

From: claude [claude@lewenz.net]
Sent: Monday, 28 May 2007 10:40
To: hgiplan
Cc: Clelland, David; Christopher Wragge; Anna Ripper
Subject: Further Submission in Support of No. 609
Attachments: 609 Ripper T.A. noise.pdf

1122

Attached please find a signed pdf further submission on the excess noise implications of the proposed District Plan Rules.

Claude Lewenz
Director
Renaissance Aotearoa Foundation

Please note that the submission requests a calibrated noise meter be provided by Auckland City for the hearing.

To The Manager, City Planning, Private Bag 92516, Wellesley Street, Auckland 1036
Re Proposed Hauraki Gulf Islands Section 2006

Name **Renaissance Aotearoa Foundation**

Address for Correspondence **40 Motukaha Road Waiheke**

Telephone **372-7030**

Email**exec@aroha.org**.....

I / We support the submission of Anna Ripper (Submission Number 609):

Address: 28 Seaview Rd, Ostend, Waiheke Island. Tel: 09 372 6676. Email: organic@pl.net

The Particular Parts of the submission I / we support are:

All

The Reasons for my / our support to the above submission are:

Between the time of first submissions and cross submissions, a specific set of noise incidents occurred, based on this new rule.

In Church Bay, a private event operator of a newly built visitor facility held a series of wedding parties using outdoor white tents that ran for much of the day and well into the night. From over a kilometre away, the music and DJ could clearly be heard – not just as background noise, but actual words spoken and songs played as well as the deep thump of low frequency drums and base guitar.

In speaking to the noise control officer the next Monday, we were told that the private operator had been told by Ostend office of Auckland City Council that while the old rules limited such noise to 35 dBA, the new rules permitted 6 events a year with "The Leq noise level and L1 noise level arising from the event does not exceed 75dBA Leq or 85dBA L1 when measured at the notional boundary of any adjacent site with a residential use." The officer told us that the private function operator intended to use his full six allotment of permitted loud noise in the prime time of late January, early February when people sleep with open windows and are outdoors enjoying the peaceful ambiance of quiet Waiheke Island.

The officer was of the opinion that the local office's advice was incorrect, the stricter of the two standards (35 dBA, not 75) would apply until the new district plan came into full force. But he said unless the new rules were changed, so that private functions were not accorded the 6-free noise nights, when the new plan came into full force, the neighbours would have no grounds to complain and the council no grounds to intervene before 11 p.m.

He also agreed, the new standard was shocking in a quiet rural zone of lifestyle residences. He commented that in the Ithsmus, these exceptions for loud temporary events were restricted to public and quasi public events (such as our Jazz Festival), not to private functions which are of a completely different character.

In this particular case, the officer decided to begin an enforcement action. This required he schedule himself to come over to Waiheke with calibrated sound equipment at night, by ferry,

In hoping that his choice of evening would coincide with the noise violation. This is costly and cumbersome.

The difference between the current permitted 35 dBA and the proposed 75 dBA is 100 times as loud. Further, in a lifestyle rural neighbourhood such as Church Bay, which now has many full or part-time private function venues, this could mean that each of them gets the six free noise nights, utterly ruining the amenity value, especially in the premium warm summer nights.

Going from 35 to 75 means the sound pressure increases from 1,000 μPa to 100,000 μPa . 35 is lower than a soft whisper. 75 is shouting.

This is totally inappropriate and defies the purpose of the RMA.

The primary issue at this point focuses on private functions. Since the last district plan was adopted, private landowners have discovered that one can earn \$10,000 or even \$20,000 for a wedding.

Some of the new operators have built solid, sound-proofed buildings so the noise is contained within. These are good neighbours.

Other more seasoned operators have attempted to retro-fit by enclosing their operations. This tends to produce failures when the staff leaves doors or windows open on windless warm nights. Not good.

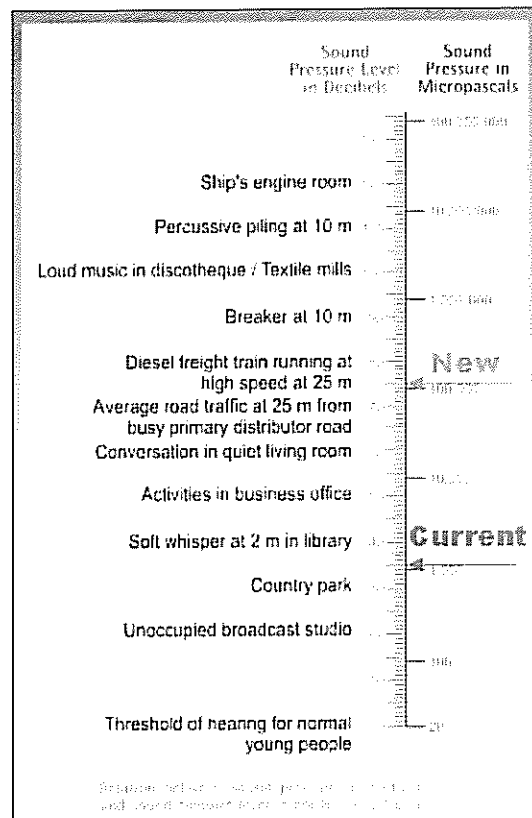
Other new operators are going the cheap way... the big white tents which have no sound containing capacity. These are very bad neighbours.

At a minimum, in Section 4.5.3.2 "Events, including performances, meetings, private or public functions, parades, sporting events, exhibitions, film shoots, markets and fairs and activities of a similar character,..." [emphasis added] should be changed so the words "private or" are removed, and at the front of the sentence the word "Public" should be added. Further, such activities should be more regulated, not permitted section by section. See the "seek" section of this submission for preferred language.

As the proposed rule is currently worded, with 75 dBA being a permitted activity for every section in a land unit, one might find that in each neighbourhood every pleasant evening is ruined by permitted unwanted and totally inappropriate noise.

It makes no sense whatsoever to classify 100 x noise pressure as permitted in any given neighbourhood. There may be public events, such as Jazz Festival – a once a year event, where neighbours tolerate amplified sound, but not six times a year. Imagine six Woodstock type festivals being run on one section on the Onetangi straight, and then another six being run next door. Under the proposed rule, this would be legal. Such festivals can be exceedingly profitable, and once the door is opened under such a rule, the neighbours would have zero protection.

We have a mechanism to address this on a case by case basis. Require that such permitted public events also must secure Community Board permission, which can be denied if the Community Board believes the 100x noise level will adversely impact people and communities.



The Jazz Festival would be approved, but dozens of Rave parties each year on adjoining properties would probably be deemed adverse.

On enforcement:

Submission 609 writes:

4. Policing of the standards set in 4.5. will be impossible, proof of duration and time of activities will be up to effected neighbors

In support, I offer a log which I recorded in January 2007 when it was clear I was not going to get sleep, despite needing to be up early in the morning. I copy the log directly, except for XXX in place of names.

At 22:06 I called in a complaint about XX XXXXX Road, a wedding venue called XXXXXXXXXXXX which has begun holding outdoor wedding receptions and parties at night, so that we must be kept awake with the rock bands blaring. We live over a kilometer away. I was told the noise contractor would be responding within 35 minutes. (XXX Name 1 – Male)

At 22:47 I called back, and the operator contacted the contractor by phone who said he was on his way. (Did not record name) Female

At 23:04 I called back again, and the operator told me he was unable to raise the contractor. I asked to register a formal complaint. (XXX Name 1)

*At 23:19 I called back again, but your system was busy, and I was put on hold.
23:24 answered "Can't raise the contractor, not answering his mobile phone". Noise still very loud. (XXX Name 1)*

23:44 still unable to raise contractor. Noise still loud. (XXX Name of contractor). (XXX Name 1)

This is exactly the same excuses I got when the problem occurred with XXXXX venue – that time went on until the wee hours of the morning. XXX Name 1

00:09 "New York, New York" – heard while trying to go to sleep. All services busy. 00.12 XXX Name 1 – still no word from the contractor. Stay on line, will call again. Still not able to raise the person on Waiheke.

00:21 Noise continues

If there was no grey area – that private events must occur indoors with noise insulation if they wish to use amplified sound with no noise heard outside – there would have been no such frustration. We can submit more such transcripts if this is not deemed sufficient evidence, including ones recorded on a video camera noise enforcement was ineffective until after 2 a.m.

Conclusion: Relying on neighbours to be woken up from sleep, call a number in Auckland which can be exceptionally busy at time, then wait for a private contractor to answer the dispatch and juggle many calls to respond places an unfair burden on the people and communities. Such a system may be the only way for the one-off private party – say a bunch of teenagers getting wild, but it is entirely the wrong approach for the professional operators of weddings and for-pay parties which are growing in popularity on Waiheke Island.

Note that under the new proposed temporary event rule calling at 22:06 would be told that unless the sound level was above 75 dBA, it was permitted. Thus the first valid complaint would go in at 23:00. In real life, the dispatched enforcement contractor would not arrive for half an hour or more. The contractor would issue a noise notice and leave. If the noise then picked up again (as it often does, since the DJ's know the game) the neighbour would have to then call noise control back about 23:45 to learn if anyone made contact in the field. If the noise then continued, a second complaint would be filed, and another 35 minutes or more would need to elapse. It would not be until well after midnight that the noise might be shut down. For a neighbour who needs sleep and is on the 6:40 ferry in the morning, this is unacceptable... especially in support of the pecuniary interest of the private events operator.

This is based on real, and on-going first hand experience.

Submission 609 is right. Policing is impossible.

I / We seek... That the whole submission be allowed -

And that the language be of section 4.5.3.2 be written to read:

4.5.3 Permitted activities

The following temporary activities are permitted in all settlement areas and land units, with the exception of landforms 1, 2 and 4 and on any scheduled item(s) and its scheduled site surrounds:


2. Public Events, including performances, meetings, ~~private or~~ public functions, parades, sporting events, exhibitions, film shoots, markets and fairs and activities of a similar character, including associated parking, buildings or other structures, provided that:

[new condition] The Community Board has given Public (not in closed session) permission for such a public event if it is expected to exceed the noise standards for the affected Land Unit (s). The Community Board may deny permission if in its view the noise from the event will adversely impact people or communities in greater measure or with greater frequency than the public interest in the event.

I / We wish to be heard at the council hearing.

And to demonstrate, we would request that the council noise officer attend, and bring calibrated sound equipment (at council's expense), so the difference between 35 dBA and 75 dBA can be demonstrated. We did a similar demonstration when WIL was promoting Private Plan Change 38, and when the sound was so demonstrated using a \$200 Dick Smith sound meter, the evidence was challenged because the meter was not calibrated. We suggest such a demonstration is in the public interest.

I / We would be prepared to present a joint case at the hearing with any others making a similar submission.

Signed..........Director.....Date.....27 May 2007.