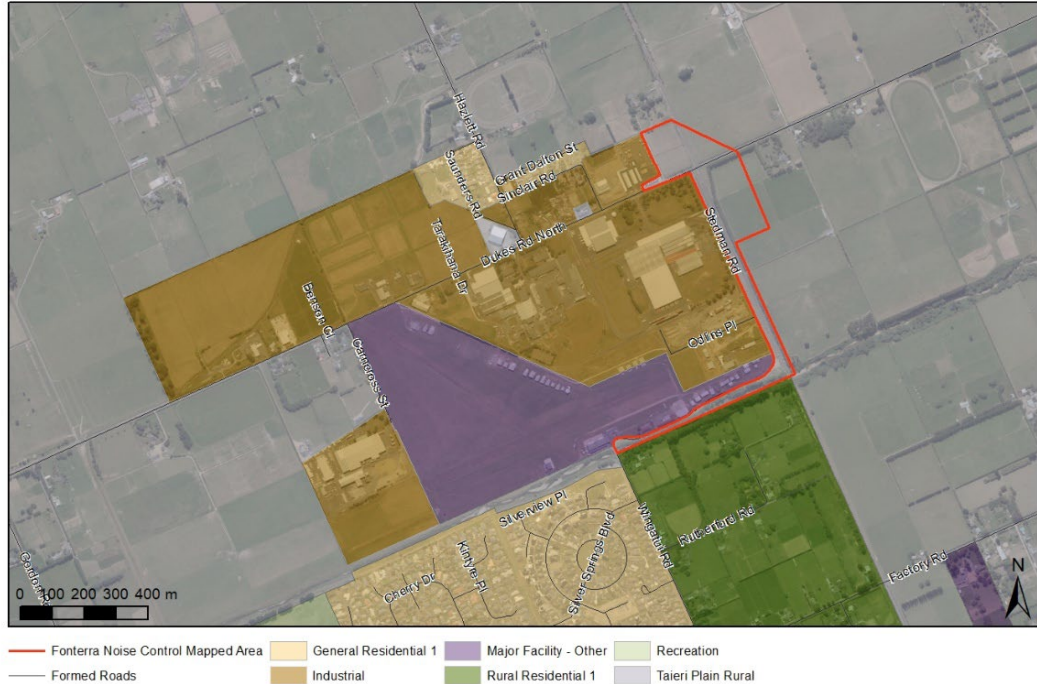


**P A Steven**  
**Environment Judge**



## Appendix 1

- 1 Amend the 2GP Planning Maps to identify the Fonterra noise control mapped area, as shown below:



### {Fonterra 136}

- 2 Add a new performance standard X underneath the table in Rule 9.3.6 Noise, as follows:

Land use activities, public amenity activities, network utility activities, and temporary activities must not exceed the following noise emission limits:

Zoning of receiving property	Noise level measured at the boundary of the receiving property or the notional boundary of noise sensitive activities in a rural, rural residential or Ashburn Clinic zone		
	a. 7.00am to 7.00pm	b. 7.00pm to 10.00pm	c. 10.00pm to 7.00am
. ...	....	....	....

3.	Those parts of a rural zone that are within 350m of the Industrial Zone, <u>except where Rule 9.3.6.X applies</u>	55 dB LAeq (15 min)	50 dB LAeq (15 min)	i. 45 dB LAeq (15 min); and ii. 75 dB LAFmax
...	...	...	...	...

X. noise generated at 222 Dukes Road North, North Taieri must not exceed the following noise emission limits measured at the furthest boundary of the Fonterra noise control mapped area:

- a. 7.00am to 10.00pm 55 dB LAeq (15 min); and
- b. After 10.00pm to before 7.00am 45 dB LAeq (15 min); and 75 dB LAFmax

7. Except, the following activities are exempt from this standard:

**{Fonterra 136}**

- 1 Amend Policy 9.2.2.2, as follows:

**Policy 9.2.2.2**

Require that noise sensitive activities, where undertaken in buildings, have adequate acoustic insulation to avoid, as far as practicable, significant adverse effects from the higher noise environment anticipated in the following areas:

- a. ...
- l. in-patient areas in the Dunedin Hospital Zone; ~~or~~
- m. the Stadium Zone; and
- n. Fonterra noise control mapped area.

**{Fonterra 136}**

- 2 Amend Rule 9.3.1 Acoustic Insulation, as follows:

**9.3.1 Acoustic Insulation**

1. ...
2. ...
3. ...
4. Rule 9.3.1.1 applies in the following locations:
  - a. ...
  - l. in-patient areas in the Dunedin Hospital Zone; ~~or~~
  - m. the Stadium Zone; and
  - n. Fonterra noise control mapped area.
5. ...

**{Fonterra 136}**

- 3 Amend Rule 16.5.1 Acoustic Insulation, as follows:

**16.5.1 Acoustic Insulation**

Noise sensitive activities in the following areas must comply with Rule 9.3.1:

1. port noise control mapped area;
2. airport noise inner control mapped area;
3. airport noise outer control mapped area;
4. within 40m of the Taieri Aerodrome Zone;
5. within 40m of a state highway;
6. within 20m of an industrial zone; ~~and~~
7. within 70m of a railway line; and
8. Fonterra noise control mapped area.

**{Fonterra 136}**

- 4 Make any consequential changes to plan numbering as required as a result of the above amendments. This includes plan numbering changes as a result of the renumbering of Rule 9.3.6.7. This rule is referenced in the definition of Stadium Noise Events and in the Appendices to the Port Zone. Minor

referencing and style changes may also be made for consistency with 2GP formatting.

