

Notice is given that an ordinary meeting of a Resource Consent Hearing will be held on:

Date: **Wednesday 25 November
and Thursday 26 November 2020**
Time: **9.30 am**
Meeting Room: **Waimea Club**
Venue: **345 Queen Street
Richmond**

Commissioner (Resource Consent) Hearing

AGENDA

Commissioners: Leigh McGregor (Chair)

Council Staff: Jennifer Lancashire, Consultant Planner
Graham Caradus, Team Leader Environmental Health
Dugald Ley, Development Engineer (on call)

Alastair Jewell, Principal Planner (Hearing Facilitator)

Contact Telephone: 03 543 8422
Email: alastair.jewell@tasman.govt.nz
Website: www.tasman.govt.nz

AGENDA

1 OPENING, WELCOME

2 REPORTS

- 2.1 Nelson Speedway Association Incorporated's Resource Consent Application at
123 Lansdowne Road, Richmond - Council Reference RM191306..... 5

Resource Consents applied for:

RM191306 – Recreation activity in the Rural 1 zone, described as the continuation of speedway activity, exceeding the noise levels in the Tasman Resource Management Plan and with the frequency of race meetings varied from the existing deemed resource consent.

Submissions:

This application was limited notified in June 2020 and 803 submissions were received.

Of these 71 submitters asked to be heard at a hearing, with 67 in support, three in opposition and one neutral.

Report and Recommendation:

The section 42A report and recommendation on the resource consent application hearing report is attached (Attachment 1). It has been prepared by Jennifer Lancashire.

Council's Environmental Health Team Leader Graham Caradus has provided a memorandum on noise (Attachment 6).

Further documents referenced in the Section 42A report are also attached accordingly.

3 CONFIDENTIAL SESSION

Nil

2 REPORTS

2.1 NELSON SPEEDWAY ASSOCIATION INCORPORATED'S RESOURCE CONSENT APPLICATION AT 123 LANSDOWNE ROAD, RICHMOND - COUNCIL REFERENCE RM191306

Decision Required

Report To:	Commissioner (Resource Consent) Hearing
Meeting Date:	26 November 2020
Report Author:	Alastair Jewell, Principal Planner - Resource Consents
Report Number:	REPC20-11-1
Attachments:	<ol style="list-style-type: none"> 1. 7 Attachment 1 - Planner s42A report and recommendation 2. 71 Attachment 2 - 1968 deemed consent 3. 73 Attachment 3 - Environment Court declaration [2018] NZEnvC 78 4. 89 Attachment 4 - Applicant site plan 5. 91 Attachment 5 - TRMP zoning and areas 6. 97 Attachment 6 - Memo G Caradus - Noise 7. 109 Attachment 7 - Applicant letter - G Clarke - Traffic 8. 111 Attachment 8 - Recommended draft conditions - J Lancashire

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- 8.5 The TRMP anticipates and permits the effects which are associated with a recreational activity in the Rural 1 zone, except for noise, which must comply with the noise standards contained in rule 17.5.2.1(c) of the TRMP (refer paragraph 3.5 of this report). The applicant has applied for resource consent for the race meetings and fireworks to breach this permitted activity noise standard.
- 8.6 There may be certain aspects of this recreational activity which have effects that are permitted in the Rural 1 zone. For example, these permitted effects could include the glare from the floodlights and the movement of people to and from the site. However, the noise associated with the race meetings is an intrinsic aspect to this recreational activity and is not a permitted effect in this location. The noise from racing vehicles is different in nature to the noise that can be expected from a permitted activity in the Rural 1 zone. The noise from the fireworks however are comparable to the noise from bird scarers and hail canons which are permitted in the rural zone. For these reasons I have given some consideration to the permitted baseline in my assessment of effects which follows later in this report.
- 8.7 The only other permitted activity standard that is worth noting is rule 17.5.2.1(o) of the TRMP which permits *Temporary Activities* in the Rural 1 zone (subject to compliance with the other permitted activity standards in the TRMP, including Noise). I agree with the assessment in Table 2, Section 4.2 of the AEE that the meaning of *Temporary Activity* does not apply to the Speedway activity. The definition of *Temporary Activity* has been deleted from the TRMP¹⁸. However, I consider *Temporary Activity* to mean an activity lasting only a short amount of time (whereas the race meetings occurs on the same site annually on fifteen occasions each season). In my opinion the Speedway activity cannot be reasonably inferred to be a *Temporary Activity* and as such I do not consider rule 17.5.2.1(o) of the TRMP to be relevant to the consideration of this resource consent application.

Receiving Environment

- 8.8 The receiving environment is the existing environment upon which the effects of the proposed activity must be considered. The existing consent forms part of the

¹⁸ TRMP: Chapter 2 Meaning of Words, p.g. 34

Report under section 42A of the Resource Management Act 1991

Application for resource consent by:	Nelson Speedway Association Incorporated
Application number:	RM191306
Site address:	123 Lansdowne Road, Richmond.
Legal description:	Lot 1 DP 10914, Pt Lot 2 DP 10914 (CT 6C/1260 8C 40)
Location co-ordinates (NZTM):	5427084.94 N 1612316.16 E
Report and recommendation prepared by:	Jennifer Lancashire – Consultant Planner

Note: This report sets out the advice and recommendations of the reporting planner. The independent commissioner(s) delegated by Tasman District Council to decide this resource consent application have not considered this report yet. The independent hearing commissioner(s) will only make a decision after they have considered the application and heard all evidence from the applicant, submitters and council officers.

1. Overview

- 1.1 This is a report prepared under section 42A of the Resource Management Act 1991 (**the Act**) on the resource consent application made by the Nelson Speedway Association Incorporated (**the Applicant**) for a recreational activity in the Rural 1 zone, which is summarised as:

The continuation of the speedway activity, which exceeds the permitted noise standards of the Tasman Resource Management Plan (TRMP) and where a total of 15 race meetings will occur between 1 October and 30 April annually and where

there will be two instances when race meetings will occur over two consecutive days.

- 1.2 The purpose of this report is to summarise the application, the actual and potential effects, and how the proposal fits with the planning framework provided by the relevant statutory planning instruments.

Reporting Planner

- 1.3 My name is Jennifer Lancashire. I am employed by Beca as a Senior Planner and in this role I process resource consent applications on behalf of the Tasman District Council, Marlborough District Council and the Nelson City Council. I have a Bachelor of Arts (Hons) from the Manchester Metropolitan University (UK) and a Masters in Planning (MPLAN) from the University of Manchester (UK). I am an associate member of the New Zealand Planning Institute (NZPI) and a Certificate Holder of the Ministry for the Environment's *Making Good Decisions* Programme.
- 1.4 I have previously been employed by the Nelson City Council as a Senior Planner and a Team Leader – Resource Consents. I have practiced as a Planner in NZ for seven years and have experience processing a variety of resource consent applications under the Resource Management Act, the Local Government Act and the Housing Accords and Special Housing Areas Act.
- 1.5 I have a unitary authority background and experience processing and applying for resource consents for regional and district activities across the top of the south region. I also have experience processing publicly notified resource consent applications including the preparation and presentation of evidence at hearings and the environment court.

2. Background

Overview

- 2.1 The Speedway activity has been operating from its current site at 123 Lansdowne Road in Richmond pursuant to a conditional use application that was approved by

the Waimea County Council on 11 December 1968¹ (**the existing consent**). The existing consent approved a Scramble Car Track subject to three conditions:

1. The Club shall provide sufficient parking on the property for all competitors and spectators.
2. No parking of vehicles belonging to persons attending the meeting will be permitted for ½ mile on either side of the entrance to the property.
3. Adequate toilet facilities for men and ladies shall be erected and maintained on the property by the Club, such facilities to comply with the requirements of the County Health Inspector.

2.2 A copy of this existing consent decision is attached in **Attachment 2** to this agenda.

2.3 Since the establishment of the Speedway in 1968 the Tasman District Council (**the Council**) has granted additional resource consents that have enabled the establishment of clubrooms, retail shops, signage and the take and discharge of water for use on the racetrack for dust suppression purposes. A summary of these resource consents is provided in **Table 1**.

2.4 Table 1: Summary of Resource Consents related to the Speedway activity

Reference & Year	Description	Status
RM180835 2018	Land Use Consent to host the NZ stockcar Grand Prix on the 11 th , 12 th and 13 th of January 2019, with the 13 th only being used because of a rainout.	Withdrawn
RM120417 2012	Discharge Permit to discharge uncontaminated stormwater to Neimans Creek	Consent Effective Expires on 24/8/2047

¹ TDC ref T2/9/1/11

RM010769 2001	Land use consent to erect a sign at the corner of Queen Street and Lansdowne Road	Consent Effective
NN970286 1997	Discharge Permit to discharge uncontaminated stormwater to Neimans Creek	Cancelled
RM970317 1997	Land Use consent to demolish existing shop and erect a new building including two new shops and a souvenir display sales area	Consent Effective
RM960123 1996	Land Use consent for a variation to planning application T2/9/630 to alter the operating hours and to allow an extension to clubrooms.	Consent Effective
NN710640 1993	Water Take - Spraying of racetrack	Consent effective Expires on 1/10/2026
T2/8/1/630 1983	Town and Country Planning Act – Erect Clubrooms	Granted
T2/8/1/49 1973	Planning Permit – Racetrack sign	Unknown
T2/9/1/11 1968	Town and Country Planning Act – Establish and operate a scramble car track (the existing consent)	Granted

Environment Court Declaration

- 2.5 An Application for Declaration (**the Declaration**)² was made in May 2018 pursuant to s311 of the Act pertaining to the operation of the Speedway activity. The applicants for the Declaration sought a determination of the relevant terms of

² Decision No. [2018] NZEnvC 78

the existing consent and whether the applicant had acted in breach of the terms of its existing consent in respect of the frequency of the race meetings. A copy of the Environment Courts' decision on the Declaration is included in **Attachment 2** to this agenda.

2.6 In summary the decision of the Environment Court was that:

- i. The existing consent is clearly intended to apply to racing and not to practicing which is accepted as something different. In the view of the Court this means that the practice meetings may take place outside the racing season and are not subject to the fortnightly restriction during the season that racing meetings are subject to. Accordingly practice meetings should not be counted for the purposes of assessing compliance with the restrictions as to the season and frequency which apply to racing meetings.³
- ii. The existing consent allows the applicant to conduct one race meeting on a single day every 14 days, as that is what the applicant applied for permission to do⁴.
- iii. The applicant breached the terms of the existing consent during the 2016/2017 season⁵.

2.7 In light of the decision of the Environment Court the applicant now seeks resource consent for the continuation of the Speedway activity but with a change to the frequency of the race meetings as described more fully in section 3 of this report.

3. Proposed Activity

Overview

3.1 The applicant seeks land use consent for a recreational activity in the Rural 1 zone for the continuation of the race meetings, which exceed the permitted noise

³ Decision No. [2018] NZEnvC 78 [26]

⁴ Decision No. [2018] NZEnvC 78 [44]

⁵ Decision No. [2018] NZEnvC 78 [45]

standards of the TRMP and where the frequency of the race meetings will change and enable a total of 15 race meetings to occur between 1 October and 30 April (the **race season**) annually, including two instances where race meetings will occur over two consecutive days. The applicant is also applying for resource consent to hold one firework display as an ancillary activity to the race meetings within each race season in breach of the permitted noise standards of the TRMP.

- 3.2 Each aspect of the proposed activity is described in detail below:

Recreational Activity

- 3.3 The TRMP defines a recreational activity as:

The use of land and buildings for the primary purpose of recreation or entertainment by the members of more than one household unit⁶.

- 3.4 I agree with the applicant that the Speedway activity is a recreational activity as per the meaning given in the TRMP as the land and buildings are primarily used for recreation and entertainment purposes by members of more than one household. Recreational activities may be undertaken as a permitted activity in the Rural 1 zone providing they comply with the permitted standards of rule 17.5.2.1 (a) - (o) of the TRMP. Recreational activities that do not comply with these permitted conditions are a Discretionary activity.

Noise

- 3.5 The applicant confirms that the race meetings breach the permitted noise standards of the Rural 1 zone as per rule 17.5.2.1 (c) of the TRMP, which states:

Except in the Richmond West Development Area, noise generated by the activity, when measured at or within the notional boundary of any dwelling in a Rural zone (other than any dwelling on the site from which the noise is being generated), Rural Residential, Papakainga or Tourist Services zone, or at or within any site within a Residential Zone, does not exceed:

Day

Night

⁶ Operative TRMP: Chapter 2: Meaning of Words

<i>Leq</i>	55 dBA	40 dBA
<i>Lmax</i>		70 dBA

Except as required by condition (e), this condition does not apply to all noise from any intermittent or temporary rural plant and animal production activity, including noise from:

- (i) mobile horticultural and agricultural equipment;*
- (ii) forest and tree harvesting activities;*

Advice Note: *Clause (c)(ii) does not apply to plantation forestry noise which is managed by NES-PF regulation 98.*

- (iii) animals, except when associated with intensive livestock farming and animal boarding activities;*

- (iv) bird scarers and hail cannons.*

N.B. *Day = 7.00 am to 9.00 pm Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays).*

Night = All other times, plus public holidays.

The measurement and assessment of noise at the notional boundary of a dwelling applies whether the measurement location is within Tasman District or in an adjacent district.

Noise must be measured and assessed in accordance with the provisions of NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics - Environmental Noise.

- 3.6 The applicant provided a Memorandum⁷ with the application that has been prepared by Acoustic Engineering Services (**the Acoustic Engineer**). The

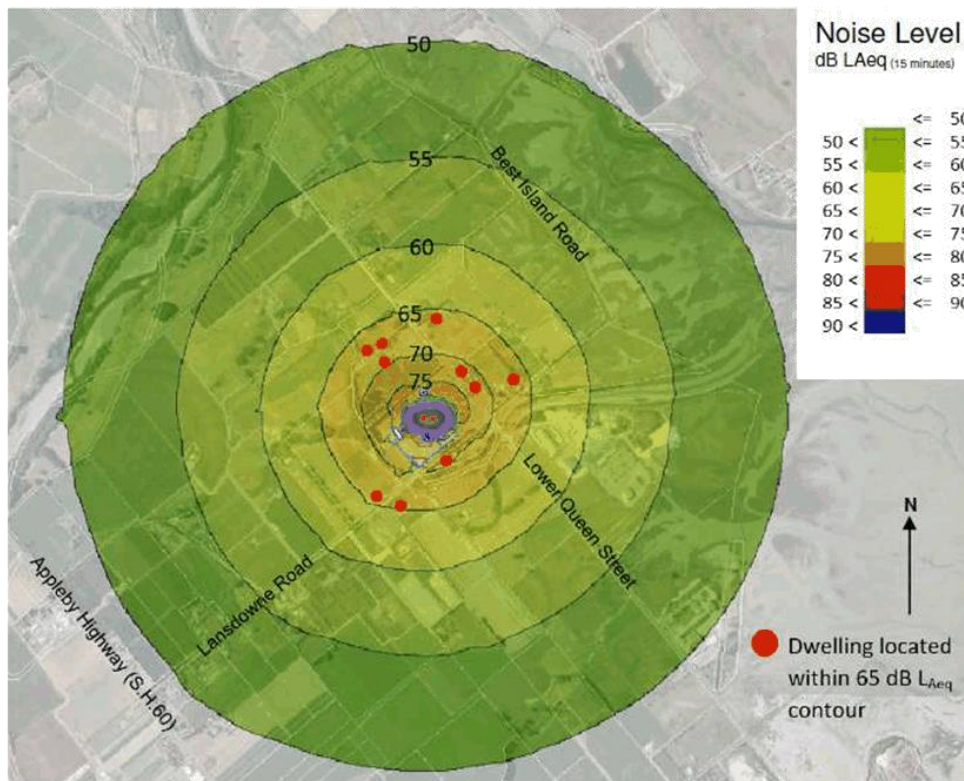
⁷ Acoustic Engineering Services; AC17233-06-R2; Nelson Speedway RM180835 Response to TDC RFI – Noise Contour Map; 30.1.2019

Acoustic Engineer states that *it is difficult to predict the exact noise level expected at a given location at a given time during an event*⁸.

- 3.7 However, the Acoustic Engineer has prepared a 'worst-case scenario' noise contour plan based on a race meeting that occurred on 14 October 2017. This noise contour plan has been prepared in accordance with the provisions of NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics - Environmental Noise (as required by rule 17.5.2.1(c) of the TRMP).
- 3.8 This noise contour plan indicates a total sound power on the racetrack of 136 dB L_{WA}. The extent of the expected noise levels is shown in Figure 2.1 of the Memorandum, with the extent of the contour at 50 dB L_{Aeq} (15 minutes) which is the permitted daytime noise limit according to rule 17.5.2.1(c) of the TRMP. A copy of the noise contour plan is provided in **Figure one** below.

⁸ Acoustic Engineering Services; AC17233-06-R2; Nelson Speedway RM180835 Response to TDC RFI – Noise Contour Map; 30.1.2019; Section 1.0 pg. 1.

Figure one: Noise Contour plan for a 'worst-case scenario' race meeting



- 3.9 This noise contour plan demonstrates that the race meetings do not comply with the permitted daytime noise standards of the TRMP in relation to several dwellings in the Rural 1 zone.
- 3.10 The noise contour plan does not show the extent of the expected noise levels from the race meetings within the night-time noise contour (40 dBA). The race meetings occur at night-time as per the meaning given in rule 17.5.2.1 (c) of the TRMP (and detailed above in s3.5). The race meetings may occur on any day of the week up to 10pm or 11pm. The noise effects are therefore expected to extend further than what is shown in Figure One.

Race Meetings

- 3.11 The applicant is applying to change the frequency of the race meetings to enable a total of 15 race meetings to occur annually between 1 October and 30 April (the

race season), including two instances where race meetings will occur over two consecutive days.

- 3.12 Race meetings are usually held on Fridays and on weekends although the applicant seeks consent for the 15 race meetings to occur on any day of the week.
- 3.13 The race meetings start at 6pm⁹ but spectators, volunteer staff and competitors will arrive earlier at approximately 4pm - 5pm. The race meetings finish at 10pm¹⁰ and most of the spectators, volunteer staff and competitors will therefore leave the site after 10pm. The applicant allows some competitors and their support crew to stay on site overnight providing they are in self-contained vehicles.

Frequency of Race Meetings

- 3.14 The applicant is applying to change the frequency of the race meetings such that each race meeting (except for the two two-consecutive day race meetings) occur at least 5 days apart.
- 3.15 There will also be no race meetings at least 14 days prior to or following the race meetings which will occur over two consecutive days.

Two Consecutive-Day Race Meetings

- 3.16 The applicant is applying for resource consent to change the frequency of the race meetings to enable two instances where race meetings will occur on two consecutive days each race season. These two consecutive-day race meetings will enable the applicant to host the NZ and South Island Championships. However, in the event that the second 'consecutive-day' race meeting cannot occur on the following day (because of adverse weather) then it will instead take place within three days of the first¹¹.
- 3.17 Each day of the two-consecutive day race meetings is to be counted as a single race meeting for the purposes of complying with the limit of 15 race meetings that may occur each race season.

⁹ S92 response dated 20.4.2020 section e. iii, p.g.4.

¹⁰ See volunteered condition 6 s3.8 AEE pg.13

¹¹ S3.8 AEE Condition 3: p.g.12

- 3.18 For the purposes of this application the applicant confirms it considers **race meetings** to mean 'racing, or race days'¹². Put simply, the applicant is proposing up to 15 days of racing each race season. This includes up to 11 instances of single day race meetings each race season (with at least 5 intervening days where no racing will occur) and not more than 2 instances where the race meetings will occur over 2 consecutive days (with the flexibility to extend this by an additional two days if adverse weather is forecast) where there will be at least 14 intervening days where no race meetings will occur following the last 'consecutive day' race meeting.
- 3.19 The applicant provided two indicative race meeting schedules in Appendix F of its Assessment of Environmental Effects (**AEE**) to illustrate the potential frequency of the race meetings. Each of those indicative race meeting schedules contains an inaccuracy in that they only show 13 non-racing days between a single day race meeting and one of the two-consecutive day race meetings (whereas the applicant has applied for 14 intervening non-racing days). I have therefore corrected the applicants indicative race meeting schedule to provide two accurate indicative race meeting schedules in **Figures two** and **three** below. The first indicative race meeting schedule (**Figure two**) provides an indicative schedule where there is no delays to the two-consecutive day race meetings. The second indicative race meeting schedule (**Figure three**) provides an indicative race meeting schedule where each of the two-consecutive day race meeting is delayed due to adverse weather:

¹² S3.2 AEE pg. 9

Figure two: Indicative frequency of race meetings (without a delay to the two-consecutive day race meetings)

Month	Days when racing could occur shown with an 'X'																														
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
October	-	-	-	-	-	-	-	X	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-
November	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	X	-	-	-	-
December	-	-	-	-	-	-	-	-	-	-	X	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-
January	-	-	-	-	-	-	X	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
February	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-
March	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-
April	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	X	-	-	-	-	-	-	-	-	-

Figure three: Indicative frequency of race meetings where there is a delay with each of the two-consecutive day race meetings (due to adverse weather)

Month	Days when racing could occur shown with an 'X'																															
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
October	-	-	-	-	-	-	-	X	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	
November	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	X	-	-	-	-	-	
December	-	-	-	-	-	-	-	-	-	-	X	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	
January	-	-	-	-	-	-	X	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
February	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	-	
March	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-	
April	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	X	-	X	-	-	-	-	-	-	-	-	-	

Firework Display

- 3.20 The applicant is also applying for resource consent to hold one firework display each race season as an ancillary activity to the race meetings¹³. The applicant has confirmed that this firework display usually occurs on or around 5 November

¹³ s3.2 AEE pg. 10

(to coincide with bonfire night), that it starts after that days racing has concluded (at approximately 9:30pm) and that it lasts for approximately 20 minutes¹⁴.

- 3.21 I have assumed the fireworks will breach the permitted night-time noise standards of the TRMP (70 dBA Lmax) because the applicant has applied for resource consent for the firework display. However, the applicant has not undertaken any noise modelling of the fireworks. The applicant has confirmed that the Acoustic Engineer will provide an assessment of the noise from the fireworks at a later date¹⁵. However, at this stage it is not known what the extent of the breach of rule 17.5.2.1 (c) will be or the extent of the consequential noise effects.

4. Site description

- 4.1 The site is located at 123 Lansdowne Road, Appleby, at the intersection with Lower Queen Street, about 3 kilometres from the closest residential area in Richmond. The legal description of the site is Lot 1 & Pt Lot 2 DP 10914 contained within Certificate of Title 6C/1260 8C 40. The land contained within CT 6C/1260 8C 40 measures 7.79 ha.
- 4.2 The site can be accessed from Lansdowne Road (Secondary Collector Road) to the southwest and Lower Queen Street (Arterial Road) to the south-east. There is a vehicle entranceway on Lansdowne Road which provides access to the pit area and ticket booth. This entranceway is closed during the race meetings. There is a second vehicle entranceway on Lansdowne Road which is located closer to the junction of Lansdowne Road and Lower Queen Street which is used by competitors, volunteers, pit crew and some spectators. A third vehicle entranceway is located on Lower Queen Street which is used as the main entrance for spectators of the race meetings.
- 4.3 There is a pit area (for competitors) on the southern side of the racetrack and public car parking is provided on the grassed areas that surround the racetrack.

¹⁴ S92 response; 20 April 2020; s4a. pg.7

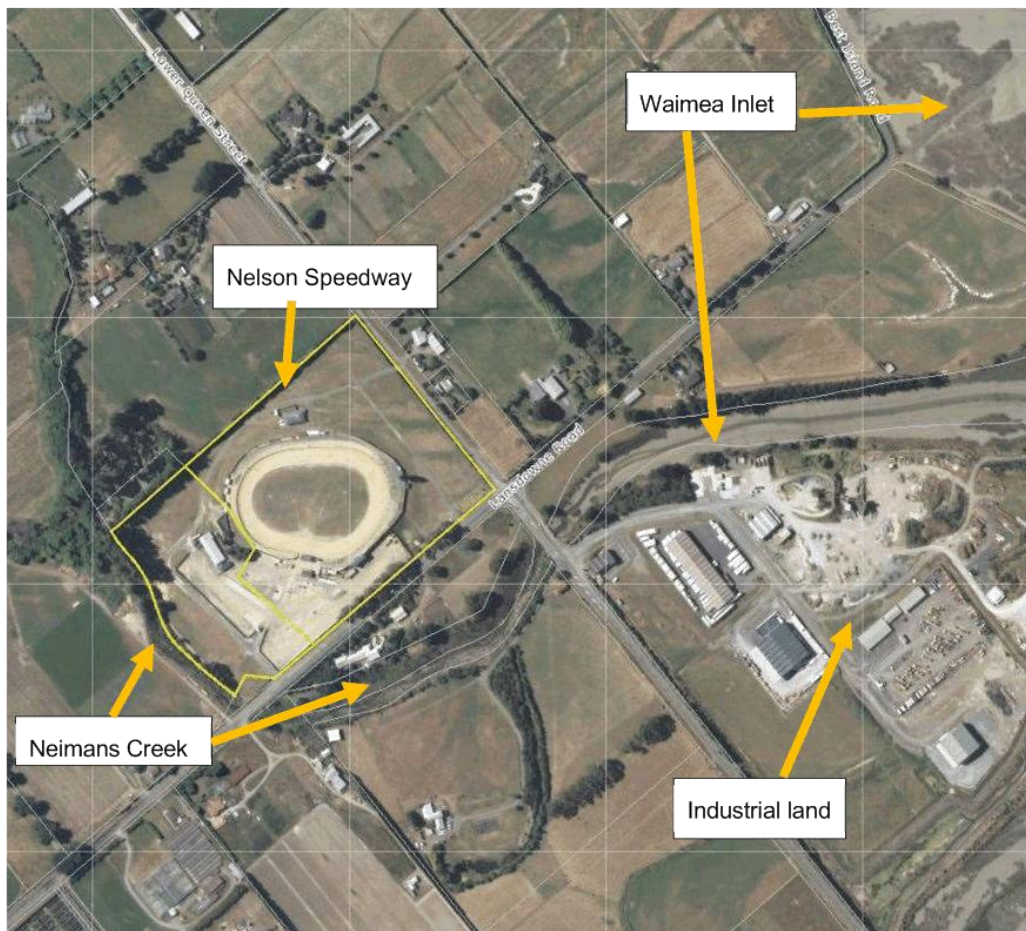
¹⁵ S92 response; 20 April 2020; s4b. pg.7

- 4.4 The racetrack is circular in shape and it measures approximately 354m in length¹⁶. The racetrack is a 'dirt track' (i.e. not sealed) and there is spectator seating and standing areas (including corporate boxes) around the perimeter of the racetrack. The spectator area is mostly 'fenced off' from the rest of the site. The site also has ablution facilities, including toilets, club rooms, catering spaces, offices, a PA booth, food shops and ancillary buildings which are used for storage and vehicle maintenance purposes. A plan showing the various facilities at the site is included as **Attachment 4** to this agenda.
- 4.5 The topography of the site and the surrounding area is flat, and the boundaries of the site are either demarcated by mature landscaping or in respect of the boundary with Lansdowne Road, a solid 1.8m high fence. The remainder of the site is generally void of any vegetation, except for the grassed areas which are used as a public car park during the race meetings.
- 4.6 The surrounding area is characterised by a mixture of rural residential lifestyle blocks and larger blocks of land that are in rural productive use. Neimans Creek flows past the western and southern sides of the site before it enters the Waimea estuary to the east. An area of industrial land is located on the eastern side of the site on the opposite side of Lower Queen Street. The surrounding area is mostly rural in character but also partly coastal and industrial with a mixture of land uses including residential, rural production and industrial.
- 4.7 These features are shown in **Figure four** below.

¹⁶ Speedway New Zealand <https://www.sporty.co.nz/speedwaynz/TRACKS/NELSON>

Figure four: Speedway Site Locality Plan

Source: Top of the South Maps



- 4.8 The applicant takes water from Neimans Creek on the western side of the site and uses it to spray the racetrack for dust suppression purposes. The water is then collected in sumps that are located around the perimeter of the racetrack, piped and discharged into three settlement ponds that are located on the southern side of the site. Water from the settlement ponds is then piped into a culvert that passes under Lansdowne Road before it is discharged back into Neimans Creek which flows in an easterly direction into the Waimea inlet.

- 4.9 This take and discharge of water has been authorised by the Council pursuant to Water-take and Discharge Permits NN710640 & RM120417.

5. Status of Application

- 5.1 The application was lodged with Tasman District Council on 27 November 2019.
- 5.2 The Operative Tasman Resource Management Plan (**TRMP**) zoning and overlay areas are as follows:
- Zoning: Rural 1 zone
- Areas: Land Disturbance Area 1
- Coastal Environment Area Overlay (partial)
- 5.3 A plan showing the zoning of the site and surrounding areas is attached in **Attachment 5** to the agenda.
- 5.4 I agree with the TRMP rule assessment provided in section 4.2 of the AEE, except for the reason given why the activity breaches rule 17.5.2.1 (c) of the TRMP (because the applicant's reason is too vague). The applicant states that the noise generated by '*the speedway*' exceeds the permitted noise standards of the TRMP (my emphasis). This part of the application does not clarify which aspects of the Speedway activity are considered to breach the permitted noise standards of the TRMP.
- 5.5 I have assumed that the applicant only considers the race meetings and fireworks breach the permitted noise standards of the TRMP because it describes elsewhere in the application how it considers the other aspects of the activity (such as the associated practice meetings) are either already authorised by the existing consent, or otherwise permitted by the TRMP.
- 5.6 I have identified and summarised the TRMP permitted activity rule contravened by the proposed activity and the resulting activity status in **Table 2**.

Table 2: TRMP Permitted Activity rule assessment

Permitted Activity Rule	Description	Activity Status
17.5.2.1 (c) Noise	The race meetings and fireworks display breach the permitted day time and night-time noise standards of the TRMP	Discretionary

- 5.7 The application has been assessed in this report as a **Discretionary Activity**. As a Discretionary activity the Council must consider all effects associated with the activity (and not just the non-conforming aspect of the activity). The Council may grant or refuse an application for a Discretionary activity and may impose conditions if it chooses to grant the resource consent.

6. Notifications and submissions

Notification

- 6.1 The applicant requested the application be publicly notified pursuant to section 95A(3)(a) of the Act. The application was therefore publicly notified in accordance with section 95A(2)(a) of the Act and submissions closed at 5.00 pm on 26 June 2020.
- 6.2 The Tasman District Council, in accordance with Regulation 10(2)(a) of the Resource Management (Forms, Fees, and Procedure) Regulations 2003, served notice of this application on the owners of all private properties and known occupiers of dwellings located within the 50+ dB LA_{eq} (15 minutes) noise contours as shown on **Figure One** above, as the Council deemed those persons to be affected persons under Section 95B and 95E of the Act.

Submissions

- 6.3 In total 803 submissions were received. 794 submissions were received within the statutory submission period and 6 submissions were received after the closing date. The late submissions were accepted by the Council in accordance with

section 37 of the Act. One submission (submission number 383) was withdrawn on 26 August 2020.

6.4 A brief summary of these submissions is outlined below:

- a. 781 support the application;
- b. 20 oppose the application;
- c. 2 indicate they are neutral to the application;
- d. 67 indicated in their submission that they wish to be heard in support of the application; and
- e. 3 indicated in their submission that they wish to be heard in opposition to the application; and
- f. 1 indicated in their submission that they wish to speak to their neutral submission; and
- g. 60 did not indicate in their submission if they wanted to be heard.

6.5 Full copies of the submissions have been made available to the Commissioner. Given the high number of submissions, it is not practical to outline every submission issue in detail in this report. However, I have reviewed them all and I consider the key matters arising from the submissions can be broadly summarised as follows:

- a. Positive effects including:
 - i. Recognition that the activity has positive economic effects and how this is even more important since the COVID-19 pandemic; and
 - ii. Recognition that the activity has positive recreational benefits for the community, and that it contributes towards peoples social and mental wellbeing; and
 - iii. Recognition that the Speedways has been operating on the site for a long time and that it benefits the community because:

- The activity is family-orientated and provides affordable entertainment to people of all ages; and
 - The activity teaches young people positive life skills and it provides employment opportunities; and
 - The activity provides a controlled environment for drivers that might otherwise race on public roads; and
 - The activity encourages diversity, builds confidence and improves the self-esteem of the competitors and volunteers; and
 - The activity contributes towards a healthy and vibrant community and creates a sense of belonging and pride.
- iv. The applicant supports the local community, local business, schools and charities; and
- v. Other event organisers and charities can use the venue and its facilities.
- b. Adverse Noise effects (including cumulative effects) from the race meetings, practice meetings, public announcement (PA) system, spectators, fireworks and vehicle movements to / from the site and the adverse effects this has in respect of the following:
- i. Loss of Amenity Values; and
 - ii. The stress noise causes to domestic animals and livestock; and
 - iii. Health effects.
- c. Effects on Rural Character and Amenity Values in relation to:
- i. The volume of vehicular and pedestrian traffic and the effects this has in relation to headlight glare, antisocial behaviour and a reduction in privacy for neighbours; and
 - ii. Dust effects; and

- iii. Odour and air quality effects from the vehicle fumes and smoke from the fireworks; and
 - iv. Light pollution from vehicle headlights and the stadium floodlights.
- d. Ecological effects, including:
 - i. Adverse effects from the fireworks on wildlife in the Waimea estuary (including threatened birds, wading birds and nesting birds) from the noise, light and firework debris;
- e. The environmental effects arising from the use of fossil fuels associated with this activity, and a requirement that the applicant off-sets these effects and reduces its carbon footprint by other means (such as using compostable packaging at its race meetings).
- f. Submissions requesting mitigation included:
 - i. Extending the 'no parking' areas on Lower Queen Street; and
 - ii. Changing the finish time to 10pm (instead of 11pm); and
 - iii. Increasing security; and
 - iv. Improving consultation with the neighbours and establishing a 'community liaison' type role to help foster a better relationship between the applicant and the neighbours; and
 - v. Improving the toilet facilities; and
 - vi. Trimming the hedge at the entrance to the venue at the start of every race season to improve visibility; and
 - vii. Improving traffic management; and
 - viii. Establishing appropriate noise limits and undertaking regular monitoring to ensure compliance with those noise limits is met; and
 - ix. Acknowledgement (from submitters in support and opposition) that the existing resource consent is no longer 'fit for purpose' and that the activity

should be operating under a new resource consent application to provide certainty to the applicant, the neighbours and the Council.

- g. Other matters identified in the submissions include:
- i. The practice meetings and the adverse effects (including cumulative effects) the practice meetings have in respect of the matters identified in paragraph 6.5 (b) & (c) of this report.

Comments on Submissions

- 6.6 The submissions have identified matters which will be addressed under the appropriate headings in the following sections of this report. To assist the Commissioner, I have identified some specific submissions in the body of this report. However, I have acknowledged where more submitters than those identified have submitted on a particular matter.
- 6.7 There were two matters that were identified in the submissions which are not relevant to the consideration of this resource consent application. These matters are summarised in turn below:

Property Value

- 6.8 A small number of submissions in opposition to the application contend a perceived financial effect (loss of property value). However, the Act is directed at considering the environmental effects of an activity. Actual and potential (including perceived) effects on property value are not a relevant consideration under the Act. However, effects on Amenity Values are a relevant consideration and are addressed further under sections 10 and 11 of this report.

Value of the investment of the existing consent holder

- 6.9 One submitter raised the value of the investment that has been made by the consent holder as a reason to support the application. However, pursuant to s104 of the Act the consent authority is only required to consider this matter if the application is affected by s124 or s165ZH(1)(C) of the Act¹⁷. These sections of the Act do not apply to this application and as such I have not considered this matter

¹⁷ s104(2A) of the Act

any further, except to acknowledge that the Speedway has been operating from this site for approximately 52 years and that a number of resource consents have been granted by the Council which have enabled the applicant to invest in the facilities on the site.

Other Matters

- 6.10 A number of submitters identified a matter which is considered to be relevant and reasonably necessary to determine the application. This matter relates to the scope of the application, and in particular the practice meetings, and the adverse effects (including cumulative effects) the practice meetings have in respect of the matters identified in paragraph 6.5 (b) & (c) of this report. This matter is considered further in Section 15 of this report.

7. Statutory considerations

The Resource Management Act 1991 (the Act)

- 7.1 The Act sets out the resource management principles in a national framework, guiding regional and district statutory provisions to manage the actual and potential effects of the use of natural and physical resources.

Part 2

- 7.2 The following Part 2 matters are relevant to this application:

- 7.3 Section 6 – Matter of National Importance:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*

- 7.4 Section 7 - Other matters:

7(b) the efficient use and development of natural and physical resources.

7(c) the maintenance and enhancement of amenity values.

7(d) intrinsic values of ecosystems

7(f) maintenance and enhancement of the quality of the environment.

7(g) any finite characteristics of natural and physical resources.

7.5 Section 8 - Treaty of Waitangi:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

- 7.6** The issues in the following sections of this report identify any aspects of the activity which are considered to be inconsistent with the principles of Part 2 of the Act. Where no Part 2 assessment is made, those aspects of the activity are considered to be consistent with the principles.

Section 104

- 7.7** A decision on this application must be made under section 104 of the Act, subject to Part 2 (Purposes and Principles). The matters for the Council to consider are:

- (a) Any actual and potential effects on the environment of allowing the activity; and
- (b) Any relevant provisions of the:
 - Tasman Regional Policy Statement;
 - Tasman Resource Management Plan; and
- (c) Any other matter relevant and reasonably necessary to determine the application; and
- (d) Statutory Acknowledgement Areas.

Tasman Regional Policy Statement

- 7.8** The objectives and policies in the Tasman Regional Policy Statement (TRPS) relevant to the proposed activity are reflected in the provisions of the Tasman

Resource Management Plan (TRMP). The relevant objectives and policies of the TRMP are identified in the following assessment of effects.

Tasman Resource Management Plan

- 7.9 The TRMP is a Unitary Plan. The TRMP objectives and policies relevant to the proposed activity are also identified in the following assessment of effects.

Statutory Acknowledgement Areas

- 7.10 Statutory Acknowledgement Areas have been established by the Te Tau Ihu Claims Settlement Act 2014. These acknowledgements recognise the special associations or particular relationships that these eight iwi making up Te Tau Ihu have with the coastal marine area in the region.
- 7.11 The functions of a Statutory Acknowledgement are;
- (a) to require relevant consent authorities to have regard to the Statutory Acknowledgement; and
 - (b) to require relevant consent authorities to provide summaries of resource consent applications, or copies of notices of resource consent applications, to the relevant trustees; and
 - (c) to enable the relevant trustees and members of the relevant iwi to cite the Statutory Acknowledgement.
- 7.12 The application site is not located in a Statutory Acknowledgement Area, but the adjacent Waimea Inlet is located in the Te Tau Ihu Coastal Marine Area. The iwi with statutory acknowledgement over the Coastal Marine Area are:
- Ngati Rarua
 - Ngati Toa Rangatira
 - Ngati Apa ki te Ra To
 - Rangitane o Wairau
 - Ngati Koata
 - Te Atiawa o Te Waka-a-Maui
 - Ngati Tama ki Te Tau Ihu
 - Ngati Kuia

- 7.13 Prior to the notification of the resource consent application, notice was sent to the iwi whose association with the Coastal Marine Area is recognised by the Statutory Acknowledgement Area (as per 7.11(b) above). No issues were raised.

8. Key issues

- 8.1 The key issues for this application are considered in turn below. The following sections of this report include an assessment of the actual and potential effects, identify any information gaps or discrepancies in the application, the matters raised in the submissions, and the relevant TRPS and TRMP objectives and policies and Part 2 principles.
- 8.2 The key issues for this resource consent application are:
- (a) Section 9: Positive Effects
 - (b) Section 10: Noise
 - (c) Section 11: Rural Character and Amenity Values
 - (d) Section 12: Traffic and Access
 - (e) Section 13: Ecology
 - (f) Section 14: Carbon Footprint

Permitted Baseline

- 8.3 Section 104(2) of the Act allows a consent authority, when forming an opinion on the actual and potential effects on the environment of allowing an activity, the discretion to "...disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect." This concept is referred to as the 'permitted baseline'. The application of the permitted baseline is at the discretion of the Council.
- 8.4 Recreational activities can be undertaken as a permitted activity pursuant to rule 17.5.2.1 (a) of the TRMP in the Rural 1 zone, subject to compliance with rule 17.5.2.1 (c) – (o). The only relevant permitted activity standard for this recreational activity is rule 17.5.2.1 (c) Noise.

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RM191306 Nelson Speedway Association Incorporated, section 42A report – Prepared by J Lancashire

existing environment and this allows a total of 15 race meetings to occur annually each season 14 days apart. The total number of race meetings proposed by this application are the same as the existing consent, but the frequency will change such that there will be fewer intervening non-racing days between the 15 race meetings which may occur each season. The applicant is also applying for resource consent to hold one firework display each race season.

- 8.9 The receiving environment also includes the future environment as it might be modified by the utilisation of peoples' rights to carry out a permitted activity. However, the receiving environment does not include an environment that may have been modified by any unauthorised activities (or activities that have not been lawfully established).
- 8.10 On this basis I have considered and assessed the effects of the proposed activity on a receiving environment which includes the effects from the existing consent which authorised a scramble car dirt track where a total of 15 race meetings can occur on any day of the week,¹⁹ each race season, providing they occur 14 days apart. On these occasions the receiving environment is subjected to noise effects that are not otherwise typical of this rural area. On these occasions the receiving environment is also subject to a significant volume of vehicular and pedestrian traffic as spectators and competitors travel to and from the site. There will be other effects from the existing consent which form part of the receiving environment, including dust, glare, light pollution and odour (as examples).
- 8.11 The receiving environment also comprises land that is in rural productive use and to a lesser extent the coastal environment of the Waimea Inlet (as described in Section 4 of this report). The receiving environment also includes several dwellings, a Secondary Collector road which, from my own observations, carries a high volume of traffic (particularly at peak commute times), a stream and an industrial area.

¹⁹ The existing consent initially precluded racing on Sundays but the letter from A.A. Aubrey County Clerk (11.10.1979) granted the applicant permission to hold racing meetings on a Sunday afternoon if it became necessary to cancel the Saturday night race meeting because of adverse weather conditions.

8.12 I have also considered the future environment as it might be modified by the utilisation of peoples' rights to carry out a permitted activity in my assessment of the receiving environment. In the Rural 1 zone this might include any land use activity which is not one of those listed in 17.5.2.1 (a) (Activities) of the TRMP. Examples of a permitted land use activity in the Rural 1 zone might include horticultural and agricultural activities including the noise from any intermittent or temporary rural plant and animal production activities (including bird scarers and hail cannons) irrespective of the proximity of these sources of noise to neighbouring dwellings.

8.13 Other examples of recreational land use activities which could potentially be undertaken as a permitted activity in the Rural 1 zone include an adventure park or a petting zoo without limitations on the number of visitors (providing the Council's relevant parking and access standards are met).

Section 16 of the Act – Duty to avoid unreasonable noise

8.14 Section 16 of the Act is also relevant to this application. Section 16 (1) & (2) of the Act states:

Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or the coastal marine area, shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.

A resource consent made or granted for the purposes of section 9 may prescribe noise emission standards, and is not limited in its ability to do so by subsection (1).

8.15 Best practicable option means:

In relation to an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—

(a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and

(b) the financial implications, and the effects on the environment, of that option when compared with other options; and

(c) the current state of technical knowledge and the likelihood that the option can be successfully applied.²⁰

- 8.16 Accordingly, while the applicant has an existing consent which is of relevance to the proposal, there is still an obligation for the applicant to adopt the best practicable option to ensure it only emits a 'reasonable level' of noise within the context of the permitted activity standards contained in the TRMP. This matter is addressed further in section 6 of the report that has been prepared by Mr Graham Caradus, Team Leader Environmental Health at the Tasman District Council (**the Council's Environmental Health Officer**) which is attached in **Attachment 6** to this agenda.

9. Positive Effects

Overview

- 9.1 Of the 803 submissions that were received 97% are in support of the Speedway activity. Submissions in support of the application were received from people across New Zealand and from people in other parts of the world too (e.g. Australia and the United Kingdom). Several submitters in support of the application did not provide any reasons for their submission. However, the submitters that did provide reasons for their submission (of which there were many) identified the positive effects of the activity as their reasons for supporting the application. The positive effects that were identified in the submissions can be broadly grouped into two key themes (**Economic** and **Social**) which I consider in turn below.

Economic

- 9.2 One of the key themes from the submissions in support of the application is the significant positive economic effects the Speedway activity has for the region. The submissions explain how the race meetings draw very high numbers of visitors to the region (competitors, support crew, spectators and their families) and how this

²⁰ Resource Management Act; Part 1 Interpretation and Application.

benefits the local economy, such as the businesses that provide associated accommodation, hospitality, vehicle, engineering and retail services.

- 9.3 The submissions identify the economic benefits of enabling the applicant to hold two consecutive day race meetings as this enables the Speedway to host the NZ or South Island Championships. The submitters explain how this attracts more competitors, including a higher calibre of international competitors and their support crew and how this in turn makes for a more successful event that attracts a greater number of spectators to the region.
- 9.4 A number of submitters also explained how having two consecutive days of race meetings (or the flexibility to hold the second consecutive race meeting a couple of days after the first if adverse weather is forecast) is more likely to encourage visitors to extend their stay in the region for longer than two days to 'make a holiday of it' and that being restricted to only one day of racing is a deterrent for some visitors and competitors because of the risk of that single day (or second consecutive day) of racing being cancelled if there are adverse weather conditions.
- 9.5 A small number of submitters also identified the direct and indirect employment opportunities that the activity creates as a positive economic effect. For example, people volunteer at the Speedway in a number of different roles or become involved in the club in a way that improves peoples' employment prospects. This in turn is positive for the economy.
- 9.6 It was also acknowledged that the applicant supports charities and local businesses and that there is an economic benefit for the businesses that advertise their services at the Speedway (through sponsorship and / or signage etc).
- 9.7 A number of submissions identified how the positive economic effects of the activity for the region are particularly important since the COVID-19 global pandemic.
- 9.8 I have not been provided with any information that quantifies the economic benefits the existing or proposed activity has for the region. However, the applicant explains that a typical race meeting will attract between 1800 – 2000

spectators and the race meeting that includes the firework display attracts approximately 3500 spectators. In addition, the applicant confirms there can be up to 180 competitors at a race meeting and 100 volunteer staff²¹.

- 9.9 I assume that some of these competitors, spectators and volunteers might already live in the region, and as such their individual contribution to the economy as a result of the activity might not be as significant as the economic contribution that might be made by those persons that travel to the region for the race meetings.
- 9.10 I also assume that the COVID 19 pandemic might have some consequential implications on people's ability to congregate in large numbers and / or travel (both nationally and internationally) to the region and that this might have some impact on the positive economic effects that have been identified in the submissions.
- 9.11 However, on the face of it, and given the numbers of spectators that the applicant has confirmed will typically attend the race meetings, it is a logical and expected outcome that the proposal will have some positive economic effects for the region.

Social

- 9.12 The other key theme arising from the positive effects that were identified in the submissions in support of the Speedway activity include its social benefits. The social benefits attributed to the Speedway activity are described by the submitters in a number of different ways which I have broadly summarised below:
- Recreational – this is a passion, hobby and social event that is enjoyed by many people including several generations of the same family;
 - Family Friendly – the activity provides affordable entertainment and is safe for families;

²¹ Further Information Request: 20.4.2020 pg. 3 and 4

- Mental Wellbeing – for some submitters the recreational and social values of the activity support their mental wellbeing, builds confidence and self-esteem;
- Community wellbeing – the social aspect of the activity provides people with a sense of belonging and feeling part of a community;
- Purpose – some submitters described how the Speedway activity gives them a sense of purpose and pride;
- Life skills - a number of submitters explained how the Speedway promotes positive life skills, including:
 - i. Driving Skills
 - ii. Mechanical Skills
 - iii. Financial Skills
 - iv. Business Skills
 - v. Time Management Skills
 - vi. The value of Teamwork
 - vii. The value of Diversity

9.13 From the submissions in support of the application it is apparent that the Speedway activity provides for many peoples' social well-being. The submissions contend that the recreational activity is valued by many people within the community and that the racing season is something that many people within and outside of the region look forward to each year. The only other Speedway venue in the top of the south region that I am aware of is in Blenheim.

Relevant policies and objectives of the TRPS

9.14 General Objective 5 of the TRPS *Maintenance of economic and social opportunities to use and develop resources in a sustainable manner* explains how the Council's resource management role is not limited to constraining resource uses because of their adverse environmental effects. Rather it is recognised that

the Council is in a key position to enable the uptake of opportunities to use and develop a range of resources in ways that are environmentally sustainable by providing information and advocating or allowing appropriate resource development pathways. It is also recognised that the Tasman District has significant growth opportunities because of its viable and diverse economic achievements and development potential.

Relevant Policies and Objectives of the TRMP

- 9.15 Chapter 7 of the TRMP states that rural land should be made available for *a wide range of uses* and that the rural environment has a *growing value for tourism activities*²². The Speedway activity is not a *tourism activity* by definition, rather it is a recreational activity. Nevertheless, the benefits of this recreational activity are similar to those of a tourism activity in that it attracts both local and international visitors to the region each season.
- 9.16 The policies, objectives and permitted activity rules of the TRMP provide for a wide range of uses within the Rural 1 zone, including recreational uses. As such the continued use of this site for the Speedway activity in the manner proposed by the applicant is considered to be mostly consistent with Objective 5 of the TRPS and Chapter 7 of the TRMP.
- 9.17 It is also recognised in Chapter 7 that of the TRMP that:

The character and amenity of rural areas and the overall values that these areas add to the District's economic, social and cultural attributes is a relatively recent phenomenon. And that the District's diverse rural landscape, including the working rural landscape, requires careful consideration in terms of this objective whenever an activity or development is proposed that requires consent.

Because of the variety of rural character and landscape types in the District's rural areas (derived from natural features overlain by decades of cultural change), effects on rural character and amenity values beyond those provided

²² Chapter 7: Rural Environment Effects 7.0; Introduction

for by the Plan's rules, need to be assessed on a case-by-case basis in a local or sometimes regional context²³.

- 9.18 From the submissions in support of the application it is evident that enabling the Speedway activity to continue in this rural area in the manner proposed by the applicant, will, for many people in the community, add value to the regions' economic and social attributes.

Summary of Positive Effects

- 9.19 From the submissions it is apparent that for many people the existing and proposed Speedway activity (and the diversity in character it provides in this rural area) contributes towards the District's economic and social attributes.
- 9.20 I have not been provided with an economic analysis which quantifies the economic effects for the region from either the existing or proposed Speedway activity and as such the actual economic benefits of the proposal are not known. The implications of the COVID-19 pandemic in this respect (if any) are also unknown.
- 9.21 However the information contained in the submissions provides an indication of the potential positive economic and social benefits the proposal will have as a result of the popularity of the activity and the influx of people that travel to the region for the race meetings (and particularly for the South Island or NZ championships which are held over two consecutive days).
- 9.22 Enabling the continuation of the Speedway activity in the manner proposed by the applicant will, at least to some extent, help to support the economic and social opportunities in the region and contribute towards the viable and diverse economic achievements and development potential of the Tasman District.
- 9.23 On this basis I consider the proposal to be consistent with the economic and social outcomes that are identified in General Objective 5 of the TRPS and Chapter 7 of the TRMP.

²³ Chapter 7.4.30: Principal Reasons and Explanation

- 9.24 The volume of submissions that have been received in support of the application and the positive effects that have been identified in those submissions demonstrate a significant amount of support for the Speedway activity from the community in a local, regional, national (and even international) context.
- 9.25 There are effects associated with certain aspects of the Speedway activity that are provided for by the permitted activity rules of the TRMP (e.g. fireworks). However, the effects of this recreational activity on the rural character and amenity values beyond those provided by the permitted activity rules of the TRMP must also be assessed.
- 9.26 In my consideration of this application and the submissions received I must consider all actual and potential effects of the activity on the receiving environment. I am also guided by the TRMP to consider the positive economic and social outcomes of this proposal in the context of the rural character and amenity values of this area. The submissions that have been received in opposition to the application identify some adverse effects on rural character and amenity values which I consider next in sections 10 - 14 of this report.

10. Noise

- 10.1 The noise from the race meetings breaches the permitted noise standards for the rural zone as identified in rule 17.5.2.1(c) of the TRMP. A number of the submitters explain that it is the noise from the Speedway activity that is the main reason why they oppose the application. A small number of submitters in support of the application also acknowledge that the noise from the Speedway activity is loud, but that in their view those adverse noise effects are outweighed by the positive economic and social effects of the Speedway activity.
- 10.2 The submitters explain that the main sources of noise from the race meetings include the participating vehicles (both on the track and in the pit stops), the PA system, vehicles and pedestrians arriving and leaving the site, the fireworks and other associated activities (such as the grading of the track at the completion of the days racing).

- 10.3 The noise attributed to the Speedway activity affects the submitters in different ways which I have summarised below under the headings of 'Amenity Values', 'Domestic Animals and Livestock' and 'Health'.
- 10.4 The site and the surrounding area are in the Rural 1 zone and there are several dwellings within the surrounding area that are exposed to the noise from the race meetings owing to their proximity to the site. The submitters in opposition to the application explain how the noise from the race meetings is so loud that it prevents them from being able to socialise outdoors which they explain is particularly detrimental given the time of year of the racing season (the season takes place over the summer) and given that the race meetings occur at the weekends too.
- 10.5 The proposed frequency of the race meetings and the proposal for two race meetings to be held over two consecutive days on two separate occasions each season is also concerning to the submitters in respect of the cumulative effects this will have on their amenity values.
- 10.6 It was also explained how the noise from the race meetings is so loud that the neighbours are forced to shut their windows and doors. A small number of submitters explained how the finish time of the race meetings also disrupts their sleep. It was explained that this was particularly detrimental to families with young children. It was also explained how a race finish time of 10pm means there are still adverse noise effects until 11pm as vehicles and pedestrians leave the site and other post-race meeting activities (such as track grading) are undertaken.

Domestic Animals and Livestock

- 10.7 Some of the submissions explained how the noise (and to a lesser extent the lights) from the fireworks cause stress to domestic animals and livestock. One of the submissions in opposition to the application also explained how the noise from racing vehicles also causes stress to animals.

Health

- 10.8 A submission from the Nelson Marlborough Public Health Service (**NMPH**) raises concerns with the noise from the Speedway activity and its potential to have

adverse effects on the health of people and communities. The concerns raised in this submission are summarised as follows:

- Lack of assessment of noise effects from all aspects of the activity, including cumulative noise effects with practice and qualifying meetings, ancillary activities (such as the PA system) and vehicle movements to / from the site.
- Lack of assessment of noise mitigation measures.
- Lack of certainty in potential noise effects arising from the proposal to retain the existing consent alongside the new consent sought.
- Lack of identification of the extent of the area and number of houses where people are expected to be exposed to noise exceeding the TRMP noise limits.
- Lack of consideration of increased noise effects that may occur over the summer holiday period compared to other times
- Lack of noise limits.
- Lack of proposed controls relating to the timing and frequency of practice and qualifying meetings (and any other activities not classified as racing meetings).
- Lack of certainty on the finish time for noise effects.
- Lack of any proposal for robust and documented noise monitoring.
- Lack of adequate information in the AEE on the health impact of those in the neighbourhood.

10.9 The effects of the noise from the proposal in respect of each of the matters listed above are considered in turn.

Amenity Values

- 10.10 Amenity values are *those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes*.²⁴
- 10.11 The concerns that have been raised by the submitters with respect to the noise from the Speedway activity and the effects this has on their amenity values have been considered in the context of the permitted baseline and the receiving environment as described in Section 8 of this report. The existing consent forms part of the receiving environment against which the noise from the proposal and the effects this has on people's amenity values must be considered.
- 10.12 The TRMP incorporates permitted activity rules for the Rural 1 zone which take into account rural character and amenity values and provide for certain recreational land uses, as a permitted activity. As detailed in Section 8 of this report, I have considered the permitted baseline in my assessment of the noise effects of the activity on peoples' amenity values.
- 10.13 A number of submitters (both in support and opposition to the application) acknowledge that the Speedway has been operating from this site since before the dwellings that surround it were built. It is the view of some submitters that '*the Speedway was here first*' and that the Speedway activity should therefore take precedence over the amenity values of those people that have chosen to live close-by to the site.
- 10.14 Over time the popularity of the Speedway activity has grown along with the amount of residential development around it, which several submitters recognise has resulted in a conflict between the recreational and residential land uses in this area. The submitters explain how the nature of the Speedway activity has also evolved over time, including in relation to:
- (a) the type and number of vehicles that compete (i.e. they are more powerful and faster and therefore louder);

²⁴ Part 1 Interpretation and Application of the Act and Chapter 2 Meaning of Words of the TRMP

- (b) the frequency of the racing meetings has increased; and
- (c) there has been an increased onus on health and safety and a new requirement that competitors participate in practice meetings.

10.15 All of these incremental changes to the consented activity have, over time, changed the rural character and amenity values of this area to the particular detriment of the people that live close-by and which are the most exposed to the noise from the Speedway activity.

10.16 Chapter 7, s7.2.30 Principal Reasons and Explanation of the TRMP explains *that people and communities' value rural locations for purposes other than plant and animal production, and where these purposes can be achieved without compromising amenity values, provision can be made for them.*

10.17 The submitters in opposition to the application contend that the noise from the Speedway activity compromises their amenity values because it detracts from their appreciation and the pleasantness of the area. Whereas the submitters in support of the application contend that the Speedway activity enhances the amenity values of this area because it contributes towards the areas' recreational, economic and social attributes.

10.18 These conflicting views must be considered in the context of the TRMP (which incorporates objectives, policies and rules for the rural zone which take into account rural character and amenity values and provide for certain recreational land uses as a permitted activity) and the receiving environment (which includes the effects of the activity authorised by the existing consent).

Noise Matters to be Clarified

10.19 There are some discrepancies in the application (with respect to noise) which have been identified in the submissions and which need to be resolved first before an assessment of the noise effects of the proposal on peoples' amenity values can be undertaken. Some of these noise matters were also identified in a request for information (under section 92 of the Act) but have not been satisfactorily resolved. The matters to be clarified are summarised below under the headings 'Race Meeting Finish Time', 'Night-time Noise Contour Plan - Race Meetings' and 'Night-time Noise Contour Plan – Fireworks'.

Race Meeting Finish Time

- 10.20 The applicant has volunteered a condition that the race meetings will finish at 10pm except in certain circumstances (when they will instead finish at 11pm). However, in its section 92 response the applicant states that *vehicles exit the site immediately after the event finishes at 9:30pm with the only exception being the firework display which runs later*²⁵. There are also discrepancies between the mitigation measures described in the Noise Management Plan (NMP) provided with the application²⁶ and the applicants' volunteered conditions of consent²⁷. For example, the NMP states that the public announcement system will only be used between the hours of 4pm and 10pm, whereas volunteered condition 6 would permit the use of the PA system earlier at 3pm.
- 10.21 I also assume that the applicant seeks consent for the PA system to be used up to 11pm to coincide with the finish time stipulated in volunteered condition 7. However, this is not clear. The NMP also recommends that all *events* are finished by 10pm whereas the applicant seeks consent for this finish time of the race meetings to be extended by one hour under certain scenarios. The precise finish time of the race meetings should be clarified by the applicant. However, for the purposes of this report I have assumed that most of the race meetings will finish at 10pm.
- 10.22 I agree with the submitters that there is likely to be noise effects after the race meetings have finished at 10pm as people leave the site and post-race activities (such as track grading) are undertaken. The time of night when the noise associated with all aspects of the race meetings will comply with the permitted activity standards of the TRMP should be clarified and confirmed because a number of submitters in opposition to the application have requested mitigation in the form of an earlier race meeting finish time of 9pm (on the basis that this would mean that the noise associated with all aspects of the race meetings would be concluded by 10pm).

²⁵ Section 92 response; 20 April 2020 s1(e)(iii) pg.4

²⁶ AC17223-05-R4 dated 28 January 2020

²⁷ Section 3.8 AEE – pg. 12 and 13

Night-time Noise Contour Plan – Race meetings

10.23 The noise contour plan that has been provided with the application²⁸ does not model the extent of the expected noise levels from the race meetings within the night-time noise contour (40 dBA). This information is needed before the full extent of the adverse night-time noise effects of the activity can be fully understood and assessed.

Night-time Noise Contour Plan – Fireworks

10.24 The noise contour plan that has been provided with the application²⁹ does not model the extent of the expected noise levels from the fireworks within the night-time noise contour (40 dBA). This information is needed before the full extent of the adverse night-time noise effects from the fireworks can be fully understood and assessed.

Assessment of Noise Effects on Amenity Values

10.25 The following section of this report considers the noise effects of the activity on the amenity values of the area based on the information available, and in the context of:

- The permitted activity rules of the TRMP (the permitted baseline); and
- The receiving environment (which includes the effects of the activity that has been authorised by the existing consent).

10.26 As detailed in paragraph 3.6 of this report the applicants' Acoustic Engineer states that *it is difficult to predict the exact noise level expected at a given location at a given time during an event*³⁰. The reason for this is not specifically stated but I assume this is because there are environmental factors that will influence noise levels (such as wind speed and direction) and because each race meeting has different numbers and types of competing vehicles.

²⁸ Acoustic Engineering Services; AC17233-06-R2; Nelson Speedway RM180835 Response to TDC RFI – Noise Contour Map; 30.1.2019

²⁹ Acoustic Engineering Services; AC17233-06-R2; Nelson Speedway RM180835 Response to TDC RFI – Noise Contour Map; 30.1.2019

³⁰ Acoustic Engineering Services; AC17233-06-R2; Nelson Speedway RM180835 Response to TDC RFI – Noise Contour Map; 30.1.2019; Section 1.0 pg. 1.

10.27 The noise contour plan indicates that the race meetings do not comply with the permitted daytime noise standards of the TRMP in relation to several dwellings in the Rural 1 zone.

10.28 However, I have not been provided with any other data which assesses the night-time noise effects of the race meetings to compare these to the permitted activity standards of the TRMP. The Council's Environmental Health Officer has confirmed that the Council has not undertaken its own monitoring of the noise from the consented Speedway activity. I also note that the existing consent does not impose any noise limits for the Speedway activity that was authorised which makes it difficult to consider the noise effects of the proposed activity on the receiving environment.

10.29 Further the noise contour plan that has been provided with the application does not show the extent of the expected noise levels from the race meetings or the fireworks within the night-time noise contour (40 dBA).

10.30 For these reasons I am unable to assess the noise effects of the race meetings on peoples' amenity values in the context of the permitted baseline and the receiving environment.

10.31 The Council's Environmental Health Officer has reviewed the application and the supporting noise report from Acoustic Engineering Services Ltd dated 21 August 2018 and provided a report which is attached in **Attachment 6** to this agenda. This report summarises some of the known health effects associated with noise generally and the noise characteristics from motorsport and the Speedway activity specifically.

10.32 The Council's Environmental Health Officer adds that the applicants' obligations under s 16 of the Act is reinforced by s 326 of the Act which defines *excessive noise* as noise that will "...*unreasonably interfere with the peace, comfort, and convenience of any person...*". A number of submitters that are in opposition to the proposal would likely contend that the noise from the race meetings constitutes *excessive noise* as per the meaning given in section 326 of the Act.

10.33 The Council's Environmental Health Officer explains how the requirements imposed by these sections of the Act establish obligations over and above the

need to comply with any noise performance standard set by the Tasman Resource Management Plan (TRMP) for a permitted activity, or any resource consent conditions.

- 10.34 The Council's Environmental Health Officer describes how the noise generated from the Speedway activity may not be similar in frequency, intensity, duration, or audible characteristic to that which is envisaged by the TRMP for the Rural 1 zone. I agree with this (except that is for the fireworks) and would add that the noise generated by the Speedway activity today is unlikely to be similar in intensity and audible characteristics to that which was envisaged when the existing consent was granted in 1968.
- 10.35 In summary the key recommendations from the Council's Environmental Health Officer with respect to the noise effects from the proposed Speedway activity are:
- i) A noise performance standard needs to be established that considers the cumulative effects of all noise sources at the Speedway site. The location (or locations) that this is undertaken may be from an elevated position near the site boundaries.
 - ii) One of the critical factors in determining an acceptable noise performance standard is deciding what level of noise may be "a reasonable level of noise" for the purposes of avoiding unreasonable noise as required by section 16 of the Act, and deciding the level of noise that may be considered to *unreasonably interfere with the peace, comfort, and convenience of any person* as per the meaning given to *excessive noise* in section 326 of the Act.
 - iii) When determining these matters around reasonableness, it is desirable to make the assessment from the perspective of the average person, and not from the perspective of someone that is sensitised or developed an unrealistic intolerance to the noise or, conversely has an unusually high tolerance to noise. The Council's Environmental Health Officer recommends using the FIDOL assessment to determine the reasonableness of the noise from the proposal. FIDOL stands for Frequency, Intensity, Duration, Offensiveness (character) and Location. Each of these determining factors

are considered in section 8 of his report that is included in **Attachment 6** to this agenda.

10.36 The actual and potential noise effects on the amenity values of this area must be considered in the context of the receiving environment which includes the existing consent which authorises 15 race meetings each season providing they occur 14 days apart. Additionally, and notwithstanding the existing consent, the applicant also has a duty to avoid unreasonable and excessive noise in accordance with sections 16 and 326 of the Act.³¹ This application also proposes 15 race meetings in the same season, but the frequency of the race meetings will increase. As well as the proposed increase in frequency, the intensity and offensiveness (character) of the noise from the Speedway activity today is unlikely to have been envisaged by the existing consent. The noise effects associated with this proposal on peoples' amenity values are therefore considered to be both temporary (in respect of the limit that is proposed on the total number of race meetings which may occur each race season) but potentially cumulative (in respect of the proposed frequency of the race meetings).

10.37 In respect of the significance of the adverse noise effects, the Council's Environmental Health Officer states that an improvement could be made if the applicant complied with a revised Noise Management Plan (**NMP**), but a substantial reduction in noise from racing vehicles is not expected. The Council's Environmental Health Officer states that reducing the impact of the total noise produced including from amplified sound is a reasonable expectation and provides some recommendations that may go some way to remedying or mitigating the adverse noise effects from the proposal. These include (in summary):

- A noise measurement system
- Setting a noise performance standard
- Only using the PA system when vehicles are not racing on the track and limiting the noise output level of the PA system.

³¹ The existing consent does not include any conditions that limit noise levels and the applicant has not prescribed any noise performance standards in its application.

- 10.38 However, notwithstanding these mitigation measures the Council's Environmental Health Officer acknowledges that there will continue to be some adverse effects which will not be avoided and which will vary from *significantly adverse* (for those persons within the 60dB contour) to *minor* (for those persons within the 40dB – 50dB noise contour).

Domestic Animals and Livestock

- 10.39 Some of the submitters explained how the noise (and to a lesser extent the lights) from the firework display causes stress to domestic animals and livestock. While it is accepted that the noise from fireworks is loud it is also similar to the noise that is omitted from a hail cannon and / or bird scarer (i.e. fireworks comprise a series of singular loud bangs). The noise from hail cannons and bird scarers is permitted by rule 17.5.2.1 (c) (iv) of the TRMP and this is not a fanciful activity in this rural location. As such these permitted noise effects can be disregarded.
- 10.40 The firework display will only occur once a year and for approximately 20 minutes. The adverse noise effects from the firework display in respect of domestic animals and livestock can also be appropriately mitigated if the night of the firework display is advertised in the racing schedule at the start of the each race season, as this will provide people with the opportunity to make alternative arrangements for their animals on that night should they wish. On this basis, and notwithstanding paragraph 10.24 of this report, I am satisfied that the noise from the firework display and the effects this might have on domestic animals and livestock are temporary and minor.
- 10.41 This matter is also addressed by the Council's Environmental Health Officer in section 9 of his report. I agree with his comments in respect of this matter.

Health

- 10.42 A submission has been received from the Nelson Marlborough Public Health Service (**NMPH**) which identifies a number of information gaps in the application and raises concerns with the noise from the Speedway activity in respect of its potential to have adverse effects on the health of people and communities.
- 10.43 In my opinion the applicant should provide an assessment of each of the matters raised in the submission from the NMPH (as summarised in paragraph 10.8 of

this report) from someone with an appropriate level of expertise because this information is required in order to enable an assessment of the noise effects from the activity on the health of people and the community to be undertaken.

Relevant Policies and Objectives of the TRMP

- 10.44 Chapter 5 of the TRMP set outs the issues, objectives and policies pertaining to site amenity effects and Chapter 7 of the TRMP sets out the issues, objectives and policies pertaining to the rural character and amenity values of rural areas in the District.
- 10.45 The introduction to Chapter 5 explains how land use frequently has effects which cross property boundaries and that those effects may add to or detract from the use and enjoyment of neighbouring properties. It is also recognised that contaminants, including noise, are factors in maintaining or enhancing amenity values.
- 10.46 The submitters in opposition contend that the Speedway activity detracts from the use and enjoyment of the neighbouring properties and that the noise has adverse effects on their amenity values.
- 10.47 Chapter 5 of the TRMP set out that in rural areas, adverse effects are particularly apparent between residential activities with urban amenity expectations, and the range of possible rural land uses. The urban/rural boundary is an area of particular sensitivity, where rural uses may result in effects, which are at times unacceptable to urban dwellers. This may include situations where urban expansion results in the imposition of additional controls on established rural uses, unless buffers are provided, or other provisions are made to address potential cross-boundary effects.
- 10.48 Objective 7.4.2 Avoidance, remedying or mitigation of the adverse effects of a wide range of existing and potential future activities, including effects on rural character and amenity values.
- 10.49 Policy 7.4.3.4 To exclude from rural areas, uses or activities (including rural-residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.

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RM191306 Nelson Speedway Association Incorporated, section 42A report – Prepared by J Lancashire

- 10.50 Policy 7.4.3.5 To exclude from rural-residential areas, uses or activities which would have adverse effects on rural-residential activities, health or amenity values, where those effects cannot be avoided, remedied or mitigated.
- 10.51 A number of submitters identify a conflict between the urban amenity expectations of the neighbours and the Speedway activity. The submitters in opposition contend that the adverse effects of the Speedway activity are at times unacceptable to them. However, a spatial buffer is not an appropriate control to address these cross-boundary effects because the racetrack and surrounding dwellings have already been established.
- 10.52 And in respect of Policies 7.4.3.4 and 7.4.3.5 of the TRMP, the activity cannot be excluded from the area (even if it is accepted that the activity has some adverse effects on health and /or amenity values), because the scramble car track and race meetings are a lawfully established activity that, at least to some extent, form part of the receiving environment.
- 10.53 However, there might be other provisions available to the applicant to address the adverse cross-boundary effects, such as improving consultation between the neighbours and / or establishing clear and enforceable parameters (such as hours and acceptable noise levels) that will provide certainty for the applicant, the neighbours and the Council (as examples).
- 10.54 Issue 5.1.1.1 in Chapter 5 of the TRMP seeks provision for appropriate protection, use and development of the District's resources so that activities at one site do not adversely affect the use and enjoyment of another site, or resource.
- 10.55 Objective 5.1.2 of the TRMP seeks avoidance, remedying or mitigation of adverse effects from the use of land on the use and enjoyment of other land and on the qualities of natural and physical resources.
- 10.56 Policy 5.1.3.1 of the TRMP requires any adverse effects of development on site amenity, natural and built heritage and landscape values, and contamination and natural hazard risks are avoided, remedied, or mitigated.
- 10.57 Method of Implementation 5.1.20.2 (a) of the TRMP requires investigations and monitoring of site amenity effects, including health and nuisance effects, and

public perceptions of site amenity values, in all urban and rural areas subject to development.

- 10.58 The Council's Environmental Health Officer has confirmed that the Council has not yet undertaken any investigations or monitoring of the noise from the Speedway activity in relation to site amenity, health, nuisance effects or public perceptions of site amenity values. A number of the submitters request mitigation in the form of establishing appropriate noise performance standards and then undertaking regular monitoring of the activity to ensure compliance with those noise standards is met in order that the amenity values of the neighbours is maintained.

Summary

- 10.59 Section 7.4.30 of the TRMP states that inevitably some activities, by their scale, intensity or other effect, have the potential, individually or cumulatively, to adversely affect the environmental qualities and other aspects of the rural environment that this section protects. Such potential effects can be identified on the basis of activity types, and the effects of individual proposals should be evaluated through the consent application process.
- 10.60 The intensity, frequency and character of the noise associated with the race meetings, both individually and cumulatively, is expected to have adverse effects on the environmental qualities that are usually enjoyed by the neighbours in this area (outside of the race season).
- 10.61 However, these adverse noise effects must be evaluated in the context of the receiving environment and the amenity values that are provided for by the permitted activity rules in the Rural 1 zone. The receiving environment includes the existing consent which authorises 15 race meetings each season. The existing consent does not limit the noise from those 15 race meetings or the number and type of vehicles that may participate.
- 10.62 However, the submissions indicate that the popularity of the Speedway activity has increased, and the vehicles have evolved over time such that they are more powerful and therefore louder than the vehicles that would have competed on the scramble track in 1968. This seems logical and as such I do not consider that the existing consent contemplated or anticipated the same noise effects as those

which are generated by the Speedway activity today. This view is supported by the absence of any conditions on the existing consent pertaining to noise.

- 10.63 This incremental increase in popularity and noise from the consented activity has, over time, changed the rural character and amenity values of the receiving environment to the particular detriment of the submitters that live close-by and which are the most exposed to the noise from the Speedway activity. The applicant has applied for a new resource consent, which is Discretionary, and this allows all matters such as the emission of noise to be considered.
- 10.64 On this basis I consider the noise effects of the race meetings to be significantly adverse on the environment including in the context of the permitted baseline and the receiving environment by virtue of its intensity, frequency and character. The applicant has not demonstrated appropriate protection and / or mitigation of noise effects from the proposed activity and on this basis the application is considered to be contrary to policies 7.4.3.4, 7.4.3.5 and Objective 5.1.2 of the TRMP and potentially in breach of section 16 of the Act.

11. Rural Character and Amenity Values

- 11.1 Several submitters in opposition to the application explain that there are other aspects of the Speedway activity (in addition to noise) that have adverse effects on the rural character and amenity values of this area. These other aspects of the Speedway activity are summarised below under the headings of 'Vehicular and Pedestrian Traffic', 'Dust', 'Odour and Air Quality' and 'Glare'. These aspects of the proposal can also be considered because the application is Discretionary.

Vehicular and Pedestrian Traffic

- 11.2 Some submitters explained how the volume of vehicular and pedestrian traffic associated with the race meetings detracts from the rural character and amenity values of this area. The applicant confirms that a typical race meeting will attract between 1800 – 2000 spectators and 3500 spectators can attend the South Island or NZ Championships on the night of the firework display. I acknowledge that on these occasions there is a considerably greater volume of vehicular and pedestrian traffic in this area than might otherwise be characteristic of the locality.

- 11.3 The submitters describe how the vehicular and pedestrian traffic that is associated with the race meetings has a number of consequential effects including noise from vehicles and people, headlight glare, loss of privacy and anti-social behaviour from some of the spectators as they leave the site at the end of the race meetings.
- 11.4 These adverse effects are acknowledged. However, they are considered to be minor in the context of the permitted baseline because recreational activities are a permitted activity in the Rural 1 zone without any limitations on the frequency or the number of people that may participate in the recreational activity (providing the permitted conditions of the relevant parking and access standards are met).
- 11.5 In relation to these effects in the context of the receiving environment, it is also acknowledged that the existing consent does not have any limitations on the number of spectators and / or competitors that may participate in the authorised activity.
- 11.6 However as detailed above, the submissions indicate an increase in popularity of the Speedway activity over time (spectators and competitors) such that the volume of vehicular and pedestrian traffic associated with the activity will have increased and changed the rural character and amenity values of the receiving environment in a manner that is unlikely to have been anticipated by the existing consent.
- 11.7 It is acknowledged that the volume of vehicular and pedestrian traffic associated with the activity may create a nuisance to some of the neighbours that live close-by to the site. However, on balance I consider the effects of the vehicular and pedestrian traffic associated with the proposed activity on rural character and amenity values to be minor within the context of the permitted baseline. Vehicular and pedestrian traffic effects are considered further in section 12 of this report.

Dust

- 11.8 It is not expected that there will be any significant adverse dust effects because the applicant already holds permits for the take and discharge of water to spray the track for dust suppression purposes. It is considered that the utilisation of these existing permits can appropriately mitigate any adverse dust effects.

Odour and Air Quality

- 11.9 Some of the submitters raised concerns over odour and air quality effects from the fumes and smoke from the competing vehicles and fireworks. These effects are considered to be temporary and minor within the context of the permitted baseline.

Glare

- 11.10 Some of the submitters in opposition explained that the glare from the floodlights and from vehicle headlights as they enter and leave the site adversely affect the rural character and amenity values of the area. I acknowledge that these glare effects cannot be practically avoided. However, these effects are temporary and minor within the context of the permitted baseline (because there are no light-spill or glare rules that apply in the Rural 1 zone according to the operative TRMP).

Relevant policies and objectives of the TRPS

- 11.11 General objective 1 – Maintenance and enhancement of the quality of the Tasman District Environment. This general objective acknowledges the Tasman District for its varied endowment of high-quality amenities and as a valued place for recreation. From the submissions in support it is evident that this is a place that is valued by many for its recreational values.
- 11.12 Objective 6.3 - Avoidance, remedying, or mitigation of adverse cross-boundary effects of rural land uses on adjacent activities. This objective explains that some rural land uses may generate adverse effects for adjacent properties, including contaminant discharges, emissions of noise or odour, and shading.

Relevant policies and objectives of the TRMP

- 11.13 Policy 5.1.3.9 of the TRMP seeks to avoid, remedy, or mitigate effects of:
- (a) noise and vibration;
 - (b) dust and other particulate emissions;
 - (c) contaminant discharges;
 - (d) odour and fumes;
 - (e) glare;

(f) electrical interference;

(g) vehicles;

(h) buildings and structures;

(i) temporary activities;

beyond the boundaries of the site generating the effect.

11.14 The submitters in opposition contend that the existing Speedway activity adversely affects rural character and amenity values because of the noise, dust, odour, fumes, glare and vehicle and pedestrian traffic.

11.15 Policy 7.4.3.2 of the TRMP provides for rural activities which may involve levels and types of effects, including noise, dust, smoke, odour and glare, that may be permanent, temporary or seasonal, and that may not meet standards typically expected in urban areas.

11.16 Whilst this application is not for a rural activity, policy 7.4.3.2 of the TRMP clearly anticipates activities in the Rural 1 zone that may involve noise, dust, smoke, odour and glare effects that might not otherwise be typically expected in urban areas. These anticipated nuisance effects are comparable to the effects which are generated by the Speedway activity (except that is for the noise from the racing vehicles which I do not consider to be an anticipated nuisance effect in the Rural 1 zone by virtue of its intensity, frequency and character).

11.17 Policy 7.4.3.3 of the TRMP provides for the maintenance and enhancement of local rural character, including such attributes as openness, greenness, productive activity, absence of signs, and separation, style and scale of structures.

11.18 I am satisfied the proposal will maintain the existing attributes of the area because it will not detract from the openness of the wider area, there will be no loss of greenness, productive activity or change in style or scale of structures.

12. Traffic and Access

- 12.1 The submissions did not raise any traffic or pedestrian safety concerns or any concerns relating to the safe and efficient operation of the road network. However, some submitters requested mitigation by extending the 'no parking' cones along the length of Lower Queen Street and trimming the hedge at the entrance of the site to improve visibility at the start of each season.
- 12.2 The application includes a Traffic Assessment Letter prepared by Gary Clarke of Traffic Concepts³² which is attached as **Attachment 7** to this agenda. This letter describes how the parking and traffic associated with the Speedway activity is managed by a Traffic Management Plan (**TMP**) which is forwarded to the Council for certification prior to each season. Parking is available on site and some spectator parking occurs on-street but the on-street parking is managed by the speed reductions that are in place during the race meetings (as required by the TMP). Parking is also restricted in the immediate vicinity of the site to ensure the intersection operates safely as well as at the access to the site. In Mr Clarke's opinion the TMP is an appropriate tool to manage the effects of an activity which is short in duration and occurs infrequently over the course of a year. The Councils' Development Engineer, Mr Ley, agrees with this advice.
- 12.3 The applicant has confirmed that a compliant number of car parking spaces can be provided on site. The car parking spaces are not marked out but there is a significant area of open space that is available for informal parking which can be utilised efficiently under the TMP. On this basis I consider the effects of the activity on vehicular and pedestrian safety and on the safe and efficient operation of the road network to be temporary and minor.

Relevant policies and objectives of the TRMP

- 12.4 The objectives and policies relevant to traffic and access are contained within Chapter 11 of the TRMP and they generally seek to ensure the maintenance of a

³² S92 response: Traffic Concepts: Ref 053 dated 19 February 2020

safe and efficient transport system and that adverse effects of land use or development on the transport system are avoided, remedied or mitigated.

- 12.5 I accept the advice of Mr Clarke and the Councils' Development Engineer Mr Ley, and consider the use of a TMP (that has been first certified by the Council prior to the start of each race season) will appropriately mitigate the adverse effects of the race meetings on the transport system.

13. Ecology

- 13.1 A small number of submitters oppose the application because they are concerned that the noise, light and debris from the fireworks will have adverse effects on the wildlife within the estuarine environment of the Waimea Inlet (including threatened birds, wading birds and nesting birds). The applicant has not provided an assessment of effects in this respect.
- 13.2 The application does not include an assessment of the receiving environment of the Waimea Inlet and the applicant has not proposed any mitigation. I therefore recommend that these matters are addressed by the applicant with input from someone with an appropriate level of expertise in order that the actual and potential effects of the fireworks on the intrinsic values of the Waimea Inlet can be fully understood and assessed.

Relevant policies and objectives of the TRMP

- 13.3 The objectives and policies relevant to the protection of natural character of the coastal environment and the intrinsic values of ecosystems are contained within Chapter 8 of the TRMP. Chapter 8 of the TRMP states that when considering applications for land use in areas adjacent to the coast, Council is required to have regard to natural values as matters of national importance as identified in Section 6 of the Act. It would be appropriate for the above specialist assessment to consider these matters.

14. Carbon Footprint

- 14.1 One of the submitters raises a concern over the environmental effects arising from the use of fossil fuels associated with the Speedway activity, and has suggested that the applicant should off-set these environmental effects and reduce its carbon footprint by other means (such as using compostable packaging at its race meetings).
- 14.2 The finite characteristics of natural and physical resources and the effects of climate change are matters that the Council must have regard to under section 7 of the Act. However, the effects of the activity in respect of these are matters are considered to be minor in the context of the proposed frequency of the activity, the permitted baseline and the receiving environment.
- 14.3 The applicant may choose to off-set its carbon footprint should it wish (and to do so would be a positive environmental outcome). However, for the reasons given above I do not consider that this should be a requirement of this resource consent application.

15. Other matters

- 15.1 There is another matter that has been raised in a number of the submissions that which is relevant and reasonably necessary to determine the application. This matter is the practice meetings which I consider next.

Practice Meetings

- 15.2 A number of submitters contend that the practice meetings have comparable adverse noise effects as the race meetings. This seems probable because the only point of difference appears to be that vehicles participating in practice meetings are not competing and are not permitted to overtake one another.
- 15.3 The application that was made in 1968 stated that:

It is proposed that the racing season will last from October until April each year and that Meetings will be held fortnightly (emphasis added).

15.4 The Environment Court Declaration determined *that the expression 'Meetings' was used to qualify the number and regularity of the event so that the Council and affected residents could gauge the scale of the activity and thereby assess the trade-off between the applicants entitlement to enjoy participation in the proposed activity on certain terms against the corresponding effects on other parties.*³³

15.5 I agree with that part of the applicants AEE which states that the Declaration clarified that under the terms of the existing consent *practice meetings were excluded for the purposes of assessing compliance with the restriction as to the frequency which apply to racing meetings*³⁴.

15.6 In my reading of the existing consent and the Declaration it appears that the scope of the existing consent is limited to race meetings because the applicant did not apply for permission for practice meetings, the Council did not grant a consent for practice meetings, the Declaration did not address the effects of practice meetings and practice meetings are accepted to be something different³⁵.

15.7 The applicant states that:

*Practice meetings are a necessary part of the Speedway activity as drivers need to be assessed and qualified to participate in the racing events and vehicles also need to be checked. The practice meetings may occur prior to the season, sometimes during the season and sometimes on the same day as racing. The applicant does not advertise these practice meetings in the same way as it does the race meetings, but it does allow the public to attend the practice meetings should they wish*³⁶.

15.8 The applicant has confirmed that it is excluding practice meetings from its resource consent application³⁷. In response to the Council's request for information under section 92 of the Act in respect of the practice meetings, the applicant describes practice meetings as:

³³ Decision No. [2018] NZEnvC 78 [29]

³⁴ AEE s3.1 pg.9

³⁵ Decision No. [2018] NZEnvC 78 [24-26]

³⁶ Decision No. [2018] NZEnvC 78 [24]

³⁷ See s3.2 pg.10, s3.4 pg. 11 and s3.8 (1) pg. 12 AEE

Practice meetings are carried out prior to the start of the racing season, this is a requirement under the Speedway Rules. The same vehicles which compete at race meetings are involved in the practice sessions and so the numbers are comparable.

There is no overtaking or contact during these practice sessions and they are not advertised to the public, although spectators are not prevented from attending should they wish to do so. The sessions are approx. 2 hours long and therefore shorter in time than the race meetings³⁸.

These practice meetings are outside of the racing calendar as they are not race meetings, as clarified by the Environment Court declaration. The race meetings [Sic] are considered to be part of the activity authorised by the existing resource consent. The timing and frequency of the race meetings [Sic] will not change compared to the existing³⁹.

15.9 I have assumed that the applicant has incorrectly referred to the 'practice meetings' as 'race meetings' in its latter part of its response to the Council's section 92 request. That being the case I disagree with the applicant that the practice meetings are part of the activity authorised by the existing resource consent for the reasons given in paragraphs 15.4 - 15.6 of this report.

15.10 I also note that the application AEE includes an assessment of the traffic effects associated with the practice meetings⁴⁰ (despite the applicant confirming it is not applying for resource consent for the practice meetings). In my opinion this assessment, together with the applicant's reason why the activity breaches rule 17.5.2.1(c) of the TRMP (as detailed in paragraph 5.4 of this report) and the inaccuracies referred to in paragraph 15.9 of this report create ambiguity and uncertainty. It is important that the scope of the application in respect of the practice meetings is clearly defined in order to provide certainty to the applicant, the submitters and the Council.

³⁸ See response to item 1.g of the s92 letter on pg. 5 dated 20 April 2020

³⁹ See response to item 1.g of the s92 letter on pg. 5 dated 20 April 2020

⁴⁰ S5.4 AEE pg.19

15.11 I do not know if the practice meetings comply with the permitted noise standards of the operative TRMP because noise monitoring of this aspect of the Speedway activity has not been undertaken. As such I do not know if the practice meetings breach the permitted day-time and, or, night-time noise standards of rule 17.5.2.1(c) of the TRMP.

15.12 The Environment Court Declaration (ENV-2017-WLG-000079) confirms that practice meetings are *excluded for the purposes of assessing compliance with the restrictions as to season and frequency which apply to [the] race meetings* authorised by the Waimea County Council in 1968.

15.13 That is not to say that practice meetings are either explicitly authorised by the existing consent or otherwise excluded from needing to comply with the permitted noise standards of the TRMP. The practice meetings are not considered or authorised by the existing consent, they have not been specifically applied for and are not a permitted activity if they breach the noise standards of the TRMP.

15.14 These same observations have been made by the NMDH in its submission which states:

The declarations in the Environment Court decision NZEnvC 78 [2018] address specific aspects of the existing consent, but that decision does not make findings on the extent to which other aspects of the current activity are authorised by the existing consent. For example, the Environment Court decision does not address noise variability between vehicle types, and the public address system currently used, or whether the RMA Section 16 duty has been satisfied by the way the activity is currently managed⁴¹

15.15 I agree with these comments from the NMDH.

15.16 Accordingly, I consider any unauthorised activities taking place on the site, including any associated Speedway activity, will either need to comply with the permitted standards of the TRMP or be authorised by a separate resource consent.

⁴¹ Submission no. 779, s4.A

- 15.17 As such a separate land use consent is required for the practice meetings if the noise from this aspect of the Speedway activity breaches rule 17.5.2.1 (c) of the TRMP.
- 15.18 Under s91(1) of the Act a Consent Authority may determine not to proceed with the hearing of an application for a resource consent if it considers on reasonable grounds that –
- (a) other resource consents under this Act will also be required in respect of the proposal to which the application relates; and
 - (b) it is appropriate, for the purpose of better understanding the nature of the proposal, that applications for any one or more of those other resource consents be made before proceeding further.
- 15.19 If the Commissioner agrees with the assessment above and considers on reasonable grounds that resource consent is required in respect of the noise from the practice meetings, then it may be appropriate not to proceed further with the hearing until that application for resource consent has been made because this would be appropriate for the purpose of better understanding the nature of the proposal (and the consequential effects).
- 15.20 If the applicant is correct and the existing consent authorises the practice meetings, then the applicant will be relying on two consents to give effect to two aspects of the Speedway activity (the practice or qualifying meetings and the race meetings). The applicant would not be able to surrender its existing consent and would instead need to operate under two consents.
- 15.21 This would create complexity (from a compliance and enforcement perspective) and uncertainty and ambiguity to the detriment of the applicant, the submitters and the Council. I therefore recommend that this other matter is resolved at the hearing.

16. Summary of key issues and recommendations

- 16.1 The application is for a **discretionary activity** under the TRMP, so the consent authority must consider the application in accordance with sections 104 and 104B of the Resource Management Act 1991.

Summary of Key Issues

- 16.2 A significant number of submissions identify the positive economic and social effects the activity has for the region. From the submissions in support of the application it is evident that enabling the Speedway activity to continue in the manner proposed by the applicant will, for many people in the community, add value to the regions' economic and social attributes.
- 16.3 Enabling the continuation of the Speedway activity in the manner proposed by the applicant will, at least to some extent, help to support the economic and social opportunities in the region and contribute towards the viable and diverse economic achievements and development potential of the Tasman District. In this respect the activity is consistent with the economic and social outcomes that are identified in General Objective 5 of the TRPS, Chapter 7 of the TRMP and Part 2 of the Act.
- 16.4 The actual and potential adverse effects of the activity have been considered and assessed (based on the information available). The permitted baseline (if applied) and the receiving environment, allow some of the effects associated with the application.
- 16.5 However, there are some key issues which must be satisfactorily addressed before a full understanding and assessment of effects can be undertaken and before it can be decided if the adverse effects can be satisfactorily remedied or mitigated subject to appropriate conditions of consent. These outstanding issues are summarised below under the headings of 'Noise Effects', 'Ecology', 'Practice Meetings' and 'Health'.

Noise Effects

- 16.6 The application includes some discrepancies and information gaps in respect of the noise from the activity which need to be clarified. The application does not

contain sufficient information to demonstrate that the noise effects of the proposed activity can achieve a reasonable level of noise as required by section 16 of the Act. The applicant has not demonstrated appropriate protection and / or mitigation of noise effects from the proposed activity in respect of amenity values and in this respect the application is considered to be contrary to policies 7.4.3.4, 7.4.3.5 and Objective 5.1.2 of the TRMP.

Ecology

- 16.7 A small number of submitters oppose the application because of concerns that the noise, light and debris from the fireworks will have adverse effects on the wildlife within the Waimea estuary (including threatened birds, wading birds and nesting birds). The applicant has not provided an assessment of effects in this respect.
- 16.8 The application does not include an assessment of the receiving environment of the Waimea Inlet and the applicant has not proposed any mitigation in respect of these potential adverse effects. I therefore recommend that these matters are addressed by the applicant in which a person with an appropriate level of expertise can determine the actual and potential effects of the noise from the race meetings and fireworks on the intrinsic values of the Waimea Inlet and enable an assessment of the activity in respect of the relevant objectives and policies of the TRPS, TRMP and Part 2 of the Act to be undertaken.

Practice Meetings

- 16.9 Another key issue that needs to be resolved is the practice meetings, and specifically whether or not:
- (a) the practice meetings are expressly authorised by the existing consent; and if not;
 - (b) If the noise from the practice meetings breaches rule 17.5.2.1 (c) of the TRMP.
- 16.10 The applicant has specifically excluded this aspect of the Speedway activity from its application. However, in my view the Declaration does not make findings on the extent to which other aspects of the Speedway activity are authorised by the

existing consent. I note this view is supported by the submission made by the NMPH.

- 16.11 In my opinion the issues identified in paragraph 16.9 (a) & (b) above need to be resolved before an assessment of the actual and potential effects (including cumulative effects) associated with the Speedway activity in respect of peoples' amenity values and health can be undertaken.
- 16.12 It is also important that the issues identified in paragraph 16.9 (a) & (b) are resolved so that the scope of the application is clearly defined in order to provide certainty to the applicant, the submitters and the Council. A scenario where the applicant is relying on two consents to authorise different aspects of the same activity and where one of those consents was issued in 1968 without conditions should be avoided.

Health

- 16.13 The health effects of the activity have not been assessed in the application. In my opinion the applicant should provide an assessment of each of the matters listed in paragraph 10.8 of this report from someone with an appropriate level of expertise in order that the noise effects from the activity on the health of people and the community can be undertaken and before it can be decided if the potential adverse health effects can be satisfactorily avoided, remedied or mitigated.

Summary

- 16.14 Section 7 of the Act requires the Commissioner to have regard to the efficient use and development of natural and physical resources and the maintenance and enhancement of the quality of the environment. The continuation of the Speedway activity in this location is considered to be an efficient use of an existing resource.
- 16.15 The purpose of the Act is to promote the sustainable management of physical resources. Sustainable management includes the protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. A significant number of submissions have been

received in support of the application that indicate the Speedway activity has positive effects in respect of peoples' social and economic wellbeing.

16.16 However, the applicant is applying for resource consent to increase the frequency of the race meetings in the context of a receiving environment that has changed since the existing consent was granted in 1968 as the popularity of the Speedway activity (and the scale and nature of the associated effects) has evolved. In this respect the proposal is considered to be inconsistent with some of the relevant objectives and policies contained in chapters 5, 7 and 8 of the TRMP and part 2 of the Act.

16.17 The applicant has not satisfactorily demonstrated that the proposal will achieve the sustainable management of natural and physical resources through the management, use and development of physical resources in a way which enables people to provide for their health and safety whilst avoiding, remedying or mitigating the adverse effects of the activity on the environment.

Recommendation

16.18 Accordingly, I recommend the application be **REFUSED** pursuant to sections 104B(a) and 104(6) of the Act unless the applicant is able to resolve the key issues identified in this report.

16.19 However, this is a recommendation only and the Hearings Commissioner is required to determine the application once submissions and evidence on the application have been heard. The TRMP and TRPS provisions are identified in the above assessment and these in conjunction with the matters raised at the hearing should form the basis of any decision reached. I have included a list of recommended consent conditions in **Attachment 8** to this agenda should the Commissioner be minded to grant the application.

11th December, 1968

Mr. J.G. Scrimgeour,
President,
Tasman Car Scramble Club,
1 Florence St.,
RICHMOND.

Dear Sir,

Application for Conditional Use
Scramble Car Track

The decision of the Council in respect to the above application is as follows :-

"That the Tasman Car Scramble Club be granted a conditional use of land described as Pt. Sec. 205 Waiwaea East District - Lansdowne Road, for the purposes of establishing and operating a Scramble Car Track subject to the following conditions :-

1. The Club shall provide sufficient parking on the property for all competitors and spectators.
2. No parking of vehicles belonging to persons attending the meeting will be permitted for $\frac{1}{2}$ mile on either side of the entrance to the property.
3. Adequate toilet facilities for men and ladies shall be erected and maintained on the property by the Club, such facilities to comply with the requirements of the County Health Inspector.

I regret that you have not been advised of this decision at an earlier date.

The question of racing on Sundays was considered to be outside the scope of the hearing and therefore your Club will be required to make a separate application to the Council in relation to this matter.

Yours faithfully,

J.A. GEARD.
COUNTY CLERK.

*Not possible
to comply with this!*
AA/P

BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA

Decision No. [2018] NZEnvC 78

IN THE MATTER OF the Resource Management Act 1991
 AND of an application under s 311 of the Act
 BETWEEN CATHERINE HUGHSON and
 VICTORIA REID
 (ENV-2017-WLG-000079)
 Applicants
 AND NELSON SPEEDWAY
 ASSOCIATION INC
 Respondent

Court: Environment Judge B P Dwyer sitting alone under s 309 of the Act
 Hearing: at Nelson on 16 May 2018
 Appearances: G J Praat for the Applicants
 N A McFadden and S Galbreath for the Respondent
 A D Jewell for the Tasman District Council
 Oral judgment: 17 May 2018
 Written record: 25 May 2018

ORAL JUDGMENT OF THE ENVIRONMENT COURT

- A: Application for declarations granted.
 B: Costs reserved.



REASONS**Introduction**

[1] This is my decision in these proceedings. As with any oral decision, I reserve the right to correct any minor errors, misquotations or misdescriptions which do not affect the rationale for or outcome of the decision.

[2] Catherine Hughson and Victoria Reid (the Applicants) have applied for declarations pertaining to operation of a speedway track (the Speedway) at Lansdowne Road, Richmond. The Speedway is operated by Nelson Speedway Association Incorporated (the Respondent) which opposes the making of declarations.

[3] The Respondent operates the Speedway pursuant to a conditional use application approved by Waimea County Council on 11 December 1968 (the Consent). It was common ground between the parties that the Consent granted in December 1968 was a permission which constituted a deemed resource consent pursuant to s 383 Resource Management Act 1991.

[4] Waimea County Council was a predecessor to Tasman District Council which appeared in these proceedings to assist the Court where it was able and produced a number of relevant files. It took no position on outcome. I will simply refer to either or both Councils as "the Council".

[5] The declarations were sought by the Applicants in the following terms:

1. We, Catherine Hughson and Victoria Reid, apply for the following declaration from the Environment Court:
 - a. That the Respondents actions in undertaking various meetings at the Nelson Speedway facility at Lansdowne Road, Richmond, Nelson during the 2016/17 race season was in breach of the terms of the land use consent in relation to that activity in that:
 - i. A public meeting was held on Saturday, 29 October 2016 and a further public meeting was held 7 days later on Saturday 5 November 2016.
 - ii. A public meeting was held on Tuesday 27th December 2016 and a further public meeting was held 11 days later on Friday 7 January 2017.
 - iii. A public meeting was held on Friday 20th January 2017 and a further meeting was held the next day Saturday 21st January 2017.



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- iv. A public meeting was held on Saturday, 21st January 2017 and a further meeting was held on Friday 27th January some 6 days later.
 - v. A public meeting was held on Friday, 27th January 2017 and a further meeting was held the next day on Saturday, 28th January 2017.
 - vi. A public meeting was held on Saturday, 25th February 2017 and 13 days later, a further meeting was held on Friday, 10th March 2017.
 - vii. A public meeting was held on Friday, 10th March 2017 and the next day a further public meeting was held on Saturday, 11th March 2017.
 - viii. A public meeting was held on Friday, 14th April 2017 and on the next day a further public meeting was held on Saturday 15th April 2017.
- Each of the occurrences ((i) – (vii)) were in breach of the terms of the deemed resource consent in so far as they comprised public meetings which were held more often than on a 'fortnightly' or 'two weekly' basis.
- ix. A practice meeting was held on Saturday 17 September 2016 prior to the 1st October 2016 when the terms of the deemed resource consent otherwise permitted the race season to commence.
 - x. A practice meeting was held on Saturday 24 September 2016, prior to the 1st October 2016 when the terms of the deemed resource consent otherwise permitted the race season to commence.
- b. That the terms of the (deemed) resource consent pursuant to which the respondent operates the speedway facility at Landsdowne Road, Richmond, Nelson provide for the respondent to hold meetings fortnightly in the period October to April each year;
2. The applicant seeks a determination as to whether the Respondent has acted in breach of the terms of its land use consent 1(a) and/or determination of the relevant terms of the deemed resource consent in this regard;
 3. The grounds for this application are:
 - a. The respondent's predecessor were granted a conditional land use consent for the establishment and operation of a 'scramble track' at the speedway facility at the corner of Landsdowne Road and Lower Queen Street, Richmond;
 - b. The terms on which the application was made requested permission to run 'fortnightly meetings in the period October to April' each year;
 - c. The notice of the decision of the Waimea County Council of 11 December 1968 omitted the relevant stipulation as to the frequency and dates for meetings;
 - d. The Waimea County Council otherwise dealt with the application on the basis that the activity in respect of which the applicant sought permission was to run fortnightly meetings in the period October to April each year.



[6] The Applicants filed three affidavits in support of their application being joint affidavits of both Applicants dated 1 August 2017 and 13 April 2018 as well as an affidavit of Ms Reid solely dated 8 March 2018. The Respondent filed affidavits dated 23 March 2018 and 27 April 2018 from Sandra Marie Birdling, a life member and former President of the Respondent.

[7] None of the deponents were cross-examined on their affidavits, but Ms Birdling gave additional evidence during the hearing about some aspects of Speedway operation and answered questions on that evidence.

[8] Prior to the hearing the parties filed an agreed summary of facts where they distilled the questions for determination by the Court down to the following:

- What are the terms of the deemed consent?
- Did the Respondent breach those terms in the 2016/2017 racing season?

I will return to those issues in due course.

Background

[9] The Respondent was formed in 1968, initially under the name of Tasman Car Scramble Club (the Club/the Respondent). The Club had negotiated a lease of land at Richmond for the purpose of establishing the Speedway which remains on that same land today, but is now owned rather than leased by the Respondent.

[10] On 11 April 1968 the President of the Club wrote to the Council in the following terms (the Letter):

Dear Sir,

ESTABLISHMENT OF STOCK CAR RACING TRACK

On behalf of the above club I request Town Planning approval to establish a stock car track in the County. Land adjacent to the Gun Club in Lansdowne Road has been offered to the Club for this purpose by Cook Bros. (Val. No. 1939/87/1)

Sufficient land is available to provide complete off-street parking for all spectators.

The Club is prepared to install toilet facilities on the site.

Providing County Council permission is granted to establish the track we intend to start racing in October 1968.

It is proposed that the racing season will last from October until April each year and that Meetings will be held fortnightly.



5

As the Club wishes to hold its Meetings on Sunday afternoons I also request Council approval for this.

It is not envisaged that any high speed racing will take place. All racing will be done on a dirt track with old model cars to which suitable modifications have been made. Please find enclosed copy of our car specifications.

Spectator safety will be one of the Clubs main concerns and a Public Risk Insurance Policy will be taken out.

The sport is growing in popularity throughout the country and a new club has commenced racing in Blenheim this year. Some Nelson cars are racing on this track at present because there is no track available in this area.

We feel that the establishment of this sport in the District would be welcomed by the Public and it would certainly provide the owners of many old cars with an outlet for their enthusiasm.

I trust that this application will meet with Council approval.

[11] The Council replied to the Club on 29 April 1968 advising that it would hold over the application until such time as the Club applied for a conditional use in a Rural Zone.

[12] On 24 July 1968 the Club made application to the Council in Form N of the Town and Country Planning Regulations 1960 (Amendment No 2) seeking consent to establish and operate a scramble car track. A copy of the application form is attached as Attachment "A" to this decision.

[13] Form N contains provision for any special conditions, restrictions or provisions proposed for the application to be identified. No such conditions, restrictions or provisions were identified on the Form N application lodged by the Club.

[14] Notwithstanding that, I understood it to be common ground between the parties that the Form N application of 24 July 1968 was to be read in conjunction with the Club's Letter so that any consent granted by the Council was limited to the ambit of the proposal set out in the Letter even though the Letter preceded the formal application by over three months. If the parties were not in agreement in that regard, I would have found that to be the case in any event.

[15] The Letter together with a copy of the Club's Rules Applying to Construction of Cars (the Construction Rules), which identify the specifications to which racing cars must comply, were both held on the Council file together with the formal application.



Any person who inspected the Council file in response to the public notification of the application would have seen the Letter and Construction Rules which clearly formed part of the Club's proposal.

[16] When the Council belatedly wrote to adjoining property owners about the application it stated that meetings would be held fortnightly through the summer months, being a restriction proposed in the Letter not in the Form N application form, so the Council clearly regarded the information contained in the Letter as being part of the application to be considered.

[17] In his submissions for the Applicants, Mr Praat, identified the terms on which the application was made as follows:

- The site was adjacent to a gun club at Lansdowne Road on land then owned by Cook Brothers;
- Sufficient land was available for off-street parking;
- The Club would install toilet facilities at the site;
- The racing season would last from October to April (I note that the parties agreed this meant 1 October to 30 April each year);
- Meetings would be held fortnightly;
- There would be no high-speed racing;
- Racing would be on a dirt track;
- Race cars would be old model cars which were modified in accordance with the Construction Rules;
- The Club would take out a public liability insurance policy.

With respect to Mr Praat, I consider that he has omitted a significant aspect of the proposal as described namely, the statement that the Club wished to hold its meetings on Sunday afternoons. I will return to that aspect of the proposal in due course.

[18] The Council gave notice of its approval of the application by letter of 11 December 1968 (the Consent) which provided as follows.

Dear Sir,

Application for Conditional use

Scramble Car Track

The decision of the Council in respect to the above application is as follows : –



"That the Tasman Car Scramble Club be granted a conditional use of land described as Pt. Sec. 205 Waimea East District – Lansdowne Road, for the purposes of establishing and operating a Scramble Car Track subject to the following conditions : –

1. The Club shall provide sufficient parking on the property for all competitors and spectators.
2. No parking of vehicles belonging to persons attending the meeting will be permitted for ½ mile on either side of the entrance to the property.
3. Adequate toilet facilities for men and ladies shall be erected and maintained on the property by the Club, such facilities to comply with the requirements of the County Health Inspector.

I regret that you have not been advised of this decision at an earlier date.

The question of racing on Sundays was considered to be outside the scope of the hearing and therefore your Club will be required to make a separate application to the Council in relation to this matter.

[19] It will be noted that none of the conditions imposed by the Council in the Consent contain any restrictions as to the length of season, limiting meetings to a fortnightly basis, restrictions on cars to be raced or the like. However the extent of the Consent must be confined by the restrictions contained in the Club's Letter and the Construction Rules. That finding is based on the premise that it was not open to the Council to grant consent to a use whose effects might be greater than those identified in the application. The Council could not give the Club more than it had applied for.

Considerations

[20] What these proceedings ultimately came down to was to determine whether or not the Respondent was complying with the requirement that its meetings were to be held fortnightly as stated in the Letter. This was to be determined by reference to the Respondent's activities during the 2016/2017 racing season.

[21] The Applicants' contentions relating to that matter are contained in the amended application document which I have previously set out in some detail above. Ms Birdling's response to the contentions contained in the application was summarised in annexure A of Mr McFadden's submissions for the Respondent which I include as Attachment B to this decision. I note that there was no challenge to Ms



Birdling's response on a factual basis so I have accepted the summary as an accurate statement of the Respondent's activities over the 2016/2017 season.

[22] In light of those observations, I return to the parties' first question, what are the terms of the deemed resource consent held by the Respondent? I consider that two issues require determination in answering that question:

- Firstly, what constitutes a meeting?;
- Secondly what is meant by the expression that "meetings will be held fortnightly"?

[23] The first question in turn has two sub-issues:

- Firstly, are practice meetings held by the Respondent, meetings for the purposes of the Consent?
- Secondly, are meetings which take place over a period longer than one day, one meeting or two meetings (or potentially more)?

[24] The first sub-issue arises because some of the meetings complained about by the Applicants involve practicing rather than racing. Ms Birdling explained that practices are a necessary part of the Respondent's programme for drivers and vehicles to qualify to participate in racing. Drivers have to be assessed and qualified and vehicles checked, so practice meetings are subject to control or supervision by stewards. Practice meetings are formally identified on the Respondent's calendar. Sometimes they take place before the racing season commences in October, sometimes during the racing season and sometimes on the same day as racing. Cars do not race during practice meetings and are not permitted to overtake other cars at them. Although members of the public may attend practice meetings, no charge is made by the Respondent for doing so. It is clear that practicing is not the same as racing.

[25] I consider that the status of practice meetings can be determined from the following sentence, in the Letter "It is proposed that the racing season will last from October until April each year and that Meetings will be held fortnightly." (my emphasis) This restricts the period during which racing meetings may be held (between October and April) and when those racing meetings may be held during that period (fortnightly).



[26] These restrictions were clearly intended to apply to racing and not to practicing which I have accepted is something different. This means that practice meetings may take place outside the racing season and are not subject to the fortnightly restriction during the season that racing meetings are subject to. Practice meetings should not be counted for the purposes of assessing compliance with the restrictions as to season and frequency which apply to racing meetings.

[27] The second issue which arises under the head of "meetings" is whether an event which takes place over more than one day, constitutes one meeting or two. This is a matter of considerable importance for the Respondent. Events such as South Island or New Zealand Championships are commonly held over two consecutive days. If each day is considered as a separate meeting, the Respondent would be precluded from holding such events by the restriction that meetings are to be held fortnightly, subject to interpretation of precisely what that word means.

[28] Mr McFadden submitted that there is nothing in the word meeting which requires or implies that it is limited to a single day. That has been the Respondent's (and I assume the Council's) understanding for a long period of time as it has held two day events dating back for many years.

[29] The Applicants dispute that submission. Mr Praat urged on the Court a narrower interpretation of the word meeting to mean an event which occurs on a single day. He submitted that was consistent with a conservative approach to the construction of the word and to the background context and purpose in which it was used. He submitted that "Where an event occurs whereby practice and qualifying rounds are undertaken in one evening and further elimination rounds or finals are undertaken on a subsequent evening, the effects on the environment are no different to those which would otherwise be experienced from two separate race meetings"¹ and further that "It is consistent with the purpose for which the expression "meeting" was used to qualify the number and regularity of the event, so that the Council and affected residents could gauge the scale of the activity and thereby assess the trade-off between the applicants' entitlement to enjoy participation in the proposed activity on certain terms against the corresponding effects on other parties."²



Para 48 Applicants' submissions.
Para 51 Applicants' submissions.

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[30] I observe that nothing in the application documents directly addresses this question one way or the other. However I return to the statement contained in the Letter that "As the Club wishes to hold its Meetings on Sunday afternoons I also request Council approval for this."

[31] I ask the question "What would a person interested in the application as a result of seeing the public notice have understood the Club was applying for, if he or she went and inspected the Council file in 1968?" I consider that is obvious from a plain reading of the Letter namely, that the Club was applying to hold racing meetings between October and April, fortnightly on Sunday afternoons.

[32] The Letter does not say that the Club wished to hold some of its meetings on Sundays and some of them on other days. If that was its intention, it is not expressed in the Letter. The letter simply said that the Club wished to hold its meetings on Sunday afternoons that is, on a single day.

[33] In its letter approving the application on 11 December 1968, the Council advised that the question of racing on Sundays was outside the scope of the hearing and requested that a separate application be made for that. That was a result of the Council considering s 327 of the Counties Act 1956 which controlled Sunday entertainment. It seems that a separate approval was required under that Act. I was not told if such an approval was ever granted, but the Respondent certainly races on Sundays now and has done so for some time.

[34] On the face of the Consent, the Council determined to grant approval for the Club to race on days other than Sundays, notwithstanding that the application proposed that racing would happen on that day. I consider that it was open to the Council to do that as it would appear that the effects of carrying out a stockcar meeting are the same whether it is on a Friday, Saturday, Sunday, or any other afternoon. I add that I make no observation as to the effects of night meetings which were not an issue in this hearing.

[35] Accordingly, the Consent appears to be within scope of the application, even though it did not grant consent for a Sunday, but other days. The same cannot be said of the two consecutive days racing issue.



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[36] I accept Mr Praat's submission that the effects of two days racing would equate to the effects of two separate race meetings. While I accept Mr McFadden's proposition that there is nothing in the word meeting itself which requires or implies that a meeting is limited to a single day, in this case the word must be interpreted in the context of the Respondent's Letter stating that meetings are to take place on Sunday afternoons. That is, on a single day.

[37] If Mr McFadden was right in his proposition that meetings are not confined to a single day, then the Respondent could race on any number of days it chooses simply by calling a multiday event a meeting. It would not be confined to two day events which has been its practice up till now. I find that in the context of this application the term meeting means an event carried out on a single day as that is what the Respondent proposed in the Letter.

[38] That finding brings me to the question of what is meant by the expression that "meetings will be held fortnightly". As I understood the Applicants' position, they contended that this meant that there had to be 14 clear days between every meeting. The view Mr McFadden advanced for the Respondent was that this meant there could be one meeting at any time within a particular fortnightly period.

[39] He contended that the Applicants were reading into the requirement that meetings be held fortnightly, a requirement that there had to be a fortnight between events which is a different thing. He submitted that what the fortnightly requirement meant was that the season was to be broken into two week blocks and that there could only be one meeting (whether one day or two days) within any given two week block.

[40] In response to a question from the Court Mr McFadden confirmed that this interpretation meant that the Respondent could race for two days at the end of one fortnightly block and on the first two days of the next block (that is four consecutive days), although I understand this does not happen in fact. He contended that if the Applicants' interpretation was adopted this would lead to an absurd situation that if two meetings were held less than 14 days apart that would be a breach of the Consent even if no other meetings were held for the entire racing season.



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[41] In the normal course of events I would consider there to be some force in Mr McFadden's submission, however I think that his argument again runs into the difficulty of the Letter of 11 April 1968, namely that on the face of its own document the Club proposed to hold racing meetings between October and April, fortnightly on Sunday afternoons so that there would in fact be 14 days between racing meetings.

[42] Accordingly, in the context of this particular application the term "fortnightly" meant 14 days apart. The Council decision did not seek to vary that aspect of the proposal as it had done with the Sunday aspect.

[43] In the light of those findings, I return to the questions for determination posed by counsel.

[44] Firstly, what are the terms of the deemed consent? I find that the Consent allows the Respondent to conduct one race meeting on a single day every 14 days, as that is what it applied for permission to do. Otherwise, the terms of consent are those contained in the Consent dated 11 December 1968.

[45] Secondly, did the Association breach those terms in the 2016/2017 racing season? I find that it did. By reference to Attachment B to this decision, the Consent was breached on:

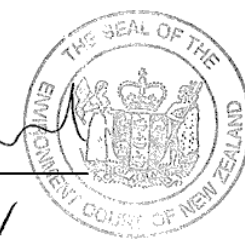
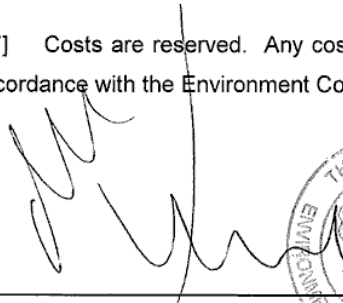
- Saturday 7 January 2017;
- Friday 20 January 2017;
- Friday 27 January 2017;
- Saturday 28 January 2017;
- Friday 10 March 2017;
- Sunday 16 April 2017.

Outcome

[46] I make declarations in both respects accordingly.



[47] Costs are reserved. Any costs application to be made and responded to in accordance with the Environment Court Practice Note 2014.



B P Dwyer
Environment Judge

Attachment A

THE TOWN AND COUNTRY PLANNING ACT, 1953.APPLICATION FOR CONSENT TO CONDITIONAL USE.

To The County Clerk,
Waimea County Council,
P.O. Box 70,
RICHMOND.

This application is made under section 28(c) of the Town and Country Planning Act, 1953.

I hereby apply for consent to establish and operate a Scramble Car Track.

The property in respect of which this application is made is situated on the North West side of Lansdowne Road at Appleby. The property is bounded on its North Eastern side by an unformed portion of Queen Street extension and on its South Eastern side by Lansdowne Road. The legal description of the land is ALL THAT piece of land situated in Block II Waimea Survey District, containing FORTY ACRES (40 a 0 r 0 p) more or less, being part Section 205, District of Waimea East and being part of the land in Certificate of Title, Volume 49 folio 274, (Nelson Registry).

I am the prospective lessee of the property.

PROPERTY OWNERS NAMES.ADDRESSES.

T. G. Ralfe.

P.O. Box 32, Nelson.

W. L. Cook.

P.O. Box 32, Nelson.

OCCUPIERS NAME.ADDRESS.

J. B. Cook

Appleby - R. D. 1, Richmond.

Dated at Richmond this 24th day of July, 1968.

John Gordon Scrimgeour
J. G. SCRIMGEOUR.

(For and on behalf of the Tasman Car Scramble Club).

APPLICANT:- John Gordon Scrimgeour,

ADDRESS. 1 Florence Street,
RICHMOND.



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Attachment B

ANNEXURE A: TABLE OF MEETINGS DURING 2016/17 RACE SEASON

Event number for that season	Date	Time since last meeting	Events per calendar month	Comments
	Sat 17 September		0	Practice only.
	Sat 24 September			Practice only.
	Sat 1 October			Practice only.
1	Sat 15 October		1	Opening night
	Sat 29 October			Rained out, did not proceed.
2	Sat 5 November	21 days		
3	Sat 19 November	14 days	2	
4	Sat 3 December	15 days		
5	Tues 27 December	24 days	2	
6	Sat 7 January	11 days		
7	Fri 20 January	13 days		A practice and event took place on this date.
	Sat 24 January			Day 2 of two day event (New Zealand Sprintcar Grand Prix). There was no event on 21 January- rained out.
8	Fri 27 January	7 days	3	A practice and event took place on this date.
	Sat 28 January			Day 2 of two day event (New Zealand Midget Class Championship)
9	Sat 11 February	14 days		
10	Sat 25 February	14 days	2	
11	Fri 10 March	13 days	1	
	Sat 11 March			Day 2 of two day event (Vertex South Island Super Saloon Series). Rained out, this second day of the event did not proceed.
	Sat 25 March			Rained out, did not occur
	Fri 14 April			Rained out. Meeting occurred on 15 and 16 April instead.
	Sat 15 April	36 days		



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	Sun 16 April		1	Day 2 of two day event (the Top of the South Championships).
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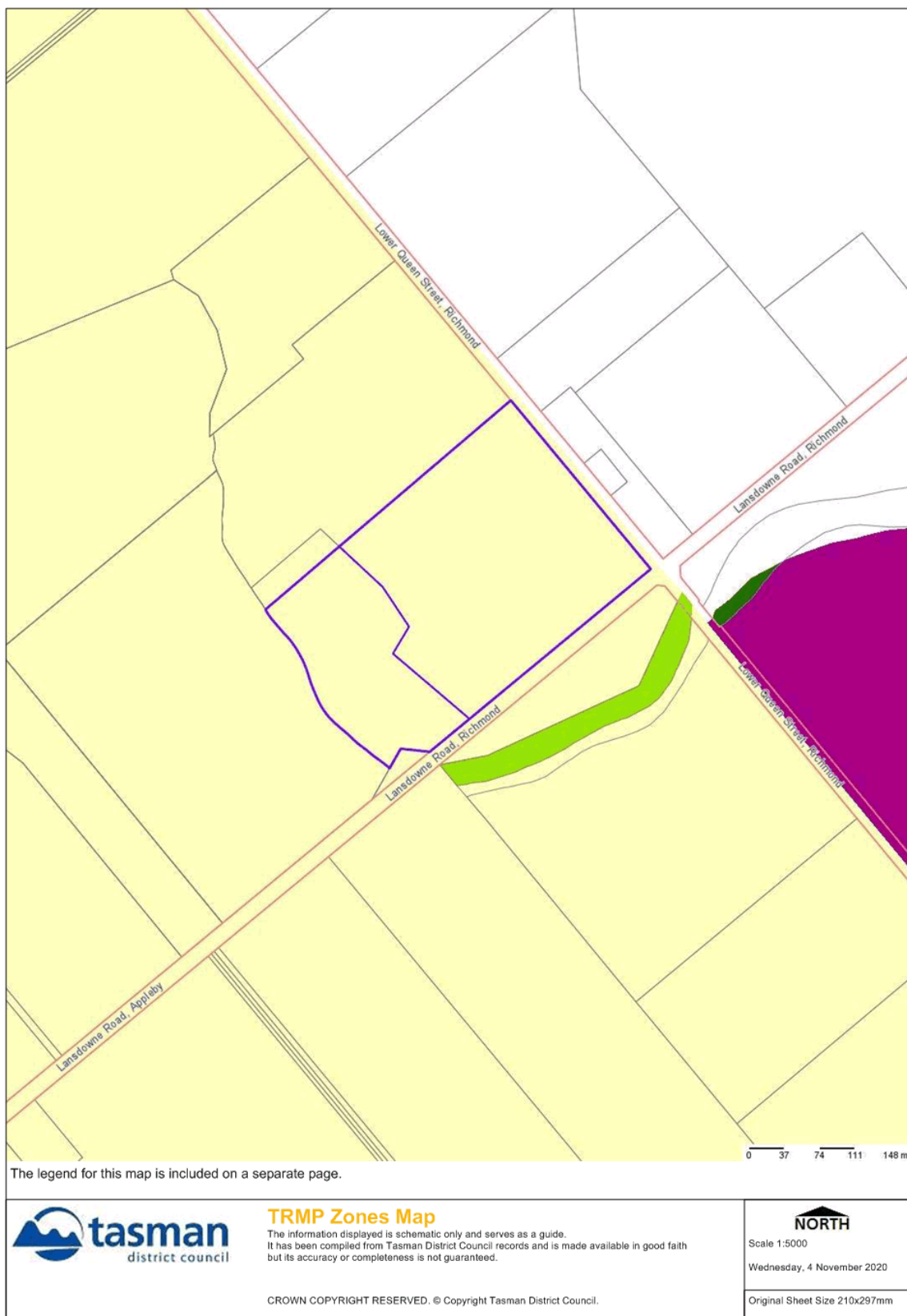


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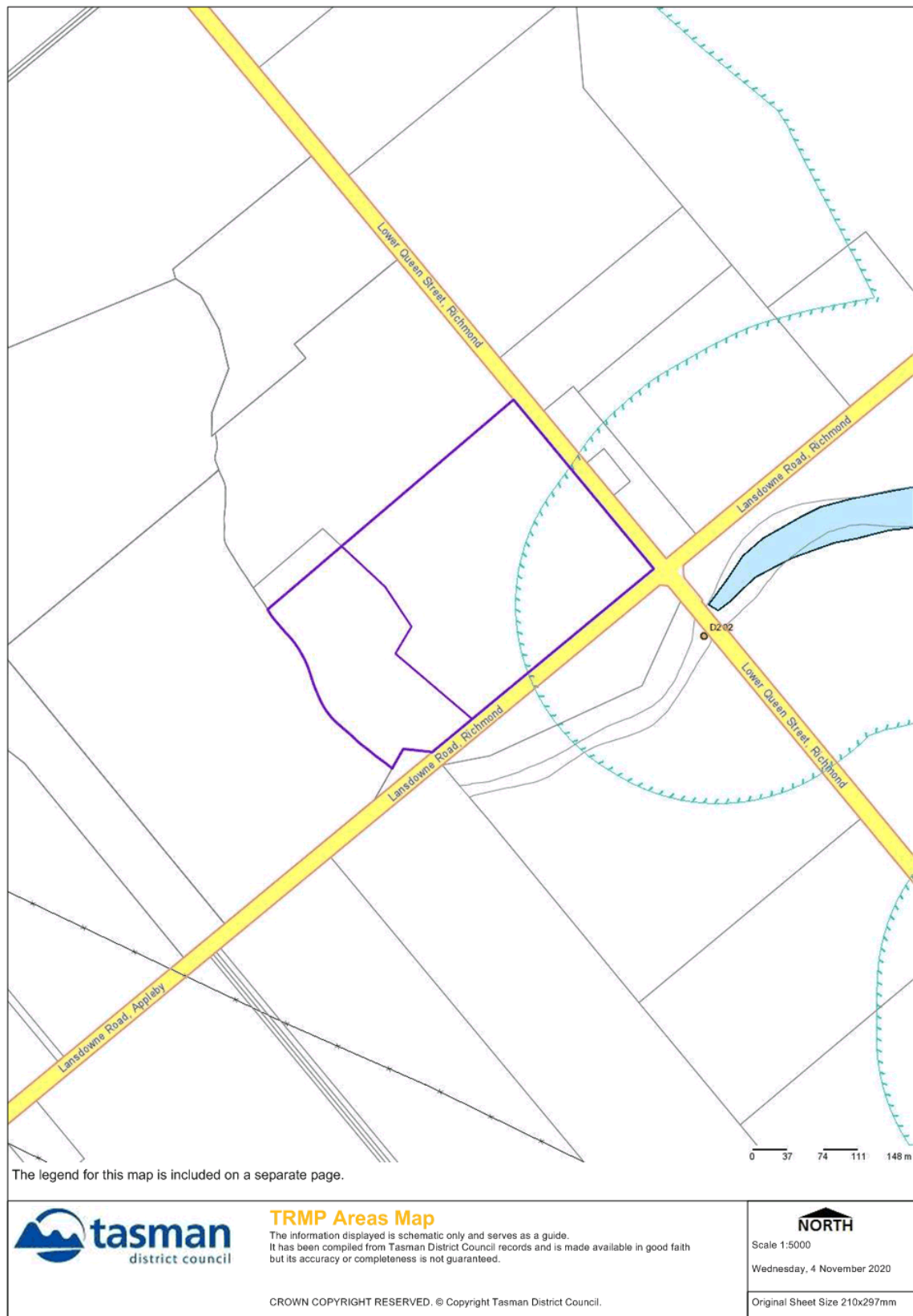




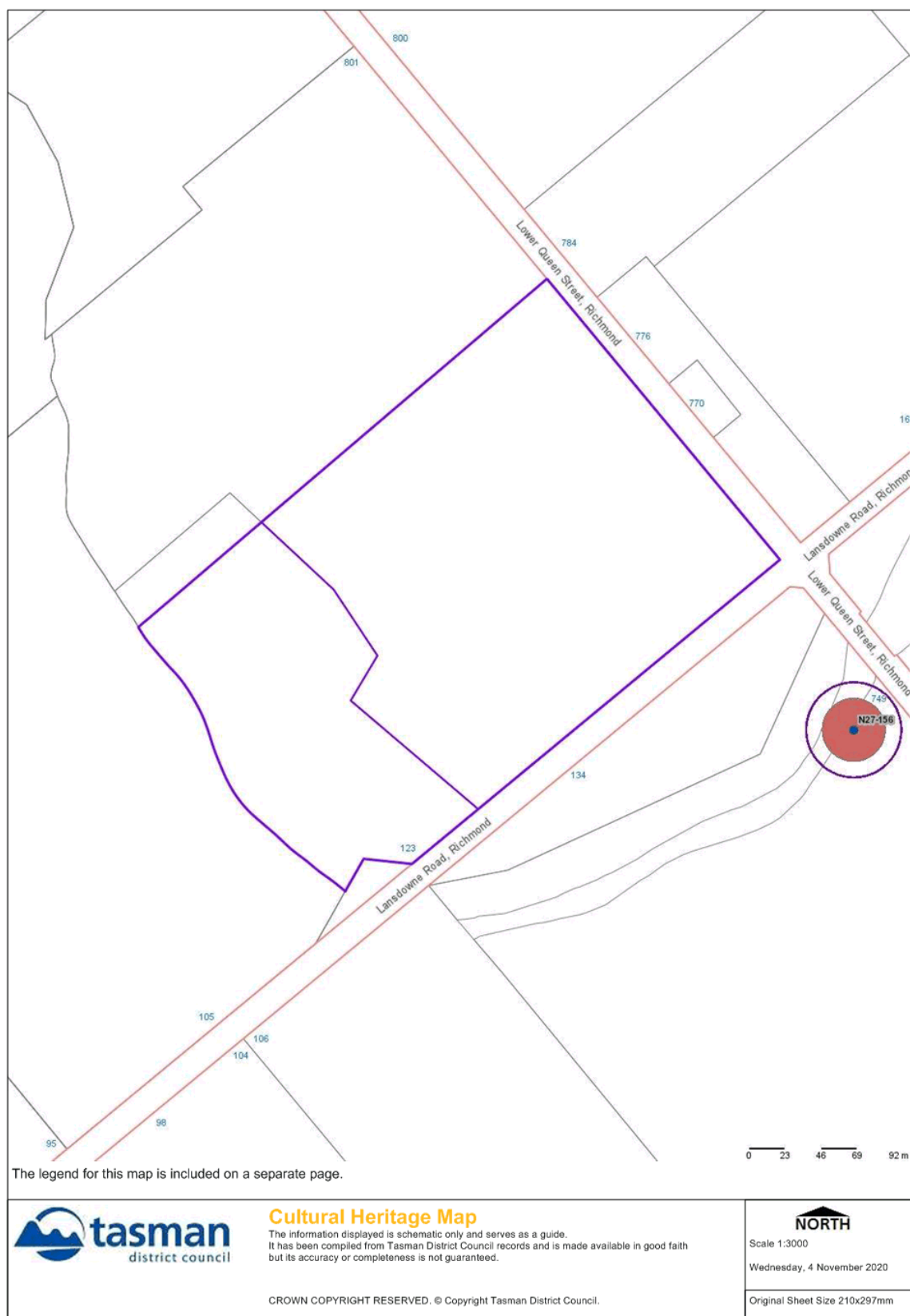
Planning Advice Report - Tasman District Council



Planning Advice Report - Tasman District Council



Planning Advice Report - Tasman District Council



Planning Advice Report - Tasman District Council

ZONE MAPS

	Rural 1		Compact Density Residential Area		Rural 2 deferred Residential
	Rural 1 Closed		Rural Residential		Rural 2 deferred Rural Residential
	Rural 1 Coastal		Rural Residential Serviced		Rural 2 deferred Rural Residential Serviced
	Rural 2		Rural Residential Closed		Rural 2 deferred Mixed Business
	Rural 3		Open Space		Rural 2 deferred Light Industrial
	Central Business		Recreation		Rural Residential deferred Residential
	Commercial		Conservation		Rural Residential Serviced deferred Residential
	Mixed Business		Tourist Services		Recreation deferred Mixed Business
	Light Industrial		Papakainga		Recreation deferred Residential
	Heavy Industrial		Rural 1 deferred Residential		Tourist Services deferred Residential
	Rural Industrial		Rural 1 deferred Tourist Services		Rural 1 deferred Papakainga
	Residential		Rural 1 deferred Mixed Business		Residential deferred Light Industrial
	Residential Closed		Rural 1 deferred Light Industrial		Development Area
	Residential Coastal		Rural 1 deferred Heavy Industrial		Notation
			Rural 1 deferred Rural Residential Serviced		Direction of development

AREA MAPS

	Protected Tree		Indicative Vehicle Access/Crossing Point		Wastewater Management Area
	Heritage Building : NZ Historic Places Trust Register		Fault Rupture Risk Area		Services Contribution Area
	Heritage Building : Tasman District Council Register		Slope Instability Risk Area		Coastal Environment Area
	View Point		Ridgeline		Coastal Risk Area
	Designation Site		Working Quarry Site		Mooring Area
	Designation Area		Quarry Area		Chemical Hazard Area
	Indicative Development Area		Aquifer Protection Area		Landscape Priority Area
	Indicative Reserve		Significant Natural Area		Electricity Transmission Line
	Indicative Stormwater Retention Area		Recharge Protection Area		Shopping Frontage
	Indicative Road		Land Disturbance Area 2		Retail Frontage
	Indicative Walkway		Residential Activity Restriction Area		Service Lane
	Indicative Waterway		Special Domestic Wastewater Disposal Area		Road Area
					Car Park

CULTURAL HERITAGE MAP

	1-Precinct; 2a-Site (assessed); 2b-Site (not assessed)		2a-Site (assessed)
	Wahi Tapu		2b-Site (not assessed)
	Cultural Heritage Precincts		3-DOC
	Cultural Heritage Site Extent		4b-unknown

Report to: Jennifer Lancashire, Planner
From: Graham Caradus, Team Leader – Environmental Health
Date: 24 September 2020
Subject: **Potential Noise Effects; RM191306: Nelson Speedway Association Inc**

Background

This report is submitted to assist in the preparation of a s42A report to present the Council position on the resource consent application by the Nelson Speedway Association Incorporated to continue its speedway operation at 123 Lansdowne Road, Richmond. This report deals specifically with potential noise effects.

Technical experience of the writer

1. I am employed by the Tasman District Council as the Team Leader Environmental Health. My responsibilities include those typically associated with environmental health work, including the provision of advice as well as the investigation and enforcement of those sections of the Resource Management Act 1991 and Health Act 1956 that relate to control of noise.
2. I commenced work as an Inspector of Health with the Department of Health in 1975. My qualifications allowed me to be appointed pursuant to the Health Inspectors Qualifications Regulations 1975 and subsequently the Environmental Health Officers Qualifications Regulations 1993. For the following 23 years I worked for the Department of Health and its successors until the time I left the employment of the Nelson Marlborough District Health Board as the Manager of the Health Protection Unit of the Public Health Service in 1998. During that 23 year period I was engaged from time to time as part of my normal duties in the investigation of issues and complaints in relation to environmental noise. I joined Tasman District Council on leaving the Nelson Marlborough District Health Board and was initially appointed in 1998 to a role that included undertaking compliance investigation and enforcement work under the Resource Management Act 1991(RMA) and the Tasman Resource Management Plan (TRMP), as well as the role of Deputy Harbourmaster. I was appointed to the role of Environmental Health Officer (EHO) in July 1999 and undertook that role along with the role of Harbourmaster for Tasman District Council. In 2008 I relinquished the Harbourmaster role, and was appointed to a position leading Tasman District Council's Environmental Health section. For the approximately 45 year period of my career in central and local government, I have been involved routinely in investigation and enforcement of environmental noise issues. For the last 12 years I have been the primary in-house provider of the technical acoustic advice relevant to sections of the RMA and the TRMP for Council's planning section.

Comment on potential effects due to noise from the proposed activity

3. **Comment about public health impacts of noise exposure.**
 The World Health Organisation (WHO) produced the document "Guidelines for Community Noise" in 1999. In the preface to the document, in discussing environmental noise, it states, in part:
"...the general population is increasingly exposed to community noise...the health effects of these exposures are considered to be a more and more important public health problem. Specific effects to be considered when setting

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community noise guidelines include: interference with communication; noise induced hearing loss; sleep disturbance effects; cardiovascular and psycho-physiological effects; performance reduction effects; annoyance responses; and effects on social behaviour."

The document goes on to provide more detailed information about these specific effects and that information is briefly summarised as follows:

Interference with communication.

Speech in relaxed conversation is 100% intelligible in background noise levels of about 35dBA, and can be understood fairly well in background levels to 45dBA. With more vocal effort, speech can be understood when the background sound level is 65dBA. From about 40 years of age people demonstrate impaired ability to interpret spoken messages, compared with 20-30 year olds. A majority of the population belongs to groups sensitive to interference by background noise with speech perception due to impaired hearing.

Noise induced hearing impairment

This relates to damage to hearing due to exposure to high levels of noise, rather than the nuisance or annoyance caused by the sound. It is commonly an issue for those working in noisy occupations, but also for those engaged in noisy sports including motor sports. The occupational maximum set in New Zealand for an 8 hour work day is Leq 85dBA. Additionally, the peak sound levels for adults is 140dBA and the recommended peak level for children is 120dBA. It is considered that these levels are only likely to be experienced close to the track or PA speakers, and unlikely to be relevant on neighbouring properties. However, it is not known if the noise associated with fireworks displays could reach those high peak levels beyond the Speedway site boundary. Research papers available on the internet suggest that being slightly beyond 100 metres from the launch site for fireworks will result in peak levels around 100dBA.

Sleep disturbance effects

Both continuous and intermittent noise can lead to sleep disturbance with adverse effects dependant on the nature of the noise. Measureable effects start at levels about 30dBA Leq for continuous noise or 45dBA Lmax for non-continuous noise. Physiological effects include changes in the pattern of sleep stages, and subjective effects include difficulty in falling asleep, perceived sleep quality, and adverse after-effects such as headache and tiredness.

Cardiovascular psychophysiological effects

Effects are associated with long term exposure and more research is required due to equivocal findings.

Mental health effects

In noisy locations there is an increase use of tranquilizers and sleeping pills, and an increased frequency of psychiatric symptoms and mental hospital admissions. There is a strong suggestion that adverse mental health effects are associated with community noise.

Annoyance responses

Annoyance reactions are sensitive to many non-acoustical factors of social, psychological or economic nature, and there are also considerable differences in individual reactions to the same noise.

During daytime, few people are seriously annoyed by activities with LAeq levels below 55dB; or moderately annoyed with LAeq levels below 50 dB. Sound pressure levels

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during the evening and night should be 5 – 10 dB lower than during the day. Noise with low-frequency components require even lower levels. It is emphasized that for intermittent noise it is necessary to take into account the maximum sound pressure level as well as the numbers of noise events. Guidelines on noise abatement measures should also take into account residential outdoor activities.

Effects on social behaviour

For many community noises, interference with rest, recreation and watching television seem to be most important issues. However, there is evidence that noise has other effects on social behaviour... ..loud noise increases aggressive behaviour in individuals predisposed to aggressiveness. Further research is needed to establish guidelines.

4. Observations associated with noise complaints in Tasman District

There have been a number of ongoing issues that have generated on-going complaints in Tasman District. These have included noise from industrial activities, recreational activities such as moto-cross activities, gun clubs, low flying aircraft and persistently barking dogs at boarding kennels. Some noise issues, such as vehicles on roads and low flying aircraft do not fall under Council's control.

Noise associated with stereos and loud parties occurs very regularly, but is dealt with reasonably efficiently using the provisions of s326 of the RMA provided subjective proof of excessive noise can be gathered by Councils enforcement staff or contractors.

The majority of ongoing complaints have been effectively dealt with, although it is typically a slow process, particularly if the noise is not predictable. There are a minority of complaints where objective assessment establishes compliance with the TRMP's noise performance standards, BPO is believed to have been achieved, and subjective assessment establishes that the noise is not excessive in the opinion of Environmental Health Officers. Where that assessment differs from that of complainants, they are advised by staff that further assistance can't be provided. This decision is never welcomed by the complainants, but unless there is evidence to support either excessive noise, or a breach of s16 or the TRMP, contemplating any sort of enforcement is not a viable proposition.

The interactions between the noise makers and complainants has been observed to follow a generally predictable process. Those generating noise have frequently embarked on the process without a great deal of thought about the consequences for those that will receive the noise. Some incorrectly believe that it is their right to generate noise on their own property, despite the fact that it has the potential to impact adversely on others. Whether by a failure to appreciate the propagation of their noise, or a failure to be perceptive of the needs or sensitivity of others, the consequence appears to be similar.

The receiver of noise frequently feels disempowered by the lack of control they have over the offending noise. More often than not, when an aggrieved person complains to Council about excessive noise, they have already gone past the point where they can tolerate the noise. For such complainants, ongoing noise is a continual reminder of the power of the noise maker, and the way that they as complainants are disempowered. Such people report feeling anxious about the next occurrence of the noise, frustrated that they can't achieve an immediate fix for the noise, and increasing levels of annoyance when the noise does occur.

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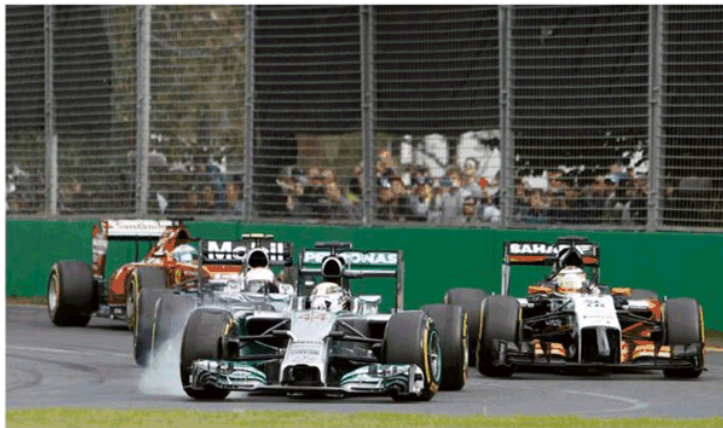
The observation is made that a high proportion of people subjected to environmental noise become highly sensitised to that noise or the activity associated with it. Even if the noise is substantially reduced at that stage to a level that may not have initially generated annoyance, the complainant's heightened sensitivity to the noise or activity associated with it continues to produce anxiety and annoyance.

4. Noise from motorsports generally

Nuisance noise from sports events is creating conflict in communities around the world. Community action due to nuisance noise has impacted on sports generally including motor sports in New Zealand and internationally. The majority of sports played do not generate noise per se. However, noise can be generated from crowds attending an event, or from public address systems used to inform and entertain participants or crowds attending events. Motorsports more often than not generate varying levels of intrusive noise from the vehicles participating. There is however, a world-wide trend for motorsport governing bodies to control the noise generated, as this March 2014 headline suggests.

The New York Times

Quiet Formula One Cars Spark a Noisy Debate



The new environmentally friendly Formula One cars, powered by relatively quiet hybrid engines, during the season-opening Grand Prix in Australia this month. Brandon Malone/Reuters

The article goes on to say *"This means a business paradox for Formula One. In order to attract car manufacturers and sponsors, it has created a cleaner, more environmentally friendly engine system. But in so doing, it risks alienating fans attracted by the visceral excitement of racing enhanced by the heightened noise level."* and *"Some fans and Formula One regulars said that without the noise, the series had lost its sparkle. Many said loud engines provide a direct injection of macho bravado, a sense of danger, speed, urgency and wonder."*

The sentiment expressed perhaps identifies a crucial factor in considering this matter. In most day to day activities using motors, noise is an unintended by-product of the

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desired use of energy or mechanical process and considerable effort is taken by motor manufacturers to minimise the noise emitted. In motor sports, it appears that noise from the motors used is one of the desirable attributes of the activity as perceived by followers.

In other activities such as performances involving amplified sound at music events, the primary focus of the event is the sound generated, and it is able to be controlled in terms of volume and speaker focus, from a location which reflects the intended receiving environment. Assessment of noise levels beyond the venue can be used to directly control the level of sound generated by simply adjusting a volume control. Conversely, in the case of motorsports, the throttle is the de facto volume control. The individual participants control the throttle in their vehicles, and that has a direct relationship on the level of noise generated by their vehicle. The participating drivers have little direct appreciation of the overall level of noise generated by the combined activity as perceived in the receiving environment. Motor sports event organisers cannot simply turn down the volume if they exceed predetermined levels at a sensitive receiving location.

Considering these matters on the control of noise generated at the Nelson Speedway, I make the following comments.

5. Observations relating to predicted noise levels

The memorandum from Acoustic Engineering Services Limited (AES) dated 30 October 2019 and addressed to Shoshona Galbreath provides a noise contour map. This noise contour map shows three rural dwellings located between the 70dBA and 75dBA contours, 7 dwellings located between the 65dBA and 70dBA contours and 33 rural dwellings are located within the 50dBA to 60dBA contours.

Whilst it is understood that the noise contour map has been established using worst case scenarios for noise generation and transmission, I make the observation that the usual noise performance standard that would be applied at the notional boundary of a rural dwelling in rural zones in Tasman District after 6pm on Saturdays and at any time on Sunday is $L_{Aeq}(15 \text{ minutes})$ 40dB.

That level is at least 10dB below the level that is suggested for those properties located within the 50dBA to 60dBA contours on the noise contour map. By calculation based on the noise contours provided, the 40dB contour is likely to include many hundreds of dwellings, including those in the new Lower Queen Street housing developments of Berryfields and Arvida.

6. Obligations imposed by the RMA

The primary obligation in relation to noise is to comply with s16 of the Resource Management Act 1991 (RMA). This section of the RMA does not require that a land owner simply undertakes some means of controlling noise, but places a duty on occupiers to ensure that the best practicable option (BPO) is adopted to control noise. Specifically, section 16 of the RMA states:

“ 16. Duty to avoid unreasonable noise—

(1) Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or . . . the coastal marine area, shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.”

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Note: BPO is defined as:

Best practicable option, in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—

- (a) *The nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and*
- (b) *The financial implications, and the effects on the environment, of that option when compared with other options; and*
- (c) *The current state of technical knowledge and the likelihood that the option can be successfully applied:*

The obligation is reinforced by section 326 of the RMA which defines excessive noise as noise that will “...unreasonably interfere with the peace, comfort, and convenience of any person...”

The requirements imposed by the RMA establish obligations over and above the need to comply with any noise performance standard set by the Tasman Resource Management Plan (TRMP) for a permitted activity, or consent conditions.

In considering the TRMP, it is important that the noise performance standards that will apply to the site activity after BPO has been satisfied, should be set by the consent process. The TRMP Rural 1 zone noise performance standards do not automatically apply to discretionary activities.

The TRMP Rural 1 zone noise performance standards may serve as a “permitted activity baseline” type benchmark to assist in assessing the noise effects at the location of the proposed discretionary activities. It is important to keep in mind that the proposed activity is not a permitted activity within the Rural 1 zone (by virtue of its noise), and that the type of noise generated may not be similar in frequency, intensity, duration, or audible characteristic to that envisaged in the Rural 1 zone by the TRMP.

For many activities where the nature of the noise generated may cause annoyance or nuisance to those within audible range, it is reasonable to ask for a noise management plan (NMP) that will detail what those BPO(s) will be. Such detail may include but not be limited to:

- Limiting hours of operation or noise generating activities;
- Limiting the types of noise generating activities;
- Siting or orientation of noise sources;
- Other strategies that can be established to direct noise away from sensitive locations with acoustic barriers or good acoustic design;
- Routine monitoring of noise levels at sensitive locations, (subjectively preferably but in some cases by measurement);
- Providing advanced warning to neighbours for intermittent or occasional noise,
- Establishing a process where affected persons can report directly to the noisemaker if nuisance conditions are experienced may also be included.

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7. Suggested Noise Management Plan

A Draft Noise Management Plan (DNMP) prepared by AES on 29 August 2018 suggests a number of strategies that it states "...provides methodologies to ensure that the noise emissions associated with the operation of the...Speedway...does not exceed a reasonable level..."

Many of the components of the DNMP adequately reflect an attempt to meet the general BPO obligations imposed by the RMA.

There are two critical aspects that I believe require further attention, as follows:

- i) Paragraph 2.2. of the DNMP is headed "Noise from vehicles on the speedway", and states " Vehicles using the track are required to operate in accordance with Speedway New Zealand rules..." The "Speedway New Zealand rules" that are then quoted are shown in the 2017 iteration of the rules which states:

S5 SOUND

- S5-1** No vehicles shall exceed 95 dba. Measured from 25 metres on the infield from pole line on fastest part of straight with meter held not less than 1 metre above ground.
- S5-2** The Steward is responsible for ensuring that no vehicle exceeds the sound level.

I note that this differs from the more recent 2019 iteration of the rules which is referenced in the website www.speedway.co.nz/TECHNICAL-1/RULEBOOK-1/RULEBOOK-1 and includes the following:

S5 SOUND

- S5-1** No vehicles shall exceed 95 dba. Measured from the infield with meter held not less than 1 metre above ground.
- S5-2** The Steward is responsible for ensuring that no vehicle exceeds the sound level.

The critical difference is in S5-1, the earlier iteration of the rule defines an approximate measurement location as "Measured from 25 metres on the infield from pole line of straight...". That distance reference has been removed from the later 2019 iteration of the rules.

When measuring noise from any single location, such as an individual vehicle, there are a number of factors that will significantly impact on the accuracy or relevance of the measurement.

One of the influencing factors on noise propagation from a point source, is the distance to the measurement position. There are some well-established rough guides based on the inverse square law that can be used to estimate the drop-off of noise intensity as the assessment point is moved away from the noise source. A point source of noise that generates 100dBA measured at 1 metre distance, will register only 86dB from 5 metres, 80dB from 10 metres, 72dB from 25 metres and only 60 dB from 100 metres. This factor will significantly alter any attempt to consistently measure the 95dB performance standard, depending on the siting of the microphone of the sound level meter.

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Another factor that can significantly impact on the accuracy of any noise measurement is background (residual) noise (that is not the target noise) interfering with the measurement of the target noise. This is recognised in *NZS 6802:2008 Acoustics – Environmental Noise* in which there are calculations and adjustments defined for dealing with residual sound. If a target noise is less than 10dB louder than other residual noise, then a calculation is required to achieve a measured value. If a target noise is not at least 3dB louder than the residual noise, a valid assessment cannot be done.

Relating to contamination by non-target noise, what the expected combined noise may be from a group of cars needs to be taken into consideration. Another useful rough guide is to consider the doubling of sound power to be approximated by adding 3dB. On that basis, two vehicles in close proximity, both generating 92dBA, will produce 95dBA in combination. Four identical vehicles will double the cumulative level again to 98dBA, and eight similar vehicles will produce 101dBA in combination.

When considering these three confounding factors, it can be seen that if other vehicles are racing at the same time, the prospect of identifying a single vehicle exceeding the 95dB limit is likely to be so problematic that it is to all intents and purposes it will be an impossibility to administer with any degree of accuracy. The 95dBA limit is therefore unlikely to be effectively enforced.

In relation to the emission of noise from the operation of the speedway, it is suggested that the Speedway New Zealand rules S5 detailed above will fall short of providing a completely effective control.

In my opinion, what is required is a noise performance standard that takes into account the cumulative effects of all noise sources at the Speedway site. The location or locations that this is undertaken may be from an elevated position near the site boundaries. The added advantage that this suggested system of noise control offers is providing control on noise that is generated by other means such as amplified sound.

- ii) Paragraph 2.3. of the DNMP is headed “Noise from the Public Address (P.A.) system”. The TRMP establishes noise performance standards in various zones in Tasman District. These well-established standards recognise the type of activity that may be expected to occur in relevant zones, and provide some tolerance for noise in some circumstances. For example, in the rural zones, noise limits are only set for locations that are within the 20 metre distance defined as a notional boundary for a rural dwelling. That results in rural dwellings having protection from high levels of noise, unless it is noise generated by an intermittent or temporary rural plant and animal production activity.

However, a motel or a camping ground or other commercial undertaking established in a rural zone does not enjoy any protection from noise through the TRMP zone rules.

Those then are the baseline expectations that anyone wishing to live in a rural zone must be prepared to tolerate. That has been the case for the area within slightly more than three kilometres of the Speedway since 1996 (when the TRMP was initially proposed).

There are other controls on noise as has already been identified in section 4 of this report. One of the critical factors in determining what is acceptable is deciding what level of noise may be “a reasonable level” for the purposes of avoiding unreasonable noise as required by

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section 16 of the RMA, and noise that may “unreasonably interfere with the peace etc.” as required by section 326 of the RMA.

From experience obtained through years of investigating ongoing community noise issues, it is apparent that in many circumstances, people that have been troubled by excessive noise, develop a sensitivity to the noise, or the activity generating the noise. People thus affected have been observed to develop a zero tolerance for the subject noise or activity.

When determining those matters around reasonableness, it is desirable to make the assessment from the perspective of the average person, and not from the perspective of someone that is sensitised to the subject noise, or has an unusually high tolerance to noise. Historically, the courts in English law called this average person “the man on the Clapham omnibus”. He is used as a hypothetical ordinary and reasonable person for guidance where it is necessary to decide whether a party has acted as a reasonable person would. It is that position that the Council will adopt when providing an assessment on a matter such as this.

Case law provides guidance on how a reasoned assessment of factors may be considered to determine reasonableness. In the Environment Court *Decision No. [2010] NZEnvC48: Nelson City Council, Delaware Bay Residents Association Inc, Vs Sharon Harvey and Bruce Reginald Harvey*, Environment Court Judge B P Dwyer says at [70];

[70] The Court suggested to the noise witnesses that an appropriate means of determining whether noise exceeded reasonable levels or was offensive or objectionable in any given instance, might be application of the FIDOL factors identified in the publication *Good Practice Guide for Assessing and Managing Odour in New Zealand*¹¹. Those factors are:

- Frequency- how often an individual is exposed to odour;
- Intensity- the strength of the odour;
- Duration- the length of a particular odour event;
- Offensiveness/Character- the hedonic tone of the odour which may be pleasant, neutral or unpleasant;
- Location- the type of land use and nature of human activities in the vicinity of the odour source.

The FIDOL assessment guide is used to discuss the reasonableness of Speedway noise as follows.

8. FIDOL Assessment

Frequency: In assessing how often neighbours may be exposed to noise from the Speedway the 15 occasions on which there are race meetings, in combination with the practice or qualifying sessions should be tabulated. Currently the race meetings typically occur on a fortnightly basis, and are focussed on the weekend over the months when daylight saving is in force from October to April. The applicant is still proposing a total of 15 race meetings each season but is applying for resource consent to increase the frequency of the race meetings. Information pertaining to the number of occasions and the frequency of the associated practice or qualifying sessions has not been provided.

Intensity: The level (volume) of noise neighbours are exposed to will generally be a function of the proximity of their dwellings to the Speedway. Other factors such as the type of racing

Sensitivity: General

that is being undertaken, the number of competitors and spectators and climatic conditions will impact on the generation of noise and the dissemination of that noise. It is my view that the intensity of noise is a primary consideration to assessing the reasonableness of the Speedway activity.

Duration: The DNMP describes an intention to commence events no earlier than 1600 hours and to be finished by 2200 hours. Total time for racing vehicles is therefore 6 hours on any occasion. However I note that less than half of that time will involve the more intensive levels of noise generation. Some submitters have raised the issue of post racing activities which suggests there is merit in limiting such activity like track grading that may generate noise. The intention to have consecutive days of racing is expected to increase duration (if considered as exposure to noise over any weekend) with a corresponding drop in frequency of the weekends that will be impacted.

Offensiveness/Character: Whilst the people attending a race meeting may regard the noise of the racing vehicles and amplified sound from the PA system as desirable, it seems most likely that those neighbours that may be troubled by the noise of a race meeting will regard the noise as being offensive to a greater or lesser degree, depending on the clarity with which it is heard. The use of the PA system during race meetings warrants comment in relation to character. When the PA is used to describe or commentate on the race for the attending crowd, the usefulness of this additional level of (ancillary) noise is questioned. It appears logical that the spectators, are in a similar position to a crowd at any sporting fixture: if they can see the event occurring in front of them, limited benefit may be added to the spectacle of the event by a commentator putting the scene into words. Typically, most of the essential information may or could be imparted in the relative quietness that occurs after the flurry of activity associated with an actual race. In the case of a commentary occurring simultaneously with the running of a race, the commentary by necessity must be broadcast at a significant level to compete with the noise of the racing vehicles. During races involving the noisier vehicles, I have noticed that it has been difficult to consistently understand the commentator to the extent that the commentary is only partly intelligible. It is suggested that the semi-intelligible commentary that competes with the higher levels of noise generated by racing, could be regarded as more intrusive by virtue of its character than the noise of vehicles racing.

Location: When the Scramble Club was initially established circa 1968, it was at a location that would be noticed from a few rural dwellings. In those days, both cars and PA systems were less powerful and incapable of generating the noise levels readily achieved today. The location of the Speedway is now impacted by urban spread, and an increase in the number of rural lifestyle properties. It is the latter which has impacted most significantly on the Speedway from the perspective of reverse sensitivity.

Summary of FIDOL assessment: The impact of these factors is logically expected to be a function of proximity to the Speedway site. The closer an impacted rural dwelling is to the Speedway site, the greater the level of noise intrusion will occur, and the greater will be the consequence of all of these assessment factors. The duration of each race meeting at up to 6 hours is also significant although it is noted that the generation of high levels of noise will be less than half that period. The proposal to alter the frequency so that there will not always be a fortnight gap between meetings, but keeping the total number of meetings the same, may be seen as a negative by some. The offensiveness of the noise is likely to be also significantly dependant on distance, as greater distance is likely to result in the higher frequencies involved in the amplified sound being less obvious.

9. Significance of noise effects on animals

Most of the complaints received historically by the Tasman District Council Environmental Health section have related to the noise effects from the fireworks associated with the Speedway activity, impacting on animals. I have dealt with distraught animal owners that have had to deal with animals that have been injured on fences after being startled by noise from the Speedway's fireworks displays.

Section 326 of the RMA is very clear in defining excessive noise, and limits the definition to effects on any person. Section 16 is less clear, but in assessing reasonableness, it is the man on the Clapham omnibus that was the measure, not his horse or dog. This is perhaps reinforced by the definition of the word "environment" in the RMA. The definition includes-

- a) Ecosystems and their constituent parts, including people and communities; and
- b) All natural and physical resources; and
- c) Amenity values; and
- d) The social, economic, aesthetic and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition of which are affected by those matters:

Again it is people that are identified in that definition, and whilst animals may well contribute to resources, amenity and other identified values, the welfare of domestic animals or livestock is not believed to be of direct relevance to the noise provisions of the RMA. It is accepted that any distress suffered by animals is likely to in turn have a distressing effect on owners, but my view is that the general noise controls provided by the RMA cannot be applied to effects on animals.

10. Conclusion and recommendations

Noise from the engines of racing vehicles is one of the components of the sport that speedway participants and supporters appear to view as a desirable feature. Some improvement is expected to be achieved by complying with the DNMP, but substantial reduction of the noise from racing vehicles is not an expectation. However, reducing the impact of the total noise produced including from amplified sound is a reasonable expectation.

In my opinion, the DNMP does not provide sufficient control of the noise generated by the Speedway activity, which includes vehicles racing, and amplified sound through a PA system. The following is suggested in addition to the controls imposed by the DNMP, and these recommendations may be appropriately added to the noise management section of the Recommended Draft Conditions in the planners report made under section 42A of the RMA.

- A noise measurement system that assesses the total level of noise near to the boundary of the site at a height of at least 3 metres above the ground, and at a location(s) to be determined at the hearing. Such measurements should be made available to the Council on request.
- The performance standard that applies at that location shall be determined at the hearing and should specify an L_{AFmax} and $L_{Aeq(15\text{ minutes})}$ value.
- The PA system shall only be used when vehicles are not racing on the track.

Sensitivity: General

- The PA system shall produce a level of sound that does not exceed that necessary to be clearly heard within the stands between races.

11. **Summary of effects**

The expectation is that the DNMP, if modified as suggested above, will go some of the way to remedying or mitigating the adverse effects of noise from the proposed activity. However, it is expected that there will continue to be some adverse effects from speedway activity as follows:

- For dwellings inside the 60dB contour, it is my opinion that the noise effects can be described as significant adverse effects.
- For dwellings between the 50dB and 60dB contour, it is my opinion that the noise effects can be described as more than minor adverse effects.
- For the many dwellings that fall into the 40dB to 50 dB contour, it is my opinion that the noise effects can be described as minor adverse effects.



PO Box 3737
Richmond 7050
Tasman District
M +64 (0) 21 243 1233
E+gary.clark@traffic-concepts.co.nz

19 February 2020

Ref: 0753

Victoria Woodbridge
Landmark Lile Limited
PO Box 343
Nelson 7040

Dear Victoria

**Nelson Speedway – 123 Lansdowne Road - Tasman District
Traffic Assessment Letter**

Following from your instructions, site visits and review of the documentation associated with the consent application, I have completed my assessment of the safety and traffic effects of the request to change the frequency of the events held at the Nelson Speedway.

Council have in the Section 92 Letter dated 14 February 2020 sought a traffic report for the consent application to change the frequency of the events held at the Nelson Speedway. This is the only change with the number of events remaining the same over the year as well as the season (October to April) that they are run.

The change in the existing consent (granted in the 1968) is needed to allow more flexibility in running their events. The current consent requires a minimum of 14 days between events which makes it difficult to run national events which are run over two consecutive days.

The current arrangement will not change with very effective on and off site management of the parking and traffic environments. As with similar events the events are managed through a Traffic Management Plan (TMP). The operation of a speedway event will remain the same and any management of the traffic and parking elements is done through the TMP. It should be noted that a TMP is an active document which allows for changes to be should this be required to address an issue.

The site has a large grassed area which is available for parking for people attending the event. Competitors all park in a separate area identified on the site plan. Some spectator parking occurs on street but this is managed by the speed reductions that are

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put in place under the TMP. Parking is restricted in the immediate vicinity of the Speedway to ensure the intersection can operate safely as well as the access to the site.

It is understood that the national events which run over 2 consecutive days will not have greater spectator numbers compared to a single racing meeting.

I have reviewed the TMP's for the Speedway for the events. The TMP's have been approved by council and provide the mitigation of the adverse effects that may arise from the Speedway events. Again, this is the appropriate tool to manage the effects of an activity that is of relatively short duration and infrequently over the course of a year.

In concluding, any adverse of the Speedway events are managed through the TMP and any residual impacts being less than minor.

We are happy to provide any further clarification if required.

Regards



Gary Clark

Director

NZCE (Civil), REA, MIPENZ, CPEng

Attachment 8: Recommended Draft Conditions**Resource consent number: RM191306**

Activity authorised by this consent:

Land use consent for a recreational activity in the Rural 1 zone being 15 race meetings which may occur between 1 October and 30 April annually and for one firework display each season.

Location details:

Site address: 123 Lansdowne Road, Richmond.

Legal description: Lot 1 DP 10914, Pt Lot 2 DP 10914 (CT 6C/1260 8C 40)

Location co-ordinates: 5427084.94 N 1612316.16 E (NZTM)

Meaning of Words

Race meeting – A single day of racing

Race season – 1 October – 30 April annually

General

- 1 The activity shall be undertaken in accordance with the information submitted with the application and the plan prepared by Newton Survey titled 'Nelson Speedway Site Plan – Project No. N975 – Dwg no. RC01' and dated 8 April 2020. If there is conflict between the information submitted with the consent application and any conditions of this consent, then the conditions of this consent shall prevail.
- 2 The consent holder shall advise the Council's Monitoring Officer in writing, at least one month prior to each race season, so that monitoring of the conditions of this consent can be undertaken. Please email [\[tbc\]](#) and advise the consent number, RM191306.

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Number of Race Meetings

- 3 This consent authorises up to 15 race meetings each race season. The Consent Holder shall provide the Council's Monitoring Officer with a copy of the race schedule at least five working days prior to each race season and shall notify the Council's Monitoring Officer in writing at least two working days prior to each race meeting.

Frequency of Race Meetings

- 4 There shall be a minimum of five intervening days between each race meeting, except for two occasions each race season, where race meetings may occur over two consecutive days or as otherwise provided for by condition 5 of this consent.
- 5 In the event that the Consent holder is unable to hold a race meeting on the second consecutive day due to adverse weather conditions then it may instead hold the second 'consecutive day' race meeting within three days of the first race meeting.
- 6 There shall be no race meetings 14 days prior to or following each occasion the race meetings occur over two consecutive days as provided for by conditions 4 and 5.

Note: For the purposes of this condition 'two consecutive days' includes the scenario where the second consecutive race meeting occurred within three days of the first race meeting (because of adverse weather) as provided for by condition 5.

Race Meetings – Start and Finish times

- 7 Race meetings shall not start before 4pm.

Note: For the purposes of this condition 'start' means when vehicles start racing on the track.

- 8 The race meetings shall finish by 10:00pm except in the following scenarios:

- a) Where an ambulance needs to provide assistance on the track during a race meeting in which case the finish time of that race meeting may be extended to 11pm.
- b) Each 'two consecutive day' race meeting (which by virtue of condition 5 may occur over a period of three days) shall finish by 11pm.

Note: For the purposes of this condition 'finish' means there are no vehicles racing on the track.

- 9 For the instances provided for in conditions 8(a) and 8(b) the Consent Holder shall keep a record of the details of the race meeting(s) (date and times and nature of the delay) which shall be forwarded to the Council's Monitoring Officer on request.

Public Announcement System

- 10 The Public Announcement system may only be used between the hours of 4pm and 10pm.

Note: For the avoidance of doubt the requirements of this condition includes sound testing and calibration of the PA system.

- 11 The Public Announcement System shall not be used while vehicles are racing on the track.

Traffic Management Plan

- 12 A Traffic Management Plan (TMP) shall be prepared and forwarded to the Council's Monitoring Officer for the approval of the Council's Development Engineer at least one month prior to each race season.
- 13 The TMP shall set out the measures and controls to be used to minimise the disruption to pedestrians, motorists and surrounding landowners arising from the exercise of this consent. As a minimum the TMP shall include details on the potential requirement and duration of any road closures, parking restrictions and signage. The approved TMP shall thereafter be implemented prior to each race season.

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Note: An application for a temporary road closure may still be required in accordance with the Local Government Act. Further information can be found on the Council's website: <https://www.tasman.govt.nz/my-business/other/when-to-apply-for-a-road-closure/>

Community Liaison Representative

- 14 The Consent holder shall nominate a 'Community Liaison Representative' who shall be available for the duration of each race season and during each race meeting to respond to and document any enquiries or complaints from neighbouring residents. The Community Liaison Representative will be familiar with the Speedway activity and the race season schedule.
- 15 The Consent holder shall publicise the race season schedule on its website at least two weeks prior to each race season. Contact details (telephone and email address) for the Community Liaison Representative shall also be publicised on the website at the start and for the duration of each race season.

Note: It is accepted that the race meeting dates may vary from those advertised on the website at the start of the race season (if adverse weather is forecast as an example). It is therefore expected that the website will be updated throughout the season as necessary. The purpose of this condition 15 is to enable neighbouring residents to have access to the proposed race season schedule in advance of the race meetings occurring.

Noise Performance Standard

- 16 The total level of noise from the race meetings authorised by this consent shall not exceed XX L_{AFmax} and XX L_{Aeq} (15 minutes) when measured by the noise measurement system required by condition 17 of this consent.

Note: For the avoidance of doubt this condition, and conditions 17- 24 do not apply to the fireworks authorised by condition 25 of this consent.

- 17 A noise measurement system which measures the total level of noise from within the site shall be installed at least 3 metres above ground level prior to the implementation of this consent. Noise measurements shall thereafter be

provided to the Council's Environmental Health Officer within five working days following each race meeting or on request of the Tasman District Council.

- 18 Noise shall be measured and assessed in accordance with the provisions of NZS 6801:2008 Acoustics - Measurement of Environmental Sound and NZS 6802:2008 Acoustics - Environmental Noise.

Noise Management Plan

- 19 At least four weeks prior to each race season, the Consent Holder shall submit to the Tasman District Council for approval a Noise Management Plan (NMP) prepared by an acoustics specialist to The Council's Environmental Health Officer. The objective of the NMP is to ensure that mitigation measures and adaptive management associated with the race meetings are implemented to ensure that the noise performance standards specified in condition 16 are met.
- 20 The Council may request alterations to the NMP to ensure it meets the objective and so is able to be approved. If so, an updated NMP must be provided no later than one week prior to the first race meeting. The race meetings cannot proceed without a Council-approved NMP.
- 21 As a minimum each NMP shall include:
- (a) contact details for the Community Liaison Representative referred to in condition 14.
 - (b) the number of tickets sold and number of tickets that will be available for sale for each race meeting to indicate the expected scale of the race meetings.
 - (c) a description of the nature of the race meetings (vehicle types, numbers) and associated activities and sound sources associated with each race meeting.
 - (d) a site plan showing where the loudspeakers and other significant sound sources will be located.
 - (e) details of noise mitigation methods to be used to control noise from the race meetings in order to comply with the requirements of the conditions of this consent.
 - (f) measures to manage noise from people.
 - (g) procedures and requirements for noise monitoring and reporting.
 - (h) procedures for addressing complaints, including complaints that relate to noise that meet the requirements of condition 16 above but that may be made pursuant to sections 16 or 326-328 of the Resource Management Act.

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Note: nothing in the above overrides any other condition in this consent

- 22 All aspects of the race meetings shall thereafter be undertaken in accordance with the approved NMP relevant to that specific race season.
- 23 The approved NMP may be altered at the written request of the consent holder if agreed to in writing by the Council's Environmental Health Officer and conditions 21 and 22 above continue to be complied with. If approved by Council, the altered NMP will become the approved NMP for the purposes of condition 21.
- 24 Within one month following the completion of each race season, the consent holder shall provide a report to Council's Monitoring Officer that advises:
 - (a) A summary of the noise monitoring results, and any actions taken to reduce any exceedance of the noise limit in condition 16 above.
 - (b) Details of any complaints and actions taken to address them.
 - (c) Any recommendations for future race seasons to assist with compliance with the noise limit in condition 16 above.

Firework Display

- 25 The Consent Holder may hold one firework display each race season. The firework display shall finish by 11pm.

Solid Screens

- 26 The solid screens which have been installed around the perimeter of the racetrack shall be retained, maintained or upgraded so as to provide a solid barrier around the racetrack for noise attenuation purposes.

Review Clause

- 27 For the purposes of, and pursuant to section 128 of the Resource Management Act 1991, the Council reserves the right to review this consent annually commencing 12 months from the date this consent is granted, for any of the following purposes:
 - (a) To modify existing conditions of consent relating to the effects of the activity on the environment.

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- (b) To require the Consent Holder to adopt the best practicable option to mitigate any adverse effect upon the environment, arising from the generated fire risk, noise and traffic effects of the activity.
- (c) If the Council deems that it is necessary to do so in order to deal with any adverse fire risk, noise or traffic effects on the environment which may arise from the exercise of this consent, and which is appropriate to deal with at a later date.

ADVICE NOTES

Council regulations

- 1 This is not a building consent and the Consent Holder shall meet the requirements of Council with regard to all Building and Health Bylaws, Regulations and Acts.

Other Tasman Resource Management Plan provisions

- 2 This resource consent only authorises the activity described above. Any matters or activities not referred to in this consent or covered by the conditions must either: 1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate resource consent.

Consent Holder

- 3 This consent is granted to the abovementioned Consent Holder but section 134 of the Act states that such land use consents “attach to the land” and accordingly may be enjoyed by any subsequent owners and occupiers of the land. Therefore, any reference to “Consent Holder” in the conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent as there may be conditions that are required to be complied with on an ongoing basis.

Monitoring

- 4 Monitoring of this resource consent will be undertaken by the Council as provided for by section 35 of the Act and a one-off fee has already been charged for this monitoring. Should the monitoring costs exceed this fee, the Council reserves the right to recover these additional costs from the Consent Holder. Costs can be minimised by consistently complying with conditions, thereby reducing the necessity and/or frequency of Council staff visits.

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