

In relation to the Timaru District Proposed District Plan – Hearing F: Other District-wide Matters

Response to Timaru District Council's Section 42A Report

G.D.M Offices Ltd (Glen McLachlan) – Submitter 38.2 (12 & 14 The Terrace, Timaru)

It has only just come to my attention that “The Section 42A Reporting Officer has recommended that my submission relating to the port outer noise control boundary overlay be rejected.”

Unfortunately I am currently travelling and have not had time to engage legal representation. In any case, I am hoping my brief response below can be considered by Council/the hearings panel.

Firstly I want to outline that we support the existence and need for an operational Port for Timaru. It is vital to our Districts economic wellbeing. So objecting to the overlay on my property should not be taken as being opposed to the Ports activities and operation.

The objection

I oppose the recommendations of the Reporting Officer in the Section 42A Report insofar as they relate to the inclusion of 12 and 14 The Terrace within the Port Outer Noise Control Boundary Overlay (ID: 7799). This overlay imposes unnecessary and unjustified constraints on the development potential of my properties within the City Centre Zone. These properties have strong commercial value and potential for mixed-use redevelopment in alignment with the Council's stated objectives for revitalisation and intensification of the City Centre. However, the overlay introduces compliance obligations and uncertainty that materially affect property rights and development incentives.

Summary of Key Concerns

1. **Ad Hoc Overlay Application:** The Port Outer Noise Control Boundary Overlay (ID:7799) has been applied inconsistently, with boundaries "snapped" to property lines without site-specific acoustic modelling or consideration of recent developments (e.g., structures on the northern side of The Terrace). This mirrors concerns raised by 22 The Terrace Limited.
2. **Outdated Noise Modelling:** The Council's reliance on the 2022 PrimePort Report ignores post-2022 developments that provide acoustic screening, potentially rendering the overlay's application to 12 and 14 The Terrace questionable.

3. **Conflict with City Centre Zone Objectives:** The overlay undermines the PDP's goal of revitalizing the City Centre Zone by imposing unnecessary consenting costs and deterring residential/commercial development.
4. **Overlay Proliferation and Property Rights:** The proposed overlay and subsequent standards/rules are another example of systemic local overreach issues, which contribute to unnecessary consent and financial burden.

Specific Rebuttal to Section 42A Report

1. Flawed Boundary Methodology

- The Council's approach of aligning noise contours to property boundaries (rather than actual noise levels) creates arbitrary restrictions. For example, 20 The Terrace is excluded from the overlay, while 12, 14, and 22 The Terrace are included, despite sharing similar noise profiles.
- **Request:** Remove the overlay from 12 and 14 The Terrace, using 'The Terrace' Road Boundary as the outer noise boundary.

2. Lack of Observed Evidence

- The Council's reliance on the PrimePort Report (commissioned by a port operator with vested interests) is problematic. No noise monitoring has occurred at 12 or 14 The Terrace to justify the overlay. The predicted noise boundary is based on algorithms/mathematical 'modelling'. Like neighbouring sites (e.g., 22 The Terrace), my properties are affected by the arbitrary alignment of the noise boundary to cadastral lines without recent, site-specific acoustic assessment. This ignores physical realities such as intervening buildings and topography that mitigate port noise. My properties are used for commercial purposes and experience no disruption or operational challenges due to port noise. The lived experience contradicts the implied risk asserted by the overlay.
- If necessary, Council should conduct independent noise monitoring at the properties to validate the overlay's necessity.

3. Contradiction with City Centre Zone Intent

- The overlay's acoustic insulation requirements (NOISE-S3/S4) conflict with CCZ-O1 and CCZ-O2, which prioritize/promote diverse, high-density residential and commercial development in the City Centre. Compliance costs will deter investment, exacerbating inner-city vacancy rates/dis-incentivising revitalisation within the CCZ (which is precisely the kind of investment Timaru's centre needs).

Overlay Proliferation and Property Rights

The proposed overlay exemplifies systemic issues identified in national reforms, including:

- **Regulatory Overreach:** Unjustified overlays disproportionately restrict land use without evidence-based justification, violating the "presumption in favour of land use" principle under proposed RMA reforms.
- **Financial Implications:** Compliance costs (e.g., acoustic insulation, consenting delays) reduce property values and development feasibility. For example, retrofitting buildings to meet NOISE-S3/S4 will likely cost in the tens of thousands per unit/dwelling.
- **Compensation Obligations:** Under the Natural and Built Environments Bill (2025), councils must compensate landowners if regulatory changes cause significant devaluation. The overlay's arbitrary application may trigger these provisions.

Request to Council:

- Clarify how compensation will be addressed under the new legislative framework if the overlay proceeds.
- Provide a cost-benefit analysis demonstrating the overlay's public good outweighs its financial burden on property owners.

Conclusion

The Port Outer Noise Control Boundary Overlay is an unjustified, ad hoc regulation that undermines property rights and Timaru's urban revitalization goals.

The Council should:

1. Remove 12 and 14 The Terrace from the overlay pending updated noise assessments.
2. Commit to compensation for affected landowners under the Natural and Built Environments Bill.

Although I believe my points above speak for themselves, I confirm, if possible, that I wish to be heard.

Unfortunately due to existing commitments, I am not available between the scheduled dates 29th April – 2nd May for the hearing date.

I would however be happy to be heard at the same time/in conjunction with Submitter 202 (22 The Terrace).

Submitted by: G.D.M Offices Ltd (Glen McLachlan), Owner of 12 & 14 The Terrace, Timaru

Date: 16 April 2025