

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

Decision No. [2026] NZEnvC 194

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-2026-CHC-50)

Appellant

AND TIMARU DISTRICT COUNCIL

Respondent

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

In Chambers at Christchurch

Date of Consent Order: 30 July 2026

CONSENT ORDER

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

- (1) the appeal is allowed subject to amendments to the proposed Timaru
District Plan as set out in Annexure 1, attached to and forming part
of this order; and
- (2) the appeal is otherwise dismissed.



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

REASONS

Introduction

[1] This proceeding concerns an appeal by Fonterra Limited (Fonterra) against part of the decision by Timaru District Council (TDC) on the proposed Timaru District Plan (PDP). The PDP was notified on 6 May 2026.

[2] Fonterra filed an appeal against parts of the decision in relation to rules LIGHT-S1, NOISE-P7 and NOISE-R11, and related standards NOISE-S3, NOISE-S4 and GRUZ-S7. Fonterra's appeal was concerned about how these rules and standards applied to the land within either the Clandeboye Dairy Manufacturing Precinct (CDM Precinct), or within the wider Clandeboye Noise Control Boundary (Clandeboye NCB).

[3] I have read and considered the consent memorandum of the parties dated 29 July 2026 which proposes to resolve the appeal.

Agreement reached

[4] The parties have reached an agreement that, subject to the court's approval, resolves the appeal by consent. In summary, the parties have agreed on amendments to:

- (a) LIGHT-S1 to clarify that the standard does not apply within the CDM Precinct, as was determined appropriate by the Independent Hearing Panel (IHP);
- (b) NOISE-R11, NOISE-S3 and NOISE-S4, which apply acoustic insulation and ventilation requirements to buildings. The parties agreed that where the requirements in the rule or standards are not met in the Clandeboye NCB, the activity status is to be non-

complying. They have also agreed that the acoustic insulation and ventilation requirements apply to alterations made to existing buildings within the Clandeboye NCB. As a result of these amendments, the parties do not consider amendments to the policy framework to be necessary and therefore do not seek changes to NOISE-P7; and

- (c) GRUZ-S4 to utilise the defined term “industrial and trade waste” within the standard. This is consistent with the IHP’s decision and ensures that the standard aligns with a defined term.

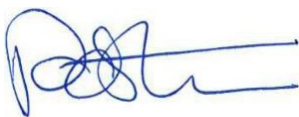
Other relevant matters

[5] No person has given notice of an intention to join the appeal under s274 of the Act.

[6] The parties advise that all matters proposed for the court’s endorsement fall within the court’s jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[7] 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





Annexure 1

LIGHT-S1	General lighting standards	
All zones (excluding the Port Zone and the <u>Clandeboye Dairy Manufacturing Precinct</u>)	1. All exterior lighting must be oriented so that light is emitted away from any adjoining and adjacent sites; and 2. All artificial outdoor lighting must comply with the horizontal and vertical illuminance levels for the relevant zone or area set out in Table 22 - Horizontal and vertical illuminance levels. Where a development is located on a site which adjoins or is directly across a road from a different lighting category, the most sensitive classification of the two categories will apply when measured at their common boundary; and 3. Where conformance with the limits set in Table 22 is to be determined by calculation, the calculation must be undertaken by a person who is professionally qualified and competent in the discipline of illumination engineering and be based upon: a. a maintenance factor of 1.0 (i.e., no depreciation); and b. the horizontal plane be calculated for a series of points along the property boundary at no greater than 2m spacings; and c. the vertical plane be calculated for a series of points along the property boundary at no greater than 2m spacings horizontally and vertically from ground level to a height equal to the height of 10m; and 4. Where conformance with the limits set in Table 22 is to be determined by measurement, illuminance measurements must take place at the boundary at a height above ground level of 1.5m; and	Matters of discretion are restricted to: 1. whether the artificial outdoor lighting is necessary, suitably designed and adequately mitigates the effects on the character and amenity values of the surrounding area; and 2. the number, type, placement, design, height, correlated colour temperature (CCT), orientation and screening of any lighting minimises light spill, glare, and artificial sky glow; and 3. the extent to which the amount of light emitted beyond the site between sunset and sunrise is minimised to control effects on indoor amenity values and sleep quality; and 4. whether it is consistent with best practice.

	5. Where measurements of any illuminance above background levels from the use of artificial lighting cannot be made because the artificial lighting cannot be turned off, measurements may be made in areas of a similar nature that are not affected by the artificial lighting. The result of these measures may be used for determining the effect of the artificial lighting.	
--	--	--

NOISE-R11	Any new building for use by a noise sensitive activity and alterations to existing buildings for use by a noise sensitive activity (not listed in NOISE-R14)	
1. Within 40m of a State Highway with a posted speed limit of 50 km/hr or less Within 80m of a State Highway with a posted speed limit greater than 50 km/hr Within 100m of the railway line Neighbourhood Centre Zone Local Centre Zone Large Format Retail Zone Mixed Use Zone Town Centre Zone City Centre Zone General Residential Zone within 20m of the boundary with a General Industrial Zone Medium Residential Zone within 20m of the boundary with a General Industrial Zone	Activity status: Permitted Where: PER-1 The building is acoustically insulated and ventilated in accordance with: 1. NOISE-S3 and NOISE-S4; and 2. the acoustic insulation must be assessed in accordance with ISO 717-1:2020 Acoustics — Rating of sound insulation in buildings and of building elements — Part 1: Airborne sound insulation; or PER-2 An acoustic design certificate signed by a suitably qualified acoustic engineer demonstrates either: a. the level of noise incident on the most exposed part of the exterior of any habitable room can be shown under a reasonable maximum use scenario to not exceed the following noise limits at all points 1.5m above ground level, and any	Activity status when compliance not achieved with PER-1.1 or PER-2: Restricted Discretionary Matters of discretion are restricted to: 1. the matters of discretion of any infringed standard. 2. for activities in breach of PER-2, the matters of discretion in NOISE-S3. Activity status when compliance not achieved with PER-1.2: Non-complying

Outer Control Boundary of the Port Noise Control Overlay General Rural Zone between 100m and 300m of any frost fan (including any frost fan for which a resource or building consent has been issued) Within the Clandeboye Noise Control Boundary	part of the floor levels above ground: i. less than 55 dB L_{Aeq(1h)} for rail noise; or ii. less than 57 dB L_{Aeq(1h)} for road noise; or iii. less than 57 dB L_{Aeq(1 hr)} for port noise; or b. the building is at least 20m from all roads subject to the standard and/or the railway line and there is a solid building, fence, wall or landform that completely blocks the line-of-sight from all parts of all windows and doors to all parts of any road surface subject to the standard, or all points above 3.8m for railway track; or PER-3 The alterations are to a building existing at the date of notification of the proposed District Plan within the Clandeboye Noise Control Boundary. <i>Note: This standard applies in addition to, and does not affect the requirements of, the Building Act 2004.</i>	
<u>2. Within the Clandeboye Noise Control Boundary</u>	<u>Activity status: Permitted</u> <u>Where:</u> <u>PER-1</u> <u>The building is acoustically insulated and ventilated in accordance with:</u> 1. <u>NOISE-S3 and NOISE-S4; and</u> 2. <u>the acoustic insulation must be assessed in accordance with ISO 717-1:2020 Acoustics — Rating of sound insulation in buildings and of</u>	<u>Activity status when compliance not achieved: Non-complying</u>

	<u>building elements — Part 1: Airborne sound insulation.</u> <u>Note: This standard applies in addition to, and does not affect the requirements of, the Building Act 2004.</u>	
--	---	--

NOISE-S3	Acoustic insulation	
1. Within 40m of a State Highway with a posted speed limit of 50 km/hr or less Within 80m of a State Highway with a posted speed limit greater than 50 km/hr Within 100m of a railway line Large Format Retail Zone Town Centre Zone City Centre Zone General Rural Zone between 100m and 300m of any frost fan (including any frost fan for which a resource or building consent has been issued)	1. Any habitable room in a new building used for a noise sensitive activity, an alteration to an existing building or room that changes its use to a noise sensitive activity, or where the floor area of a habitable room within an existing building is increased by 20% or more, must be designed, constructed and maintained to achieve: a. a minimum external to internal noise reduction for habitable rooms of not less than $35 \text{ dB } D_{tr,2m,nT,w} + C_{tr}$; or b. where in relation to a State Highway or railway line, internal design sound levels of $35 \text{ dB } L_{Aeq} (1 \text{ hr})$ 2. Compliance with this standard must be achieved by ensuring habitable rooms are designed and constructed in a manner that accords with: a. Table 25 — Minimum construction requirements for external building elements of habitable rooms to achieve an advanced level of acoustic insulation; or	Matters of discretion are restricted to: 1. effects on the ability of existing or permitted activities to operate or establish without undue constraint; and 2. any legal instrument proposed; and 3. mitigation of noise achieved through other means; and 4. the amenity of present and future residents of the site.

	b. an acoustic design certificate signed by a suitably qualified acoustic engineer stating the design proposed will achieve compliance with this standard. Note: <i>This standard applies in addition to, and does not affect the requirements of, the Building Act 2004.</i>	
2. General Residential Zone within 20m of the boundary with a General Industrial Zone Medium Density Residential Zone within 20m of the boundary with a General Industrial Zone Neighbourhood Centre Zone Local Centre Zone Mixed Use Zone All zones within the Outer Control boundary of the Port Noise Control Overlay Within the Clandeboye Noise Control Boundary	1. Any habitable room in a new building used for a noise sensitive activity, an alteration to an existing building that changes its use to a noise sensitive activity, or where the floor area of a habitable room within an existing building is increased by 20% or more, must be designed, constructed and maintained to achieve a minimum external to internal noise reduction for habitable rooms of not less than 30 dB Dtr,2m,nT,w + Ctr. 2. Compliance with this standard must be achieved by ensuring habitable rooms are designed and constructed in a manner that accords with: - Table 26 — Minimum construction requirements for external building elements of habitable rooms to achieve a moderate level of acoustic insulation; or - an acoustic design certificate signed by a suitably qualified acoustic engineer stating the design	Matters of discretion are restricted to: - effects on the ability of existing or permitted activities to operate or establish without undue constraint; and - any legal instrument proposed; and - mitigation of noise achieved through other means; and - the amenity of present and future residents of the site.

	proposed will achieve compliance with this standard. Note: <i>This standard applies in addition to, and does not affect the requirements of, the Building Act 2004.</i>	
<u>3. Within the Clandeboye Noise Control Boundary</u>	1. <u>Any habitable room in a new building used for a noise sensitive activity, an alteration to an existing building that changes its use to a noise sensitive activity, or where the floor area of a habitable room within an existing building is increased by 20% or more, must be designed, constructed and maintained to achieve a minimum external to internal noise reduction for habitable rooms of not less than 30 dB</u> <u>Dtr,2m,nT,w + Ctr.</u> 2. <u>Compliance with this standard must be achieved by ensuring habitable rooms are designed and constructed in a manner that accords with:</u> a. <u>Table 26 — Minimum construction requirements for external building elements of habitable rooms to achieve a moderate level of acoustic insulation; or</u> b. <u>an acoustic design certificate signed by a suitably qualified acoustic engineer stating the design proposed will achieve compliance with this standard.</u> <u>Note:</u> <i>This standard applies in addition to, and does not affect</i>	<u>Matters of discretion are restricted to: Not applicable</u>

	<u>the requirements of, the Building Act 2004.</u>	
NOISE-S4	Ventilation requirements	
<u>1. Within 40m of a State Highway with a posted speed limit of 50 km/hr or less</u> Within 80m of a State Highway with a posted speed limit greater than 50 km/hr Within 100m of the railway line Neighbourhood Centre Zone Local Centre Zone Large Format Retail Zone Mixed Use Zone Town Centre Zone City Centre Zone General Residential Zone within 20m of the boundary with a General Industrial Zone Medium Density Residential Zone within 20m of the boundary with a General Industrial Zone Outer Control Boundary of the Port Noise Control Overlay Within the Clandeboye Noise Control Boundary	1. The requirements of NOISE-S3 must be achieved at the same time as the ventilation requirements of the New Zealand Building Code. An alternative means of ventilation must be provided within any part of a building used for sleeping or focused work or study, such as a bedroom, office or study unless an acoustic design certificate signed by a suitably qualified acoustic engineer is provided that states the design of any bedroom or any study as proposed will comply with the NOISE-S3 acoustic insulation standards with windows open. 2. Ventilation systems where installed must: a. generate sound levels not exceeding 35 dB LAeq(30s) when measured 1m away from any grille or diffuser; and b. provide an adjustable airflow rate of up to at least six air changes per hour. <i>Note: This standard applies in addition to, and does not affect the requirements of, the Building Act 2004.</i>	Matters of discretion are restricted to: 1. effects on the ability of existing or permitted activities to operate or establish without undue constraint; and 2. the effects of the non-compliance; and 3. the ability to provide the appropriate levels of ventilation through other means; and 4. the amenity of present and future residents of the site.
<u>2. Within the Clandeboye Noise Control Boundary</u>	1. <u>The requirements of NOISE-S3 must be achieved at the same time as the ventilation requirements of the New Zealand Building Code. An alternative means of</u>	<u>Matters of discretion are restricted to: Not Applicable</u>

	<u>ventilation must be provided within any part of a building used for sleeping or focused work or study, such as a bedroom, office or study unless an acoustic design certificate signed by a suitably qualified acoustic engineer is provided that states the design of any bedroom or any study as proposed will comply with the NOISE-S3 acoustic insulation standards with windows open.</u> 2. <u>Ventilation systems where installed must:</u> a. <u>generate sound levels not exceeding 35 dB LAeq(30s) when measured 1m away from any grille or diffuser; and</u> b. <u>provide an adjustable airflow rate of up to at least six air changes per hour.</u> <u>Note: This standard applies in addition to, and does not affect the requirements of, the Building Act 2004.</u>	
--	---	--

GRUZ-S4	Setbacks for sensitive activities	
General Rural Zone	... 4. No new sensitive activity may be established within 250m from the boundary of any area used for the discharge of industrial <u>and</u> trade waste generated by PREC8 - Clandeboye Dairy Manufacturing Precinct; and ... Except that these setbacks do not apply to a new sensitive activity being established within the same site on which a lawfully established intensive primary production activity; effluent disposal area; shelterbelt; quarry or mine; is located.	Matters of discretion are restricted to: Not applicable

	Note: The CRC regulates the discharge of contaminants into air from animal effluent in the Canterbury Air Regional Plan.	
--	---	--

