

MINUTES

TITLE: Commissioner Hearing (Tasman District Council (Nelson Cycle Trails Trust))
DATE: Monday 7 November 2011 and Tuesday 8 November 2011
TIME: 9.30 am
VENUE: Tasman Council Chamber, 189 Queen Street, Richmond.

PRESENT: Commissioners:
Dr J Jones and Mr G Rae

IN ATTENDANCE: Consent Planner Natural Resources (M Croxford)
Co-ordinator Land Use Consents (J Andrew)
Executive Assistant (V M Gribble)

1 APPLICATION NOS. RM110394, RM110454, RM110455, RM110456, RM110458, RM110523, RM110525 - TASMAN DISTRICT COUNCIL (FOR NELSON CYCLE TRAILS TRUST)

The application seeks the following consents for the Proposed Tasman Loop Cycle Trail (Coastal Section).

Coastal Permit RM110394 To occupy the coastal marine area for the construction of structures, including boardwalks, culverts, fords and/or bridges, associated with a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.

Land Use Consent RM110454 To undertake earthworks within 200 metres of the coastal marine area and adjoining an estuary with nationally important natural ecosystem values.

Coastal Permit RM110455 To disturb the coastal marine area in association with the construction of structures, including boardwalks, culverts, fords and/or bridges, associated with a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.

Land Use Consent RM110456 To construct boardwalks and bridges (buildings) in Light Industrial, Heavy Industrial, Mixed Business (Proposed) and Open Space Zones and the Coastal Environment Area not meeting setback or stormwater requirements.

To install up to 20 directional signs and information signs in various locations along the trail not meeting the sign design and location standards.

**Coastal Permit
RM110458**

To undertake reclamation of the coastal marine area for the construction of a cycleway adjoining the Waimea Inlet between State Highway 6, Richmond, and Lansdowne Road.

**Coastal Permit
RM110523**

To discharge sediment to coastal marine area in association with the earthworks within 200 metres of the coastal marine area.

**Discharge Permit
RM110525**

To discharge stormwater to land and water in association with the construction of a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.

Waimea Estuary on the coastal margin from State Highway 6 (at Reservoir Creek culvert) west to Lansdowne Road, and on Lower Queen Street to the Waimea River, being legally described as Common marine and coastal area as defined by the Marine and Coastal Area (Takutai Moana) Act 2011; Lot 1 DP 10599; Lot 1 DP 18932; Lot 4 DP 11092; Lots 1 & 2 DP 16384; Part Sections 215 & 217 and Sections 218 & 219 Waimea East District; Lot 2 DP 343034; Lot 1 DP 27810; Lot 2 DP 720; Local Purpose Reserve; Lot 5 DP 18918; Lot 1 DP 18146; Lot 1 DP 13405; Road Reserve; Lot 1 DP 14247; Lot 1 DP 7189; Lot 1 DP 7781; and Pt Section 209.

The Commissioners proceeded to hear the application, presentation of submissions and staff reports as detailed in the following report and decision.

Report and Decision of Tasman District Council through a Panel of Independent Commissioners

**Meeting held in the Tasman District Offices, Richmond on Monday, 7 and
Tuesday, 8 November 2011
Hearing closed on Friday, 18 November 2011**

A Hearing Panel of two independent commissioners appointed by the Tasman District Council ("the Council") was convened to hear the applications lodged by the **Nelson Cycle Trails Trust** ("the Applicant"), to construct the coastal section part of the Tasman Great Taste Trail (formerly the Tasman Loop Cycle Trail) along the edge of the Waimea Estuary, with associated coastal permits, land use consents and discharge permits. The applications, made in accordance with the Resource Management Act 1991 ("the Act"), were lodged with the Council and referenced as:

**Coastal Permit
RM110394**

To occupy the coastal marine area for the construction of structures, including boardwalks, culverts, fords and/or bridges, associated with a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.

Land Use Consent RM110454	To undertake earthworks within 200 metres of the coastal marine area and adjoining an estuary with nationally important natural ecosystem values.
Coastal Permit RM110455	To disturb the coastal marine area in association with the construction of structures, including boardwalks, culverts, fords and/or bridges, associated with a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.
Land Use Consent RM110456	To construct boardwalks and bridges (buildings) in Light Industrial, Heavy Industrial, Mixed Business (Proposed) and Open Space Zones and the Coastal Environment Area not meeting setback or stormwater requirements. To install up to 20 directional signs and information signs in various locations along the trail not meeting the sign design and location standards.
Coastal Permit RM110458	To undertake reclamation of the coastal marine area for the construction of a cycleway adjoining the Waimea Inlet between State Highway 6, Richmond, and Lansdowne Road.
Coastal Permit RM110523	To discharge sediment to coastal marine area in association with the earthworks within 200 metres of the coastal marine area.
Discharge Permit RM110525	To discharge stormwater to land and water in association with the construction of a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.
COMMISSIONERS:	Dr Jeff Jones, Chairperson Mr Gary Rae
APPLICANT:	Mr Tony Quickfall (Witness co-ordinator and planning) Mr Bill Gilbertson (Nelson Cycle Trails Trust) Mr Stuart Hughes (Construction and engineering) Mr Rob Greenaway (Recreation values) Mr Jonathan Kennett (Trail design and route criteria) Ms Elizabeth Gavin (Landscape) Ms Elizabeth Bell (Birds) Mr Peter Gaze (Birds and airstrike) Mr Bradley Myer (Ecology)
CONSENT AUTHORITY:	Consent Planner Natural Resources (Mr Michael Croxford) Development Engineer (Mr Dugald Ley) Co-ordinator Land Use Consents (Mr Jack Andrew) Consultant Ornithologist (Mr David Melville)

SUBMITTERS:

Ms Jackie McNae (Alliance Group)
Mrs Kay McNabb (Nelson Airport Ltd)
Mr Lawson Davey (Fish and Game NZ)
Ms Helen Campbell (Friends of Nelson Haven and Tasman Bay Inc)
Mr William Cook
Mr Gordon Roberts
Mr Craig Harley
Mr Merrick Allan

IN ATTENDANCE

Executive Assistant (Mrs Valerie Gribble)

1. SUMMARY

The Commissioners have **GRANTED** the resource consents sought, subject to conditions.

2. DESCRIPTION OF THE PROPOSED ACTIVITY

Nelson Cycle Trails Trust on behalf of the Council applied for consents for the construction of part of the Tasman Great Taste Trail.

The Tasman Great Taste Trail is split into three parts: the Rail Trail Route from Richmond to Tapawera; the Motueka Valley Route from Tapawera to Riwaka; and the Coastal Route from Richmond to Riwaka.

The portion of the cycle trail covered by the consent applications extends from State Highway 6 in the east to the western end of Lower Queen Street at the Waimea River. For most part the cycle trail is to follow the margin of the Waimea Inlet.

The application is to construct, operate and maintain a regional cycle trail comprising the following:

- installation of wooden boardwalks and associated occupation of the Coastal Marine Area for a period of 35 years
- formation of a dual purpose cycle and pedestrian track
- minor coastal reclamation
- minor disturbance of the foreshore and seabed
- minor associated earthworks and land disturbance
- discharge of stormwater
- installation and extension of culverts and a ford in the Coastal Marine Area and associated occupation and disturbance of the foreshore and seabed for a period of 35 years
- up to 20 information and directional signs

The application breaks the cycle trail route for which consent is sought into six sections, as follows:

Section 1: SH 6 to Beach Road - new cycle trail - 0.9km

Section 2: Beach Road to Sandeman Road - existing cycle trail - 2.4km
 Section 3: Sandeman Road to Lower Queen Street - new cycle trail - 1.4km
 Section 4: Lower Queen Street - new cycle trail beside an existing road - 0.5km
 Section 5: Lower Queen Street to Lansdowne Road - new cycle trail - 1.7km
 Section 6: Lansdowne Road to end of Lower Queen Street - existing road - 1.7km

3. TASMAN RESOURCE MANAGEMENT PLAN (“TRMP”) ZONING, AREAS AND RULE(S) AFFECTED, CONSENT STATUS

The relevant consent requirements, rules and status of activities is summarised in the Table below.

Table 1: Consent Summary

Ref no.	Activity	Relevant permitted rule	Applicable rule	Status
RM110394	Coastal To occupy the Coastal Marine Area for the construction of structures, including boardwalks; culverts; fords and/or bridges, associated with a cycle trail	Nil	Section 12(2) of RMA	Discretionary
RM110455	Coastal To disturb the Coastal Marine Area for the construction of structures, including boardwalks; culverts; fords and/or bridges, associated with a cycle trail	Nil	25.2.4A	Non-Complying
RM110458	Coastal To undertake the reclamation of the Coastal Marine Area as a result of construction of the cycle trail	Nil	Section 12(1) of RMA	Discretionary
RM110454	Land Disturbance To undertake earthworks and land disturbance associated with the construction of the cycle trail at various locations within 200 metres of the Coastal Marine Area.	18.5.2.1	18.5.2.2	Controlled
RM110456	Land Use (Mixed Business) Land Use (Light Industrial) Land Use (Rural 1) Land Use (Rural 2) Land Use (Open Space) Land Use (Rural Industrial) Land Use (Coastal Env Area) To construct boardwalks and bridges (buildings) in the Rural Industrial, Light Industrial, Mixed Business (Proposed) and Open Space Zones and the Coastal Environment Area not meeting setback or stormwater requirements To construct a cycle trail within in the Rural Industrial Zone	17.3.3.1 17.4.3.1 17.5.3.1 17.6.3.1 17.9.2.1 17.12.2.1 18.11.2.1	17.3.3.3 17.4.3.3 17.5.3.3 17.6.3.4 17.9.2.2 17.12.2.2 18.11.3.2	Discretionary Restricted Discretionary Restricted Discretionary Restricted Discretionary Discretionary Discretionary Restricted Discretionary
	Land Use Land Use	16.1.4.1 16.1.5.1	16.1.4.2 16.1.5.4	Restricted Discretionary Restricted Discretionary
	To install up to 20 directional signs and information signs in various locations along the cycle trail not			

Ref no.	Activity	Relevant permitted rule	Applicable rule	Status
	meeting the sign design and location standards			
RM110523	Discharge	36.2.2.3	36.2.3.1	Discretionary
	To discharge sediment to the Coastal Marine Area as a consequence of land disturbance activities			
RM110525	Discharge	36.4.2.1	36.4.2.3	Restricted Discretionary
	To discharge or divert stormwater into water or onto land			

Overall the proposal is a non-complying activity (in terms of the bundling of consents).

4. NOTIFICATION AND SUBMISSIONS

The application was publicly notified on 16 July 2011 and submissions closed on 12 August 2011. Thirty-two submissions were received on the application.

In support

Department of Conservation; John Gardner; Anita Gardner; Sean Trengrove; Beverly Greig; Fiona Conyers; Miles Fritton; and Tiakina Te Taiao.

Neutral

Transpower New Zealand Ltd; and Royal Forest and Bird Protection Society Inc.

In opposition

Nelson Airport Limited; Air New Zealand Link; Til Melis; Alliance Group Limited; New Zealand Historic Places Trust; Friends of Nelson Haven & Tasman Bay Inc.; Stuart Mirfin; Kieran Scott; Craig Harley; Merrick Allan; Robert Jary; Marc Jary; Glenn Leys; Gordon Roberts; Marcus Reay; Sean Handley; Marc Cederman; Nigel Gibson; Abbie Cederman; Greg Taylor; and William Cook.

A full summary of the content of the submissions is provided in the Section 42A staff report provided by Mr Croxford for the Consent Authority.

5. EVIDENCE HEARD

We heard evidence from the applicant, expert witnesses, submitters, and the Councils' reporting officers. The following is a summary of the evidence heard.

5.1 Applicant's Evidence

Mr Tony Quickfall (Witness co-ordinator)

Mr Quickfall introduced the application and explained his role at the hearing which was to co-ordinate the applicant's witnesses and then to provide expert planning evidence.

He confirmed that the Nelson Tasman Cycle Trails Trust is the proposer and is overseeing the Stage 1 trail development, local and regional marketing and day to day operation of the trail. The Council is the resource consent applicant, and will assume ownership of the trail as an infrastructure asset. Mr Quickfall emphasised that the applications were only for the sections of the trail from SH6 to Waimea River, and that the exact and final alignment is subject to detailed design.

Mr Bill Gilbertson (Nelson Cycle Trails Trust)

Mr Gilbertson explained the genesis of the project and the community benefits that would accrue from cycle tourism in the Nelson Tasman region. He explained the quite extensive consultation that had been carried out with environmental groups, the Waimea Estuary Forum, Department of Conservation, Iwi, Nelson/Marlborough Fish and Game Council, Nelson Airport, NZ Historic Places Trust, Council staff, business representatives and individuals with an interest in the estuary. Environmental issues were identified and specialist assessments and advice obtained.

Mr Stuart Hughes (Project engineer)

Mr Hughes said the design and construction is based on an "Off Road, Grade 1, Easiest" category trail in terms of the Ministry of Tourism's Cycle Trail Design Guide, an effective "Code" to be followed if central government funding is to be achieved. The route selection was influenced by factors such as the need for principally an off-road route; the trail needs to feel safe to ride; and to be iconic the route should fit naturally with the surrounding landscape and emphasise local scenic attractions.

Mr Hughes described the construction methodology, design and materials as having a low impact on the estuarine environment. He explained that the reclamations along Lower Queen Street are minor, and are required to re-instate small areas of erosion. He explained that between Neiman Creek and Lansdowne Road, it was proposed to build up the level of an existing gravelled track, and he noted that this is technically reclamation because the level will be raised above MHWS level. He said reclamation was preferable to taking the route landward which would require relocation of an existing high fence, additional cuts, fills and drainage.

Mr Rob Greenaway (Recreation consultant)

Mr Greenaway gave evidence on the importance of walking and cycling as recreational pursuits. He drew particular emphasis on the need to provide and enhance public access to the coast, with reference to the NZ Coastal Policy Statement. He said this proposal "*will undoubtedly be the most important recreational cycleway in Nelson/Tasman*". He said the value of the cycleway and the experience for cyclists would be significantly diminished by any alternative route along Lower Queen Street rather than utilising the estuary edge as was proposed for the most part.

With respect to possible conflict between the use of some areas by duck hunters and the proposed cyclists, Mr Greenaway said that it is not unusual for hunting to

occur in areas where there is public access. He noted that hunters will be in a highly defensible position in relation to complaints made about their legitimate hunting activities, and that there is no evidence that the proposal will result in the loss of the existing hunting opportunity in the Waimea Inlet. He said that overall, the net outcome will be positive for recreation in Tasman District.

Mr Jonathan Kennett (Project Manager NZ Cycleway Trail)

Mr Kennett confirmed in evidence that the proposed route meets the NZCT Design Standards, objectives and funding criteria. He said he did not consider alternative routes suggested by submitters are feasible, practical or safe.

At this point a question was put to **Mr Ley (Council's Engineer)** regarding traffic future volumes on Lower Queen Street. Mr Ley said that the Richmond West planning proposals would result in Lower Queen Street becoming a major road and recent and proposed zoning changes would result in increased traffic along this road.

Ms Elizabeth Gavin (Landscape architect)

Ms Gavin stated her opinion that the cycle trail is an opportunity to rejuvenate this coastline through re-vegetation, habitat restoration, pest management and litter control. She outlined the planting proposals and landscape management matters and the conditions proposed, including the review of the conditions of consent. Ms Gavin also gave her view that there is no need for replacement planting along the areas to be reclaimed near Neiman Creek, as recommended in the Council Planner's section 42A report, due to the depleted state of the environment in that area.

Ms Elizabeth Bell (Ornithologist)

Ms Bell's evidence was that the distance between the cycleway route and the plant communities favoured by banded rail (and marsh crake and bittern), as well as to the feeding location of birds, should avoid adverse effects, but that monitoring should be undertaken after the trail is operating.

Ms Bell's view was that it is also likely that wading birds would become accustomed to the additional movement along the cycleway as one existing roost site is close to the busy traffic route along Queen Street. However she said it would be prudent to minimise any impact by using mitigation methods such as plant screening and construction location of the cycleway. She said temporary screening is not considered necessary however planting should be established as soon as practical.

Mr Peter Gaze (Department of Conservation Ornithologist/Ecologist)

Mr Gaze presented evidence, as an applicant witness, on the aspect of potential bird strike hazard. He said that the game birds at Neiman Creek are mallard and are not the species which pose a threat to aircraft at Nelson Airport; the cycleway will not change the abundance or behaviour of mallard; control of game birds as part of a managed program with DoC's involvement would not occur within the

vicinity of the cycleway; and the construction noise is unlikely to affect roosting shorebirds, but in any event prudent mitigation measures have been recommended in the application.

Mr Bradley Myer (Ecologist)

Mr Myer said that sections of the proposed route were found to be “Ecologically Significant”. The key vegetation that is significant is Coastal Peppercross, Grey Saltbush, and Estuarine Tussock. Mr Myer said he had assisted in plotting a route that will almost completely avoid the removal of indigenous vegetation, noting that in any case some species are able to be transplanted so as to limit the adverse effects even further.

He described the Planting Plan, and the management and monitoring measures, which are designed to achieve a natural looking outcome that restores ecological functionality to these areas.

Mr Tony Quickfall (Planner)

Mr Quickfall emphasised the extensive consultation process the applicants had been through, and that the proposal had been modified and conditions volunteered as appropriate to meet concerns of most parties. However, he said that despite a number of meetings with Fish and Game it was not possible to meet their requests to relocate the route away from the Neiman Creek mouth vicinity due to the limitations imposed by the need to meet government funding and safety criteria and due to the scope of the applications. Mr Quickfall said that there was no ability to provide for off-site mitigation (allowing hunting at Rabbit Island) as that was also outside of scope of these applications.

Mr Quickfall addressed the submission by Alliance Group, which requests screening of industrial land to avoid reverse sensitivity effects. He made the point that the cycle trail is a permitted activity through the section adjacent to the Alliance site, and it is only the bundling of consents (including for the structures in the coastal marine area) that requires the whole proposal to be assessed as a non-complying activity. He also noted that the relevant rules in the TRMP require the industrial land owners to screen the outdoor storage and yard areas on their properties, and that it would be unnecessary and unreasonable to then require the applicant to provide screening.

Mr Quickfall did not agree with the Section 42A report that a case had been made for the rejection of the proposed small scale reclamations near Neiman Creek. He noted that this area was already significantly modified from its natural state and that the proposal was simply to raise the level of an existing track on a road reserve. He also did not agree with the Section 42A report that re-routing near Bark Corner (outside the entrance off Queen Street) was required to protect any ecological values.

5.2 Submitters' Presentations

Ms Jackie McNae (Alliance Group planner)

Ms McNae explained that the Alliance land, on which part of the cycle route is proposed to traverse, is in the process of being purchased by Tasman District Council. Ms McNae explained that Alliance is not opposed to the proposal in principle, but seeks a condition to require landscaping for screening purposes along the subject land boundary to ensure that security and cross boundary effects do not arise from the large number of users of the cycleway.

Mrs Kaye McNabb (Nelson Airport CEO)

Mrs McNabb spoke of the potential for bird strike hazard for aviation. She was concerned that the cycleway may deter or prevent Fish and Game members from controlling game birds thus contributing to airport safety requirements due to the pressure from cycleway users. She said that the cycleway may deter or prevent Fish and Game members who currently access the small area remaining around Pearl Creek and Neiman Creek as this is the only area where ducks, shellducks and black swans can be hunted or culled.

Mrs McNabb said that this is a responsibility of local government to manage. She said that her colleagues at Christchurch International Airport require there to be a condition on any such consent within the "13 kilometre airport zone" to the effect that a bird management plan be in place prior to development, and that such a condition should also be imposed on this consent with an on-going monitoring regime. In response to a question Mrs McNabb said that Christchurch International Airport had this extended 26 kilometre area to require bird management plans even for subdivision consents.

Mr Lawson Davey (Fish and Game)

Mr Davey gave a power point presentation, elaborating on some key points in the submission, as follows:

- The Waimea Inlet is regionally significant for game bird hunting, but the area for hunting has reduced considerably over the years;
- The proposal, for which consent is applied for, is too constrained and does not allow consideration of cumulative effects beyond the area;
- The cycleway is not opposed in principle but the route should be altered to avoid the main bird hunting areas (e.g. to run along Lower Queen Street);
- The passage of cycleway users will diminish the hunting experience, may lead to police complaints, and will pose potential safety issues;
- The proposal will lead to less birds being controlled with resultant effects on local horticulturists and potential bird strike hazard for aviation;
- Off-site mitigation should be offered, to allow hunting on Rabbit Island; and

- Suggested controls on dogs in the area will adversely impact on hunters.

Ms Helen Campbell (Friends of Nelson Haven & Tasman Bay)

Ms Campbell clarified that the Friends were not opposed to the establishment of a cycle trail per se. However she gave her view that the applications are contrary to Part 2 of the RMA, the NZ Coastal Policy Statement, and the Waimea Inlet Charter. The key areas of concern with the proposed cycleway were described as loss of natural character; landscape values; continuing decline in species habitats and ecosystems; plant and animal pests; and compromise of open space and recreational values.

Individual Submitters

Mr William Cook said his main concern was the effects on bird life, and the introduction of pests into the area.

Mr Gordon Roberts, Mr Craig Harley and Mr Merrick Allan are all local people who have been using the Neiman Creek area in particular for game bird hunting and other recreational pursuits for many years. Mr Roberts spoke of the need to maintain access for public vehicles. Mr Harley was also concerned at the costs of the project, on-going maintenance of the track, and the loss of recreational opportunities. Mr Allan said he shared these concerns as well as those raised in Fish and Game's submission.

5.3 Council's Consultant Reporting Officers' Evidence

Mr Michael Croxford

Mr Croxford responded to matters raised at the hearing. He stood by his recommendation to grant consent. He also said:

- angular material should not be used for facing any reclamation as it appears unnatural;
- the need for the 150 metre section of reclamation at Neiman Creek had not been demonstrated (in terms of Policy 10 of the NZCPS), and the only impediments to a landward route seemed to be based on engineering factors;
- he supported re-aligning the route at Bark Corner to avoid a strip of vegetation; and to meet the concerns addressed by Mr Melville; and
- there are difficulties with a condition requiring relocation of the *mai mai* nearest the cycleway route, and the TRMP could be improved if there were rules that restrict locations of *mai mai*.

Mr Jack Andrew

Mr Andrew commented on the request made by the applicant at the hearing for larger signs (3m² instead of 2m²). He said that the additional sign area may go

beyond the *de minimis* test, and therefore the larger signs were outside of scope. He said the marker posts signs are not signs as defined in the TRMP. Mr Andrew commented on the Alliance submissions by saying that the land affected is expected to come to the Council and will be planted. He noted that in any event there are several rules requiring planting on the mixed business land, and he thought Alliance would be keen to ensure the reserve is landscaped to avoid reverse sensitivities.

Mr David Melville

Mr Melville said he stood by the recommendations made in his report. He also made the following points:

- The cycle track along the margins of the Waimea Inlet is not incompatible with Policy 11 (Indigenous biodiversity) of the NZ Coastal Policy Statement;
- Whilst there is no clear evidence that cyclists will disturb birds to the extent there will be adverse effects, there will be a “stream” of cyclists going past and therefore planted screening of the two roost sites is necessary and with temporary artificial screening being provided until the planting is effective;
- With the screening in place birds should not be disturbed such that they are likely to move to Nelson Airport;
- There is a potential incompatibility between the screen planting and design guides for crime prevention (CPTED) principles;
- A precautionary approach is supported to re-route the track at Bark Corner to avoid an area with native vegetation and where he had observed footprints from banded rail;
- Eelgrass should not be planted in the section between Lansdowne Road and Neiman Creek as it would support Black Swan populations and that species poses a serious risk of aviation bird strike; and
- Monitoring is supported to assist with establishing whether the cycle track was having an adverse effect on birdlife, but he did note that it would be difficult to establish that any change in bird numbers was caused by cyclists alone.

5.4 Applicant’s Right of Reply

A written right of reply was provided following the conclusion of the hearing and was circulated to all parties.

A summary of some of the main points is provided below:

- Enquiries made at Christchurch City Council concluded that the district plan has no rules or provisions to control activities likely to cause bird strike;
- Expert evidence in this application is clear and compelling that the cycle track will not increase the risk of bird strike and the management of bird numbers

is something that must happen irrespective of this application by the authorities responsible for it;

- The consent authority must “have regard to” the NZCPS, and therefore it does not have the primacy or elevated status as was suggested by Ms Campbell in her statement;
- The reclamations are justified as there are no practicable alternatives;
- There are various ways to mitigate the shared use of the vehicle track/cycleway near Neiman Creek (examples were given from various North Island locations);
- The loss of some coastal vegetation with the reclamations should be balanced against the net environmental gain from the planting, transplanting and maintenance measures proposed;
- Angular rock in the reclamations is a clear preference from an engineering point of view, and it will facilitate vegetation growth better than round stone materials;
- Fish and Game did not provide expert evidence to counter the applicant’s expert evidence on effects on recreational hunting or on the NZ National Cycle Trails criteria;
- In terms of Bark Corner, the expert evidence was that Banded Rail will not be impacted by the trail being located on the causeway, and only one significant native plant would be removed. The suggested re-routing would appear to bring the trail closer to the area where Mr Melville has observed footprints, and the additional planting of indigenous species will improve the ecology of the site;
- Consent is now sought for only four larger signs of up to 3m² in size each;
- Monitoring should focus on the wading birds, and should establish baseline information, set out a strategy for the long term, and then decide on monitoring systems as an adaptive management process; and
- The applicant’s experts believe that the immediate planting of screen species from the planting plan as proposed is preferable to artificial and continuous screening as suggested by the officers. The applicants restate that continuous screening is not required to mitigate the effect on birds and will have a detrimental effect on the amenity and enjoyment of this section for users of the trail.

A set of amended conditions was included with the right of reply.

5.5 Further Information

In response to a memorandum from the Commissioners, the applicant provided clarification on the exact position of proposed reclamations, and position of the cycle trail south-east of Neiman Creek.

A revised Plan F was provided, with accompanying photographs, to confirm the location of the proposed 40 metre area of reclamation. A revised Plan D was also provided to show that the northern part of the cycle trail south-east of Neiman Creek will be located beside, on the estuary side, of the existing stop bank, and the southern part will be initially located on an existing stop bank, but that stop bank is required to be raised by an adjoining landowner as part of a resource consent approval, and that when that occurs the cycle trail will be located below the stop bank.

Mr Croxford responded to the further information, in a Memorandum dated 29 November 2011, by pointing out an apparent discrepancy in the information provided on the precise location of the 40 metre reclamation relative to one of the photographs. He also re-stated his recommendation that the 150 metre length of reclamation was not supported.

6. PROCEDURAL MATTERS

There were two procedural matters raised at the hearing.

The applicant sought clarification from Ms Campbell as to the status of the submission of Friends of Nelson Haven and Tasman Bay Inc. It was noted that the submission had not been signed by any committee members from that organisation. Ms Campbell clarified that the submission had been endorsed by the Friends and that she was authorised to present the submission on its behalf. The chairman accepted her assurances, as did the applicant and Ms Campbell was asked to proceed with her presentation.

The second matter related to the scope of the application. Some of the submitters, including Fish and Game, asked that the enquiry be extended to both include consideration of hunting on Rabbit Island as off-site mitigation, as well as to consider the effects from future stages of the Cycle Trail. The Chairman determined that, whilst potential of cumulative effects can be considered, the Panel could not consider the effects from applications that had not yet been lodged. He also determined that off-site mitigation relating to hunting opportunities being made available on Rabbit Island or other areas outside of the application site would rely on the cooperation of third parties and are thus not within the scope of the Panel's powers in determining these applications.

7. PRINCIPAL ISSUES AND OUR MAIN FINDINGS

The principal issues that were in contention and our main findings on these issues are:

a) Potential bird strike effects for aviation

The submissions and presentations from Nelson Airport, and Fish and Game, demonstrated the seriousness of bird strike hazard as an issue for aviation in the region. However we noted that there was no substantive or qualified evidence presented by those submitters that challenged the expert evidence presented by the applicant. The submissions therefore did not persuade us

that this proposal for a cycle trail would exacerbate the bird strike risk to Nelson Airport.

We note also that Mrs McNab's statements regarding the strict controls in place at Christchurch Airport extending to a 13km area of influence on developments and applications for resource consent were not substantiated by the production of any documentation and were in fact refuted with verifiable statements in the applicant's right of reply.

The applicant called expert evidence from Mr Gaze, an ornithologist, to the effect that the cycleway will not in itself change the abundance or behaviour of birds, and that the normal control and management of game birds carried out by the responsible authorities will not be affected. Mr Melville, also an ornithologist, endorsed Mr Gaze's evidence.

Overall, we are satisfied that the disturbance of birds from the activity has been adequately addressed and the risk of bird strike occurring as a result of the works is minimal. We have accepted the need for mitigation to be provided in terms of screen planting at two key locations, but more from a habitat protection point of view (see below).

b) Disturbance to native fauna

The potential effects on fauna are considered very important, particularly as this part of the Waimea Inlet is widely regarded as internationally important for migratory bird species and is nationally significant for other threatened bird species. We accept Ms Campbell's statements as to the importance of this issue.

Extensive assessments were undertaken as part of the pre-application investigations. These included the Bird Habitat Assessment by Wildlife Management International Limited. Evidence was presented at the hearing by Ms Bell, ornithologist, and reviewed by Mr Melville. We note that there is a degree of uncertainty about exactly what effects the construction and operation of the cycleway may have on the birds. However, we consider the evidence was persuasive in demonstrating that the cycleway route is sufficiently separated from the plant communities favoured by banded rail, marsh crake and bittern, and from the feeding locations, so that adverse effects on those bird communities should not arise. We also heard evidence that wading birds will likely become accustomed to the additional movement along the cycleway, and that any potential disturbance will be mitigated by plant screening.

Overall, we are satisfied that, with the appropriate conditions, the cycleway can proceed with a minimal or less than minimal level of disturbance occurring. Further, if conditions are imposed to require monitoring the level of disturbance occurring, this will enable an appropriate response if necessary. We accept on balance the evidence of Ms Bell that artificial temporary screening is not considered necessary, but that planting should be established as soon as practical and monitoring carried out on bird numbers to enable a review of any adverse effects.

c) Landscape Values and Structures in the Coastal Marine Area

Ms Campbell presented the view that this proposal will cause the loss of natural character and landscape values, as well as the continuing decline in species habitats and ecosystems in the Coastal Marine Area.

Given the largely modified nature of the environment along which the cycle trail is proposed (as was quite graphically described in Mr Harley's statement and further described in evidence of Mr Quickfall and Mr Croxford), we do not consider that a cycle trail with its low impact structures will have a more than minor adverse effect on the naturalness or landscape qualities of this environment.

Mr Croxford's Section 42A Report states: *"The mitigation measures proposed, particularly the additional plantings, will ensure that the natural character and amenity values will be enhanced along this stretch of the Coastal Marine Area"*. We agree with that assessment and further consider that the proposal, with its associated planting enhancements, information signage, and management systems for litter and pest control, will actually enhance this area and will increase its accessibility and appreciation by a larger sector of the community.

d) Reclamations

Ms Campbell contended that the cycle route could and should be located inland to avoid the need for reclamations, drawing on the NZ Coastal Policy Statement provisions. Mr Croxford accepted the minor reclamations along Lower Queen Street (subject to the use of round boulders rather than angular material), and a 40 metre section of reclamation near Neiman Creek. However, he was concerned the applicant had not established the need for the 150 metre section of reclamation near Lansdowne Road, as it seemed possible to re-route the trail onto adjacent private land.

In relation to the Lower Queen Street reclamations, we accept that these are minor reclamations and will simply be re-instating eroded sections of the existing road formation to facilitate construction of the cycle track thereon. The applicant's engineering expert's evidence (and information contained in the right of reply) convinced us that facing these repairs/reclamations with angular rock will be preferable to round river boulders which will provide a more durable face which will also facilitate vegetation growth.

The reclamations at the Lansdowne Road/Neiman Creek area are more extensive. However we were persuaded by the applicant's evidence, and from our observations on the site visit, on the following factors:

- It is necessary for the route to traverse the estuary edge in this section rather than re-routing along Lower Queen Street, which would not meet the criteria for National Cycle Trails;
- The coastal environment in this section is highly modified and the sections proposed to be used include existing straight gravelled tracks

constructed on an existing road reserve, already used for public access including vehicles, the section requiring reclamation just happening to be below MHWS;

- There was no substantive evidence presented of any particular ecology or habitat that would be adversely affected by proposals to raise the gravelled track and form a cycle trail in this area;
- The reclamations are “technical” reclamations, involving as they do the raising of an existing track so that it is above MHWS, rather than fresh encroachments into the coastal marine environment;
- There are significant engineering and other constraints in re-routing the trail across existing farmed land, and potential loss of productive land from doing so, notwithstanding the fact that this land is actually on road reserve. Our view is that this would not be “practicable” (in terms of Policy 10 of the NZCPS) for the scale of development proposed; and
- In the context of the environment as is described in evidence, and from our own observations, little would be gained in environmental terms from re-routing the trail landwards.

There is an associated issue relating to potential conflicts with various users of this area when a cycleway is in place (e.g. cyclists, walkers, recreational users and vehicles). The evidence, including that in the applicant’s right of reply, demonstrated there are various options available to control and avoid such conflicts including traffic calming measures to discourage further vehicle usage; restricting access to authorised users; bylaws; speed limit restrictions; and even closing the road if vehicle access is deemed unsafe. The applicant’s right of reply contained examples of situations (e.g. the Mountain to Seas Trail in the Ruapehu District) where shared use of trails such as this can be managed. Conditions to this effect have been included.

We would also envisage that in future a wider track could be contemplated to accommodate shared use, if appropriate, and given the comments we have made above this may well be viewed favourably by the consent authority.

e) Effects on hunters and recreational users

A key issue of contention at the hearing was the potential effects on hunters, and other recreational users, from the introduction of large numbers of cyclists into the area, particularly near Neiman Creek which has traditionally been used for duck hunting, fishing and whitebaiting.

We heard extensive evidence and statements from Fish and Game and from local hunters as to how the cycle trail would diminish the hunting experience, and would raise safety concerns, and how this would further shrink the area available for hunting opportunities.

We have no doubt as to the sincerity of the submitters, and the importance and enjoyment which they gain from these pursuits is very evident to us.

However, it must be said that much of evidence was very anecdotal in nature. The submitters seemed to have difficulty with any prospect of co-existing with the cycle trail and its users, despite the evidence provided by the applicant's expert witnesses, including from Mr Greenaway which we found to be thorough and well researched, that safety and other concerns can be addressed. We also found that the suggestions by Fish and Game that alternative routes could be used to avoid this area showed a lack of appreciation for the National Cycle Trail standards and criteria which were addressed in the evidence of Mr Greenaway.

We also found many of the matters of concern raised by Fish and Game to be overstated. For instance, the concerns that Police would intervene every time a complaint was made and require a shooter to desist were not supported by the e-mail from George Rutledge of NZ Police produced by that submitter. The prospect of cyclists being in the firing zone so to speak seems remote given the separation of the trail from the *mai mai* locations. It also seems reasonable to expect the normal responsible behaviour by shooters will continue to occur. In addition we took note of the limited hunting season; the main times of the day when hunting occurs will not co-incide with peak use of the cycle trail; and the other mitigation measures volunteered by the applicant (such as closure of the trail on hunting opening day, and advisory signage).

Whilst the importance of hunting in this area is acknowledged, we also take note of Sec 6(d) of the Act which declares that it is a matter of national importance to maintain and enhance public access to and along the coast. We accept that this proposal is consistent with that. From the evidence we heard we are satisfied that the Cycle Trail and the recreational hunting can co-exist, with some give and take on both sides. We also note that in its right of reply the applicant offered a condition that would have the effect of requiring the formation of a Hunting Liaison Committee. We have incorporated the substance of this condition in our decision as a practicable means of addressing problems before they arise and facilitating discussions and solutions between parties.

An associated issue raised was that of restrictions on dogs along the route to protect wildlife. Submitters were concerned that any bans on dogs would unduly affect their normal hunting experience. The evidence we heard from the applicant's witnesses and Council officers was that controls on dogs cannot meaningfully be enforced through conditions of a resource consent, and that we should therefore focus on advisory signage to discourage people bringing dogs along the track. Accordingly a condition has been included to this effect, and the regulatory authorities can take such other action as may be necessary under separate legislation (e.g. the Dog Control Act) if the need arises.

f) Bark Corner

The TDC staff reports expressed a preference for the trail to be re-routed off the causeway at Bark Corner. The main concern was that there may be an impact on native vegetation, and there was some evidence (outlined in Mr Melville's report) that banded rail may inhabit that area and could be affected.

The applicant's concern with the suggested alternative alignment was there may be safety issues with cyclists coming into close proximity of trucks and vehicles using the Bark Corner entrance, and this would also increase their exposure to traffic on the 100km/h section of Lower Queen Street.

The applicant's right of reply addressed this by noting that:

- The disturbance to banded rail in this area will already be high due to trucks and general industrial activity at that corner;
- The alternative route suggested appears closer to the location of banded rail footprints noted by Mr Melville;
- The original route involves the removal of only one significant native plant; and
- Additional native planting is proposed for this area to provide extra coverage for refuge and breeding of banded rail, and there will be control of invasive plants such as *Vinca major* to assist with restoration of this area.

On balance, we consider the route shown in the application along the causeway will meet the objective of public safety, and with the additional planting measures and control of invasive species as proposed there should mitigate any adverse effects on banded rail or native vegetation.

In passing we note Mr Melville's comment where he said the concrete pole on Lower Queen Street nearest the entrance had no marks on it to indicate there had been any accidents or collisions (the inference being there were no safety issues at Bark Corner). Our inspection showed that there were in fact several sizeable scrapes on that pole (which were partly obscured by vegetation).

g) Signs

The application as lodged was open-ended as to how many of the 2m x 1m information signs were proposed. Mr Andrew's section 42A report recommended approval for those signs, noting that the plastic markers were not signs and did not need consent.

At the hearing the applicant advised that the entrance signs would need to be increased to 3 square metres in size. Mr Andrew's view was that signs of this size and in unspecified locations would be outside of the scope of the application as lodged and he could not support them.

The applicant's right of reply confirmed that it was seeking to increase these signs to 3m² in area, but that there would now be only four signs at the locations shown in Appendix C (SH6, end of Beach Road, end of Sandeman Road, and near Neiman Creek).

We consider that information signs in four specified locations up to 3m² in area will be within scope and will not have an adverse visual effect on the environment in those particular locations. We viewed the information signs already in place at the end of Sandemans Road, and noted that with the information, maps and graphics displayed they enhance the experience for all recreational users of the estuary and can very much be seen as “part and parcel” of the overall cycle trail.

h) Reverse Sensitivity Issues near the Alliance Land

An issue was raised by Alliance, as to the potential for users of the cycle trail to complain about views into the industrial land and unscreened yards at the eastern end of the trail.

Given that there is an expectation that the land will transfer to Council, thus permitting this section of the cycle way to be constructed, we do not consider this is a significant issue, having regard to Mr Andrew’s evidence which was that:

- The cycle trail is a permitted activity in itself on this land (i.e. if the non-complying reclamations affecting other parts of the trail are separated), and so the adjacent landowners could reasonably expect an activity of this nature; and
- The TRMP rules require that the owners of the mixed business zoned land to landscape and screen their storage yards.

In any event, the anticipated transfer of the Alliance land to Council would require a subdivision, and as part of that process a condition would be imposed to require planting to provide screening which we understand Council would carry out.

8. RELEVANT STATUTORY PROVISIONS

8.1 Policy Statements and Plan Provisions

In considering this application, we have had regard to the matters outlined in Section 104 of the Act. In particular, we have had regard to the relevant provisions of the following statutory planning documents:

- a) New Zealand Coastal Policy Statement (NZCPS);
- b) Tasman Regional Policy Statement (TRPS); and
- c) Tasman Resource Management Plan (TRMP).

8.2 Part 2 Matters

In considering this application, we have taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act, as well as the overall purpose of the Act as presented in Section 5.

9. DECISION

Having regard to all the matters discussed above, we consider that both of the relevant tests for assessment of a non-complying activity in Section 104D of the Act are satisfied.

We also comment that it is of relevance that substantial parts of the activity are provided for as permitted, controlled, restricted discretionary or discretionary activities. Indeed it is only the placement of structures in the Coastal Marine Area that, in isolation, would require resource consent as a non-complying activity. Therefore all the other aspects of the activity, including the activity of cycling per se, can be viewed as being contemplated in this environment. It is however acknowledged that “bundling” of the various consents is required and they need to all be assessed as non-complying. For reasons outlined above we consider the relevant tests for assessment of a non-complying activity are met.

By way of further comment, we have frequently referred in this Decision to the nature of the evidence presented on various matters of contention. It is fair to say, that on all matters which were in contention, the only expert witnesses we heard evidence from were witnesses called by the applicant, or were advisers to Council as part of the section 42A reporting process. Whilst that does not diminish the submitters’ presentations it was nevertheless an issue for us when it came to weighting of evidence.

For all of these reasons, pursuant to Section 104B of the Act, we **GRANT** the consents, subject to conditions.

10. REASONS FOR THE DECISION

Effects on the Environment

From the outset it is important to acknowledge the importance of the Waimea estuary in terms of its ecological, landscape and recreational values. It is an environment that has had considerable modification, including its edge, alongside of which the proposed route will follow. We accept, however, that any further development needs to be carefully assessed for any impact it may have on these values.

The particular effects on the environment are discussed above as part of our main findings and, overall, we are satisfied that the effects on the environment are likely to be minor. Where the effects are less certain, particularly with the effects on birds, we are satisfied that suitable conditions can be imposed which will suitably mitigate the potential effects to a minor level. Additional conditions have also been imposed to address, where practicable and appropriate, effects on hunters and recreational users of the estuary.

As an overall comment we consider this proposal is a “win-win” situation in resource management terms. It will actively promote increased public access to, and enjoyment of, the coastal margins near the urban centres, whilst offering opportunities for enhancement of this environment by careful design of structures,

re-vegetation of native species and enhancement of habitat for wildlife, whilst mitigating any potential adverse effects.

Objectives and Policies of the TRMP

We accept and, pursuant to Section 113(3), adopt Section 2 and 3 of Mr Andrews' report that discusses and assesses the objectives and policies of the TRMP, in particular with respect to signs, public access to the coast, natural character, location, design and appearance of buildings, effects on Maori cultural sites, and natural hazards (Chapters 5, 8, and 10 of the TRMP).

We also accept and adopt in the same way Sections 6.1, 6.6 of Mr Croxford's report that discusses and assesses the objectives and policies of the TRMP with respect to Chapters 8 and 21 of the TRMP (regarding public access in the coastal marine area; preserving natural character and maintaining ecosystems and amenity values).

We are satisfied that the application and the conditions imposed will mean that these policies and the objectives are not compromised.

New Zealand Coastal Policy Statement

There was considerable discussion at the hearing regarding how this proposal fits within the framework of the NZCPS, as per our discussion above under "Reclamations". The expert evidence on this from the applicant and the officers differed only with respect to whether the reclamation proposed at the Lansdowne Road end of the trail was consistent with Policy 10 or not. In our consideration it is consistent because this part of the coastal marine area is already substantially modified being an existing gravelled track. We accept it is not practicable, and will achieve no environmental benefit, to relocate the trail onto the adjacent farmed land with all the likely cost and problems that such a move would present.

In all other respects we adopt the evidence of Mr Croxford's report in section 6.4 (Policy 14), section 6.5 (Policy 10), and section 6.6 (Policy 22), and we consider, overall, the proposal is entirely consistent with the NZCPS.

Purpose and Principles of the Act

We consider the following matters in section 6 and 7 of the Act to be particularly relevant:

- S.6(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.
- S.6(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.
- S.6(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.

We find that overall the natural character will not be affected and this is considered an appropriate development; indigenous vegetation and habitats of significant fauna will not be affected, and public access will overall be enhanced to these areas.

We have also had regard to the following other matters:

- S.7(a) kaitiakitanga:
- S.7(aa) the ethic of stewardship:
- S.7(c) the maintenance and enhancement of amenity values:
- S.7(d) intrinsic values of ecosystems:
- S.7(f) maintenance and enhancement of the quality of the environment:

We note that the application included a Cultural Impact Assessment, as requested by Tiakina Te Taiao. Tiakina lodged a submission in support, acknowledging the consultation that had been carried out, and did not appear at the hearing to further address these matters.

Adopting a broad overall judgement approach to the purpose of the Act, we are satisfied that the proposal is consistent with Part 2 and achieves sustainable management of natural and physical resources as set out in Section 5 of the Act.

11. COMMENTARY ON CONDITIONS OF CONSENT

We have set conditions on our granting of the consents sought. Most are either self-explanatory or the reasoning behind them has been discussed in some detail in the body of our decision.

There are, however, a few which are not in the above categories and which warrant some comment:

Condition 14: The recommended condition in the Sec 42A report suggested that an archaeologist be present as well as a representative of Tiakina te Taiao during the excavation earthworks to form the cycleway along the verge of Lansdowne Road. We were not persuaded that the cost of this was warranted having regard to the limited area and depth of the proposed excavation.

Condition 48: This condition dealing with pest control was volunteered by the applicant in their Right of Reply as an alternative to that recommended to us in the Sec 42A report. We adopt it as a more practicable and measurable response to the concerns expressed at the hearing.

Conditions 50 and 51: These conditions deal with screen planting and the potential conflict between the need to provide some screening of the cycleway from nesting areas and the need for the personal security of cyclists. We accept them as practicable and measurable responses to the concerns expressed at the hearing.

Conditions 68 and 69: These conditions deal with the issue of potential conflicts along the proposed cycle trail which will be formed along the existing access way between Lansdowne Road and Neiman Creek, between cyclists and existing users. These conditions were volunteered by the applicant in their Right of Reply as a solution to the issues raised by submitters. Once again, we accept them as practicable responses to the concerns expressed at the hearing.

Issued this 6th day of December 2011

A handwritten signature in black ink on a light yellow background. The signature is stylized and appears to read 'Jeff Jones'.

Jeff Jones
Chair of Commissioner Panel

RESOURCE CONSENT

Pursuant to Section 104B of the Resource Management Act 1991 (“the Act”), the Tasman District Council hereby grants resource consents to:

Nelson Cycle Trails Trust
(hereinafter referred to as “the Consent Holder”)

CONSENT NUMBERS AND ACTIVITIES AUTHORISED BY THESE CONSENTS:

Coastal Permit RM110394	To occupy the coastal marine area for the construction of structures, including boardwalks, culverts, fords and/or bridges, associated with a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.
Land Use Consent RM110454	To undertake earthworks within 200 metres of the coastal marine area and adjoining an estuary with nationally important natural ecosystem values.
Coastal Permit RM110455	To disturb the coastal marine area in association with the construction of structures, including boardwalks, culverts, fords and/or bridges, associated with a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.
Land Use Consent RM110456	To construct boardwalks and bridges (buildings) in Light Industrial, Heavy Industrial, Mixed Business (Proposed) and Open Space Zones and the Coastal Environment Area not meeting setback or stormwater requirements. To install up to 20 directional signs and information signs in various locations along the trail not meeting the sign design and location standards.
Coastal Permit RM110458	To undertake reclamation of the coastal marine area for the construction of a cycleway adjoining the Waimea Inlet between State Highway 6, Richmond, and Lansdowne Road.
Coastal Permit RM110523	To discharge sediment to coastal marine area in association with the earthworks within 200 metres of the coastal marine area.
Discharge Permit RM110525	To discharge stormwater to land and water in association with the construction of a cycleway adjoining the Waimea Inlet between State Highway 6 at Richmond, and Lansdowne Road.

LOCATION DETAILS:

Waimea Estuary on the coastal margin from State Highway 6 (at Reservoir Creek culvert) west to Lansdowne Road, and on Lower Queen Street to the Waimea River, being legally described as Common marine and coastal area as defined by the Marine and Coastal Area (Takutai Moana) Act 2011; Lot 1 DP 10599; Lot 1 DP 18932; Lot 4 DP 11092; Lots 1 & 2 DP 16384; Part Sections 215 & 217 and Sections 218 & 219 Waimea East District; Lot 2 DP 343034; Lot 1 DP 27810; Lot 2 DP 720; Local Purpose Reserve; Lot 5 DP 18918; Lot 1 DP 18146; Lot 1 DP 13405; Road Reserve; Lot 1 DP 14247; Lot 1 DP 7189; Lot 1 DP 7781; and Pt Section 209.

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:

CONDITIONS

1. The Consent Holder shall ensure that the activities authorised by these consents are undertaken in general accordance with the applications submitted by Nelson Cycle Trails Trust on behalf of the Tasman District Council dated 1 July 2011 and with Maps 2 and 3, Plans A to G dated 6 December 2011, and Maps X and Y, all attached to these conditions. Notwithstanding this, if there are any inconsistencies between this information and the conditions of consent, the conditions of consent shall prevail.
2. Pursuant to Section 128 of the Act the Council may, during the month of November each year, for the duration of these consents, review any or all of the conditions of the consents for all or any of the following purposes:
 - (a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consents, and which is therefore more appropriate to deal with at a later stage; or
 - (b) requiring the Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the discharge; or
 - (c) reviewing the frequency, duration, quantity of the discharge authorised if it is appropriate to do so; or
 - (d) to comply with national environmental standards made under Section 43 of the Act;
 - (e) to address any increased risk of bird strike at Nelson Airport which can be directly attributed to the exercise of these consents; or
 - (f) to deal with any measurable adverse effects of the consents on threatened, endangered or rare birds which have been identified as a result of bird monitoring where these effects can be attributed to the exercise of the consents.
3. Pursuant to Section 125 of the Act, these consents shall lapse 3 years after the date that these consents commence unless either the consents are given effect to, or the Council has granted extensions pursuant to Section 125(1)(b) of the Act. In addition, once the consent has been given effect to, all works shall be substantially completed within 2 years.

Advice Note:

For the avoidance of doubt, the date that the consent commences is the date when any appeals have been settled and the Consent Holder is legally authorised to go ahead with the work. The date that the consent is given effect to is when substantial work first begins on site.

4. RM110394 and RM110525 expire 35 years after the date the consents commence.
5. RM110454, RM110455 and RM110523 expire 5 years after the date the consents are given effect to.
6. The reclamations authorised by RM100458 shall have an unlimited term in accordance with Section 123(a) of the Act.
7. The land use authorised by RM110456 shall have an unlimited term in accordance with Section 123(b) of the Act.
8. The Consent Holder shall erect advice notices at both ends of each discrete construction area. These notices shall provide warning of the construction activities noting any precautions that should be taken, as well as advising the period(s) during which the activities will be occurring and when public access shall be restricted. The notices shall be erected at least 5 working days prior to the commencement of the works and shall remain in place for the duration of the works before being removed on completion of the works.
9. The Consent Holder shall ensure that public access to the coastal marine area is maintained to the greatest extent practicable during construction and any subsequent maintenance works, with the exception of such construction times and areas where safety of the public would be endangered as a result of the works in progress.

SUPERVISION AND NOTIFICATION

10. All works shall be carried out in general accordance with the NZ Cycle Trail Design Guide (Ministry of Tourism, February 2010) and generally in accordance with the Tasman District Council Engineering Standards & Policies 2008 where these are applicable and shall be overseen by or under the direction of a chartered professional engineer practising in civil engineering and experienced in construction in an estuarine environment ("site engineer"). Where there is any inconsistency between the Cycle Trail Design Guide and the Engineering Standards, the Design Guide shall prevail.
11. Copies of these resource consents shall be available to contractors undertaking the works, and shall be produced without unreasonable delay upon request from a servant or agent of the Council.
12. The Consent Holder shall appoint a representative(s) prior to the exercise of these resource consents, who shall be the Council's principal contact person(s) in regard to matters relating to these resource consents. At least 5 working days prior to beginning the works authorised by these consents, the Consent Holder

shall inform the Council's Co-ordinator Compliance Monitoring of the representative's name and how they can be contacted within the works period. Should that person(s) change during the term of these resource consents, the Consent Holder shall immediately inform the Co-ordinator and shall also give written notice to the Co-ordinator of the new representative's name and how they can be contacted.

13. The Consent Holder shall prepare and implement a traffic management plan for the duration of the construction period in order to minimise any adverse effects of the activity on road users. This plan shall be submitted to the Council's Co-ordinator Compliance Monitoring prior to construction commencing on the site and shall be made available for public inspection at the Richmond office of the Tasman District Council.

CULTURAL HERITAGE

14. The Consent Holder shall engage the services of a representative of Tiakina te Taiao Limited to be present during any excavation earthworks along the verge of Lansdowne Road. The Consent Holder shall contact Tiakina te Taiao Limited, PO Box 1666, Nelson (ph (03) 546 7842) at least five working days prior to commencing any earthworks in this area beside Lansdowne Road and advise it of the commencement date of the earthworks. In the event of Maori archaeological sites (eg shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall then notify Tiakina te Taiao and the New Zealand Historic Places Trust's Central Regional Office (PO Box 19173 Wellington, phone (04) 801 5088, fax (04) 802 5180), and shall not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained.
15. The Consent Holder shall engage the services of a representative of Tiakina te Taiao Limited to be present during any excavation earthworks for the section of cycle trail between Beach Road (2525990E 5986200N (NZ Map Grid Datum)) and State Highway 6 (2526745E 5986055N (NZ Map Grid Datum)). The Consent Holder shall contact Tiakina te Taiao Limited, PO Box 1666, Nelson (ph (03) 546 7842) at least five working days prior to commencing any earthworks in this area and advise it of the commencement date of the earthworks. In the event of Maori archaeological sites (eg shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall then notify Tiakina te Taiao and the New Zealand Historic Places Trust's Central Regional Office (PO Box 19173 Wellington, phone (04) 801 5088, fax (04) 802 5180), and shall not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained.
16. In the event of Maori archaeological sites (eg, shell midden, hangi or ovens, garden soils, pit depressions, occupation evidence, burials, taonga) or koiwi (human remains) being uncovered, activities in the vicinity of the discovery shall cease. The Consent Holder shall then notify Tiakina te Taiao and the New

Zealand Historic Places Trust's Central Regional Office (PO Box 19173, Wellington, telephone (04) 801 5088, fax (04) 802 5180), and shall not recommence works in the area of the discovery until the relevant Historic Places Trust approvals to damage, destroy or modify such sites have been obtained.

Advice Note for Conditions 14 to 16

The discovery of any pre-1900 archaeological site (Maori or non-Maori) elsewhere within the area to which this application relates is subject to the provisions of the Historic Places Act and needs an application to the Historic Places Trust for an authority to damage, destroy or modify the site. In addition contact should be made with Tiakina te Taiao Limited, PO Box 1666, Nelson (ph 03 546 7842).

17. All contractors shall be briefed by the Consent Holder prior to commencing work on site on the possibility of encountering archaeological evidence, how to identify possible archaeological sites during works, and legal responsibilities in relation to archaeological sites including the requirements under the Historic Places Act 1993, the Resource Management Act 1991, and the Protected Objectives Act 1975.

HAZARDOUS SUBSTANCES

18. No contaminants (except site-generated sediment) shall be discharged or released to land or water within the estuary during the works. In the event of an accidental spillage, immediate measures shall be undertaken as required to effectively prevent and remove the spillage that may contaminate the coastal environment, and to remediate the affected area as necessary.
19. All vehicle or machinery refuelling, servicing or repairs shall be undertaken at least 30 metres inland from Mean High Water Springs or if this is not practical the Consent Holder shall submit a Spill Management Plan to Council for approval. Any emergency or minor equipment servicing or repair shall be undertaken in a manner which avoids contamination of the seabed or coastal water. In the event of any contaminant discharge, immediate measures shall be taken to contain the source of contamination and to avoid, remedy or mitigate any effects from the spillage on the coastal environment.
20. No contaminants (including but not limited to hydrocarbon fuels, lubricants, or hydraulic fluids) shall be stored on-site unless provided with secondary containment and stored away from the coastal marine area. The refuelling or minor maintenance of machinery shall be undertaken in such a manner that should contaminant spillage occur, that it is able to be contained and prevented from entering surface water or groundwater.
21. The Consent Holder shall maintain spill kits on site at all times which are capable of containing and/or absorbing any spilled hazardous substance and shall undertake any other measures necessary to prevent any spills of hazardous substances entering land or water.

22. In the event of a spill of hazardous substances on the site greater than 20 litres, the Consent Holder or their agents shall record the details, and provide to Council's Co-ordinator Compliance Monitoring within 24 hours of the spill:
- (a) the date, time and volume of the spill;
 - (b) the substance spilt;
 - (c) measures taken to contain and absorb the spilt substance; and
 - (d) the cause of the spill, and the measures taken since to prevent a repeat of the incident.

Advice Note:

You can access the most current version of these procedures from the Biosecurity New Zealand website: <http://www.biosecurity.govt.nz>.

CONSTRUCTION

23. The Consent Holder shall, at least 20 days prior to the intended commencement date of activities authorised by this consent, submit an Erosion and Sediment Control Plan to the Council's Co-ordinator Compliance Monitoring. Information provided shall include:
- (a) details of all principles, procedures and practices that will be implemented for erosion and sediment control to minimise the potential for sediment discharge from the site, including vehicle and machinery use within the estuary;
 - (b) the design criteria and dimensions of typical erosion and sediment control structures;
 - (c) construction timetable for the erosion and sediment control works and any bulk earthworks involved;
 - (d) timetable and nature of progressive site rehabilitation and revegetation proposed;
 - (e) maintenance, monitoring and reporting procedures; and
 - (f) rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures.

The Co-ordinator will approve the plan if, in his or her opinion, the plan reasonably achieves the following outcomes:

- (i) the discharge of sediment into estuary waters is minimised as far as practicable;
- (ii) the passage of vehicles below Mean High Water Springs is minimised as far as practicable;
- (iii) the risk and effects of adverse weather and sea conditions has been considered and provided for to minimise the discharge of sediment and contaminants into the estuary;
- (iv) any instability to the existing causeway is avoided;
- (v) contingency and reporting protocols are established; and
- (vi) tidal fluctuations, particularly spring tides, are adequately considered in timing the works.

Advice Note:

In particular, the key earthworks should be carried out during fine weather periods when the likelihood of erosion and sedimentation will be minimised.

24. The Consent Holder shall implement appropriate stormwater run-off and sediment control measures to limit the discharge of sediment run-off to the coastal marine area in accordance with the approved Erosion and Sediment Control Plan.
25. Vehicles and machinery shall only be permitted to work on the estuary bed in accordance with the approved Erosion and Sediment Control Plan or Spill Management Plan required by Condition 19 and 23.
26. All machinery entering or working in any watercourse and in the coastal marine area shall be cleaned prior to arrival on site to remove weeds or seeds that may establish in the riverbed or margins or coastal marine area or margin, or may enter the aquatic or estuarine environment.
27. Any areas of below Mean High Water Springs that have been subject to any vehicle or equipment passage or excavation shall be restored as close as practical to its original state and as soon as practicable following completion of any works within the Coastal Marine Area but no later than 3 months following completion of the project.
28. Construction works associated with the activities shall not take place between the hours of 1800 and 0700. No works shall be undertaken between the Monday prior to Christmas to the second Sunday after New Year's Day. Work may be undertaken on Saturday between 0700 and 1600 subject to approval of the on-site engineer.
29. No construction works to be undertaken in the ecologically sensitive areas of Ravensdown Channel and Neiman Creek, or the adjacent stop banks, in the period 15 August to 15 April inclusive.
30. The Consent Holder shall ensure that the site is kept in a tidy condition during construction and each discrete section of the works shall be left in a finished and tidy condition following its completion. Each discrete site shall be kept free of debris and surplus construction materials, to the extent practicable, during construction.

CULVERTS

31. The new culvert inverts shall be placed and located in a manner that provides for the unrestricted passage of fish both upstream and downstream

DOGS

32. Clear and prominent signage shall be erected on the section of the cycle trail at either end of the sections between Sandeman Reserve (2524240E 5987220N (NZ Map Grid Datum)) and Lansdowne Road (25222930E 5989130N (NZ Map Grid Datum)), and throughout this section as appropriate, advising that it is an

offence under the Dog Control Act to allow dogs to harass wildlife and that any dogs found doing so may be destroyed.

SIGNS

33. All signs shall be erected in accordance with the documentation submitted with the application and with the plans attached to this consent marked Plans A and B, dated 6 December 2011. Where there is any conflict between the information provided within the application and any condition of this consent, the conditions shall prevail.
34. The maximum number of signs authorised is twenty (20), except for trail marker posts which, for the purposes of this condition are not deemed to be signs and are not limited as to number.
35. No signs shall be erected opposite any existing dwelling located on 585 Lower Queen Street (Lot 1 DP 6447), 587 Lower Queen Street (Pt Lot 1 DP 7236) and 597 Lower Queen Street (Pt Lot 1 DP6307).
36. Signs containing information on iwi culture and history shall be approved as correct by Tiakina te Taiao and a copy of the approval forwarded to Council's Co-ordinator Compliance Monitoring before the sign is erected.
37. Sign sizes shall not exceed:
 - (a) 3 square metres for up to four Trail Entrance, Information, Interpretation, Warning and Restricted Activity signs located at the following approximate locations:
 - i. Trail Start at SH 6
 - ii. Sandeman Road end
 - iii. Coastal section between Sandeman Road and Neiman Creek
 - iv. Neiman Creek

All as shown on the marked up aerial photo attached as Appendix C to the applicant's Right of reply and attached as Plan G to these consents.
 - (b) 0.154 square metres for Trail Markers
 - (c) 0.2 square metres for Trail Finger signs
38. Any sign located within 100 metres of a public road shall be sited and approved by the Council's Engineering Manager or delegated officer.
39. Flood warning signs shall be given in any section of the trail that is subject to inundation along with information on suggested alternative routes.

HUNTING

40. Prior to opening of the game bird hunting season, the Consent Holder shall place a notice on the cycle trail's website, and shall erect signage where the trail leaves Lower Queen Street (2523310E 5987860N (NZ Map Grid Datum)), and where the trail joins Lansdowne Road (25222930E 5989130N (NZ Map Grid Datum)), advising of the presence of recreational hunters, the duration of the hunting season, and that shot gun blasts may occur.
41. The cycle trail from Lower Queen Street (2523310E 5987860N (NZ Map Grid Datum)) to Lansdowne Road (25222930E 5989130N (NZ Map Grid Datum)) shall be closed between midnight and 10am, and between 4pm and midnight for the first day of game bird hunting season each year.
42. Prior to the commencement of construction of the trail, the consent holder shall undertake a process to offer recreational hunters, the Fish and Game Council, Nelson Airport Limited and the Ornithological Society the opportunity to be involved in a Hunting Liaison Committee. In the event that it is possible to establish such a group, it shall be chaired by an independent facilitator appointed by the consent holder. In the event that it is not possible to establish such a group, through no fault of the consent holder, then the failure to do so shall not be a breach of these conditions.
43. The objective of the Hunting Liaison Committee shall be to:
 - a. Build effective working relationships and mutual trust between the hunting community and the consent holder.
 - b. Promote the free flow of information between the consent holder and hunting interests in order to attempt to identify, assess and if possible resolve issues before they arise.
 - c. Manage any conflict between hunting activities and use of the trail, including trail signage and safety aspects.
 - d. Oversee a complaints process to attempt to resolve any complaints relating to hunting in the vicinity of the trail.

BIRDS

44. The consent holder shall undertake monitoring of bird populations through bird surveys in accordance with the methodology outlined in the Bell (2011) report attached to the application. Monitoring to complete the first annual cycle of bird populations shall occur in December 2011, March and June 2012. One further round of monitoring shall be completed three years after the cycle trail is opened to the public.

Each quarterly monitoring round shall:

- (a) Pay particular attention to birds present in the intertidal area of Waimea Inlet to the north of the proposed cycle trail route.
- (b) Ensure that observations are made by an experienced and qualified ornithologist.

- (c) Involve two surveys, with one survey to be conducted over a spring tide, the second over a neap tide. The two dates for observations are to be as close together as tidal conditions allow.
- (d) Ensure that observations are made from dawn to dusk, with the period of high tide being as close to the middle of the day as is practicable.
- (e) Avoid extreme weather conditions.
- (f) Information to be collected should include, but not necessarily be limited to:
 - (i) Species
 - (ii) Number
 - (iii) Distribution
 - (iv) Activity (eg, feeding, roosting)
 - (v) Movements (eg, between feeding and roosting areas)
 - (vi) Disturbance – source of disturbance, reaction, flight initiation distance (escape distance)
- (g) Be collected using activity scans as per the Bell (2011) report at 20 minute intervals, with the observer sited at the same site as the Bell (2011) report.

45. The Consent Holder shall undertake monitoring of Banded Rail presence by an experienced and qualified ornithologist in March and/or April in the first year following the grant of consent then one further round of monitoring five years thereafter within the between Sandeman Reserve (2524240E 5987220N (NZ Map Grid Datum)) and Lansdowne Road (25222930E 5989130N (NZ Map Grid Datum)). Prior to the first monitoring round the Consent Holder shall submit to Council's Co-ordinator Compliance Monitoring for approval a proposed methodology for the monitoring.
46. The Consent Holder shall provide a report to the consent authority of the results of monitoring in conditions 44 and 45, within 6 weeks of the monitoring being completed, prepared by an experienced and qualified ornithologist summarising information gathered and shall include copies of the raw data gathered.
47. In the event that the monitoring report required by condition 46 shows any significant adverse effect on birds which can be directly attributable to the activities authorised by these resource consents, the consent holder shall commission a qualified and experienced ornithologist to prepare a mitigation and management plan. The plan shall include methods or actions to avoid, remedy or mitigate the identified significant adverse effects and shall include timeframes within which these methods or actions should be implemented. This plan shall be provided to the consent authority within 6 weeks of the monitoring report. (This plan would be expected to initiate a review of the consents pursuant to condition 2(f) by the consent authority.)
48. A pest control programme shall be designed and implemented by a suitably qualified or experienced person to control any increase in browsers (rabbits or hares), predators (rodents, rats and mice), mustelids (stoats and ferrets), and feral cats. This programme shall make provision for pulsed pest control every 3 to 5 years, and may be incorporated with any existing pest control programmes

undertaken by other groups or organisations where this achieves the same outcome.

LANDSCAPING

49. Prior to construction a landscape / planting plan shall be developed by an appropriately qualified and experienced person. This shall include:
- (a) Identification and refinement of specific planting areas as per Maps X and Y attached to these consents;
 - (b) A plan showing areas identified for:
 - (i) Screening to provide separation and privacy between adjoining land use activities (whether industrial or recreational);
 - (ii) Restoration of the coastal margins; Areas identified as important bird habitats which may require enhancement or screening including specific provision for habitat restoration on the causeway located near the entrance to the Bark Site on Lower Queen Street at the north-eastern end of the Nelson Pine Industries site; and
 - (iii) Further restoration and bridge screening planting along the Headingly Stream (Borck Creek) edge, to be undertaken prior to bridge construction.
 - (c) Appropriate weighting to show priority 1 areas (where initial planting/ screening must occur for the successful mitigation of the effects), and priority 2 areas where planting will be undertaken as funding becomes available;
 - (d) Lists of suitable species for those areas identified and sources of plants in accordance with the recommendations of the Ecological Assessment titled "*Ecological Assessment along Sections 3, 4 and 5 of the proposed Nelson Cycle Trails Trust cycleway, May 2011*". Species list shall include an indication of the numbers of plants to be planted, species, density and spacings in each priority 1 areas and a planting methodology to show density and spacings are appropriate and best horticultural practices are followed;
 - (e) Provision for selective de-limbing of existing pine trees north east of Nelson Pine Industries to provide improved surveillance of the estuary;
 - (f) The number and extent of existing native vegetation that requires removal as part of the formation of the cycle trail, to ensure a net environmental gain;
 - (g) Time frames for implementation;
 - (h) A maintenance plan for the continual removal of pest species and the on-going restoration of the coastal margin (as per the guidelines indicated in maps X and Y submitted with the resource consent);

- (i) A planting/restoration guide for the coastal margins associated with the cycleway that can be used for any post construction planting or restoration projects;
 - (j) Provision that all planting be undertaken in accordance with the landscape plan within the first three planting seasons after the trail is opened except for plantings that need to follow the successful establishment of other species that promote shelter; and
 - (k) A timeline for replacement of any dead plants given that any dead plants are to be replaced in the next planting season following their detection.
50. Where there is sufficient space, landscaping beside the trail shall follow the Ministry of Justice “National Guidelines for Crime prevention through Environmental Design in New Zealand.” This standard need not be used where it is incompatible with the effectiveness of screen planting to avoid the adverse effects on threatened, rare or endangered bird species.
51. Screen planting shall be undertaken along the seaward side of the cycle trail at the north-western end of the Nelson Pine Industries site and at Neiman Creek (as shown on plans C and D attached and dated 6 December 2011). This section to be planted as soon as practicable following the date that the consent is effective, and shall be planted with screen species, and appropriately maintained to ensured fast establishment.
52. No eel grass shall be planted or transplanted in the course of any landscaping or restoration works.

ELECTRICAL SAFETY

53. All activities including the construction of new buildings/structures, earthworks, the operation of mobile plant and/or the construction of fences, must comply with the NZ Electrical Code of Practice for Electrical Safe distances 34:2001 (NZECP34:2001). The provisions of NZECP34:2001 particularly relevant are:
- (a) Table 1 which specifies that all buildings must be separated from the poles on the Stoke – Upper Takaka A transmission line by at least 6 metres.
 - (b) Table 2 which specifies minimum safe distances between buildings and the overhead conductors.
 - (c) Clause 5.2.1 of NZECP34:2001 specifies that all machinery and mobile plant operated on the site must maintain a minimum clearance distance of 4 metres from the transmission line conductors at all times.
 - (d) Clause 2.2 which relates to restrictions on excavations in proximity to transmission line support structures.
 - (e) Clause 4.3 which relates to minimum clearances between the ground and the transmission lines and has implications for any proposed filling.

Advice Notes:

1. The separation distance under condition 53(a) is a minimum and greater separation may be required between cycle trail structure (for example

boardwalks) and any support structure to enable reasonable access for machinery associated with maintenance work (refer advice note 2 below).

2. Under s23 Electricity Act 1992, Transpower NZ has a right of access to existing assets situated on the land where the cycle trail will be constructed. Any development on the land, including the construction and use of the cycle trail, must not preclude or obstruct this right of access. It is an offence under s163(f) Electricity Act to intentionally obstruct any person in the performance of any duty or in doing any work that the person has the lawful authority to do under s23 of the Electricity Act 1992.

54. Without limiting the generality of Condition 53 above, all structures (such as information signs, seats and toilets) may be located within 100 metres of the nearest high voltage transmission line support structure, without prior consultation with Transpower and an assessment of the potential risk from Earth Potential Rise.

55. Where landscaping is to be undertaken as a condition of this consent the landscaping plan, when it is submitted to Council for approval, must be accompanied by certification from a registered landscape architect confirming that any vegetation shown on the landscaping plan is of a species that does not have the ability to reach such a height that it is able to:

- (a) Encroach into the growth limit zone under the Hazards from Trees regulations; or
- (b) Fall within 5 metres from the conductors of the Stoke – Upper Takaka A transmission line.

Advice note:

That part of section 1 through the Open Space Zone of Lot 1 DP 10599 (Alliance Group Ltd) is a permitted activity under the Tasman Resource Management Plan, but is subject to agreement of that landowner. In the event that the landowner does not agree to the proposed route alignment, this consent does not authorise any part of section 1 outside the Open Space Zone.

RECLAMATION GENERAL

56. Reclamation shall be restricted to the three areas adjoining Lower Queen Street as shown on Plan E attached and one area of the Neiman Creek access road between points 2523145E 5989030N and 2523185E 5989015N (NZ Map Grid Datum) as shown on Plan F attached.

57. The Consent Holder shall ensure all the requirements of Sections 245 and 246 of the Act are undertaken following completion of the works.

58. Construction shall occur at such stages of the tide and during periods of fine weather, so as to not occur within, or be impacted or affected by, the ebb and flow of seawater.

LOWER QUEEN STREET RECLAMATION

59. The three reclamation batters adjoining Lower Queen Street shall have a maximum slope of 1.5H:1V and the face of the batter shall be comprised of the appropriate angular material to ensure the integrity of the batter wall.
60. The material used to construct the batter face shall be laid on a graded and shaped face of competent, compacted material.
61. The Consent Holder shall ensure that all fill and other material used in the construction of the reclamations and the rock batter are sufficiently clean prior to placement so as to not leach contaminants into the coastal marine area. To the greatest extent practicable the fill material shall be free of weed seeds. The Consent Holder shall ensure that weed seeds are minimised by carefully selecting and controlling the access of weed seeds to the source of the clean fill material. Concrete or other demolition-type material shall not be used.
62. The toe of the reclamation batter shall be embedded at least 300mm below the estuary bed, so as to be below the depth of potential wave action scour.
63. The land between the top of the reclamation batter and the cycle trail shall be finished in a manner that minimises erosion prior to the planting programme being implemented and facilitates plant establishment and health.
64. The reclamation batters shall tie into the adjoining road batter slopes in such a manner so as to result in a smooth and continuous transition that minimises the potential of erosion and ensures a gradual visual transition between different rock types.
65. Regardless of Condition 56 above the reclamation batters shall not extend into the estuary beyond the line of power poles running parallel with Lower Queen Street.

NEIMAN CREEK RECLAMATION

66. The reclamation batter approximately between points 2522927E 5989149N and 5259201E 5989109N (NZ Map Grid Datum) at Neiman Creek, all as generally shown on Plan F, shall have a maximum slope of 4H:1V and shall be constructed, compacted and finished in a manner that minimises erosion prior to the planting programme being implemented and facilitates plant establishment and health.
67. The Consent Holder shall provide a Plant Establishment and Maintenance Plan to the Council's Co-ordinator Compliance Monitoring for approval one month prior to works commencing on site. The plan shall detail the following:
 - (a) the nature of the substrate and confirmation that it will be effective in allowing the plants to thrive;
 - (b) the species to be planted and the planting layout;
 - (c) the origins of the plants (where the plants are grown and details of seed sourcing);

- (d) a timeline of planting and maintenance including watering, protection from damage from birds and grazing animals (rabbits);
- (e) a timeline of replacement of any dead plants;
- (f) a methodology for relocating plants on site.

The plan will be approved by Council's Co-ordinator Compliance Monitoring if it meets the following outcomes:

- (i) the batter is constructed in appropriate materials so plant establishment and health is promoted;
 - (ii) species are all appropriate native saltmarsh or marginal estuarine species that will provide estuarine habitat and also provide some screening of the users of the path from the estuary;
 - (iii) no *Zostera sp.* shall be included in the planting list
 - (iv) the layout of the planting includes appropriate zonation;
 - (v) the planting is completed in the first planting season following the completion of the reclamation and batter;
 - (vi) all plants are ecosourced and in good health;
 - (vii) plants are provided with sufficient moisture to enable establishment;
 - (viii) plants are appropriately protected from animals that may damage them;
 - (ix) weeding is undertaken to ensure that the plants are not crowded;
 - (x) any dead plants are to be replaced in the next planting season following their detection;
 - (xi) plants to be relocated on site are done so with minimum risk of transplant shock.
68. The reclaimed area shall incorporate traffic calming devices (such as chicanes or other appropriate devices) designed to calm vehicle speeds and discourage general vehicle use of the access (excluding cycles). Any traffic calming devices shall use natural materials or be of a low impact design and finish/colour compatible with the coastal foreshore.
69. If there is any significant increase in motor vehicle use of the access by the general public which is directly attributable to the reclamation or the exercise of this consent, the consent holder shall, in consultation with bone fide recreational users of this access, identify and implement a management strategy which restricts vehicle access by the general public but which provides for unrestricted on-going cycle and pedestrian access and restricted access for bone fide recreational users who require vehicle access.

DISCHARGES

70. All practical measures shall be taken to limit the generation of dust so that it does not become a nuisance to the public or adjacent land occupiers. Dust control measures that may be adopted include spraying water to dampen down the excavation site, or other measures as may be approved or required by the Council's Co-ordinator Compliance Monitoring.
71. No cut vegetation, debris, or other excavated material, shall be placed in any surface water body, or in a position such that it may enter any surface water body.

72. The Consent Holder shall ensure that any discharge does not cause any of the following:
- (a) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
 - (b) any conspicuous change in the colour or visual clarity;
 - (c) any emission of objectionable odour;
 - (d) the rendering of fresh water unsuitable for consumption by farm animals;
 - or
 - (e) a reduction in the visual clarity.

GENERAL ADVICE NOTES

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.
2. These resource consents only authorise the activities 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.
3. Consent RM110456 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 which are required to be complied with on an ongoing basis.
4. The Consent Holder should note that this resource consent does not override any registered interest on a property title.
5. 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.

6. Plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of the Council. Copies of the Council Standards and documents referred to in this consent are available for viewing at the Richmond office of the Council.

Issued this 6th day of December 2011



Jeff Jones
Chair of Commissioner Panel

RM110394 et al. Plan A: dated 6 December 2011

Trail Entrance, Information Sign, up to 3m by 1m

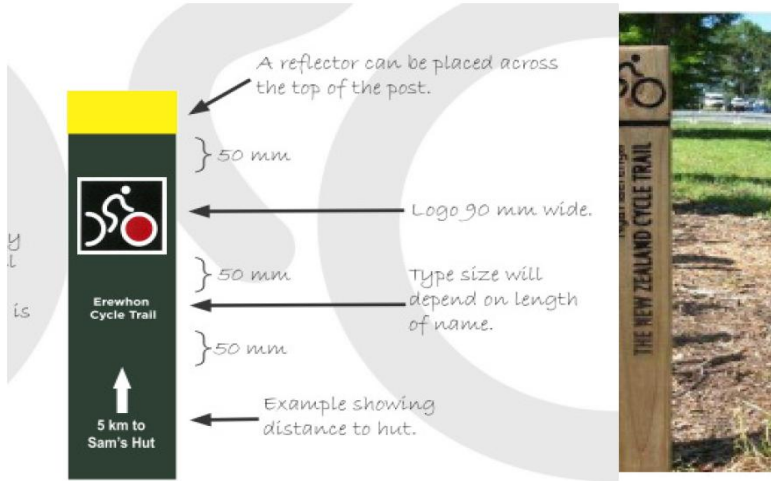


Warning / Restricted Activity Signage (generic examples without trail branding) up to 2m by 1m



RM110394 et al. Plan B: dated 6 December 2011

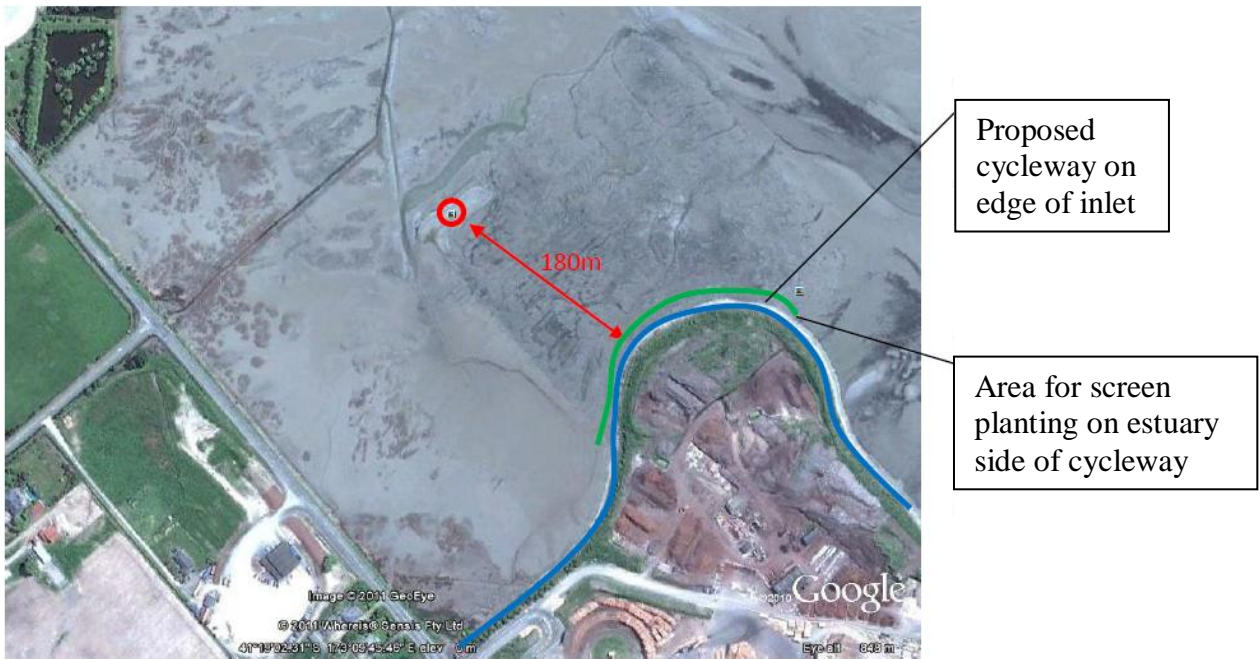
Trail Markers, 110mm by 140mm



Trail Finger Sign, 1000mm by 200mm



RM110394 et al. Plan C: dated 6 December 2011

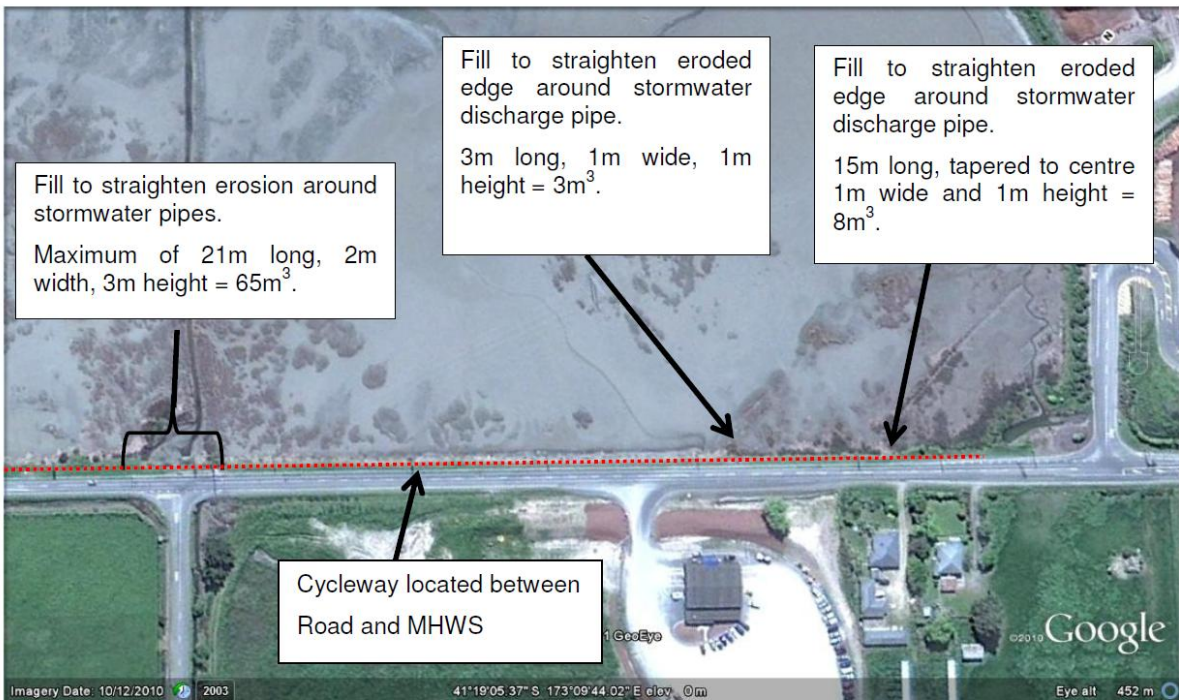


RM110394 et al. Plan D: dated 6 December 2011

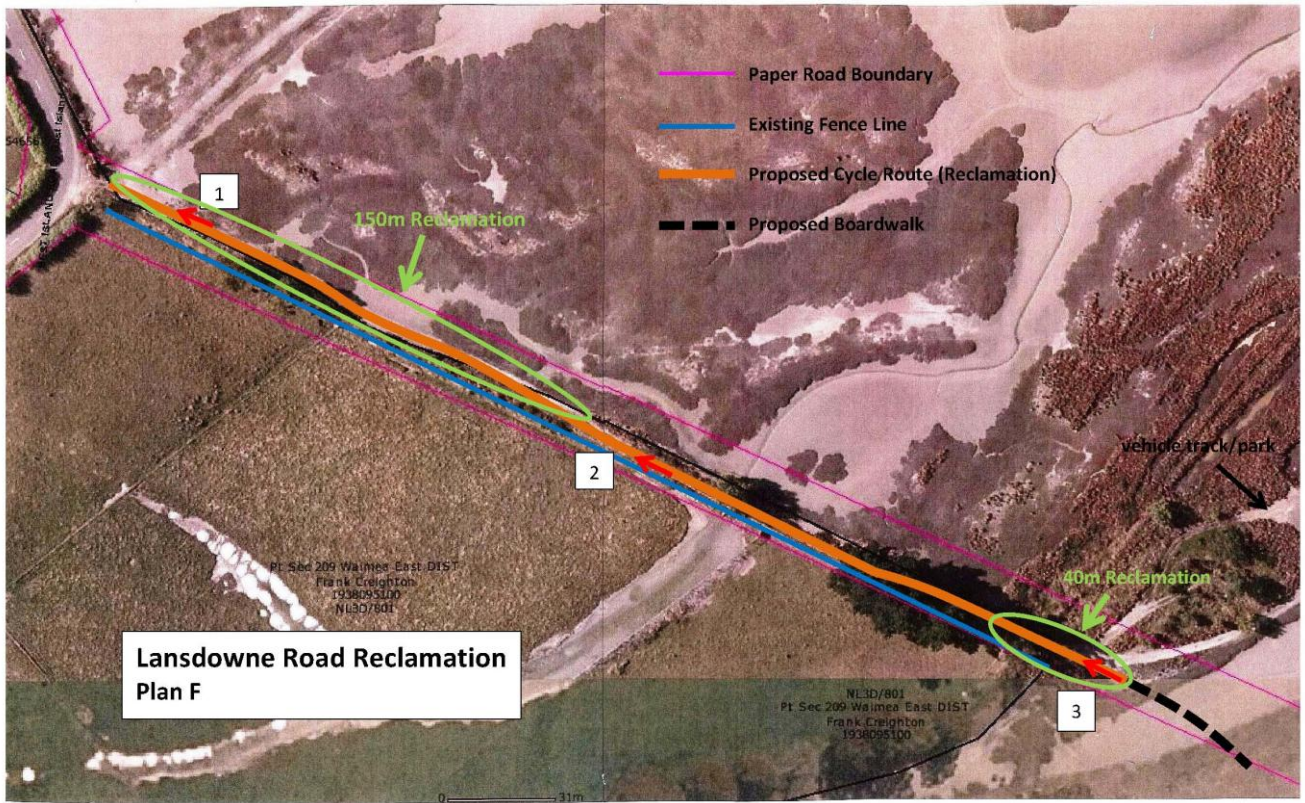


**QUEEN STREET INDUSTRIAL PARK ROUTE
Revised Plan "D"**

RM110394 et al. Plan E: dated 6 December 2011



RM110394 et al. Plan F: dated 6 December 2011



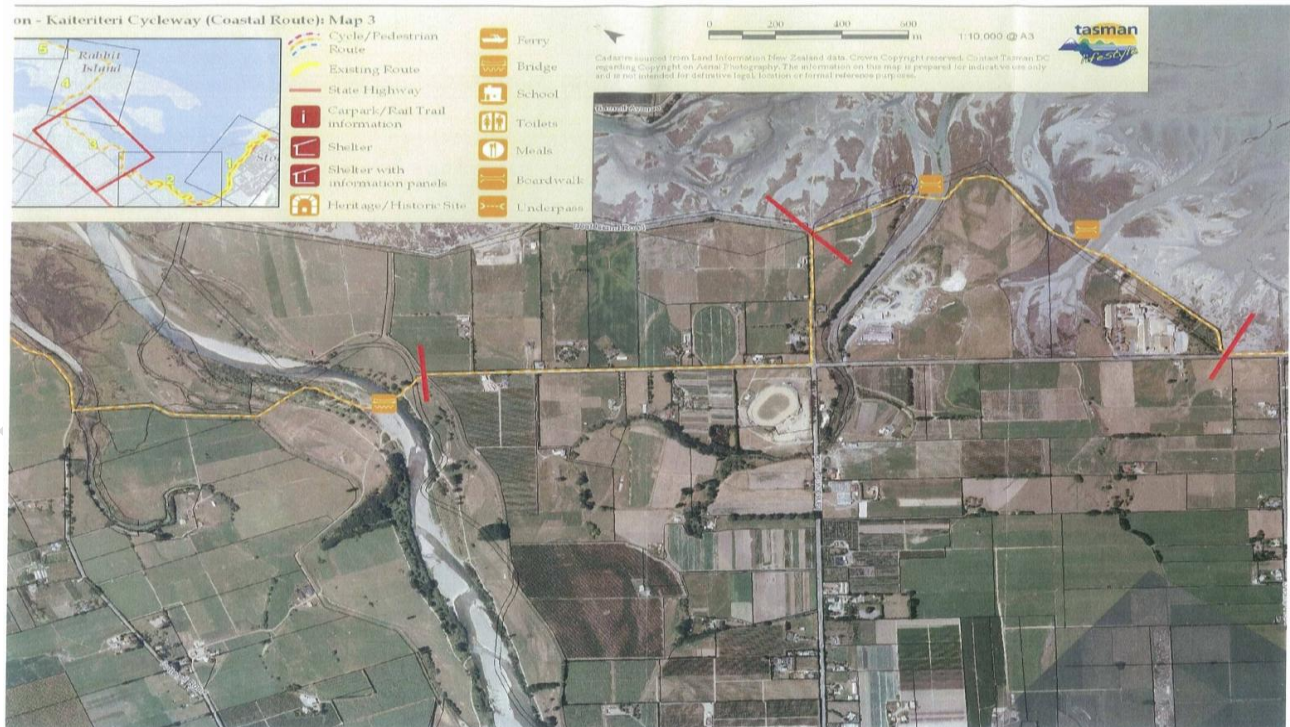
RM110394 et al. Plan G: dated 6 December 2011

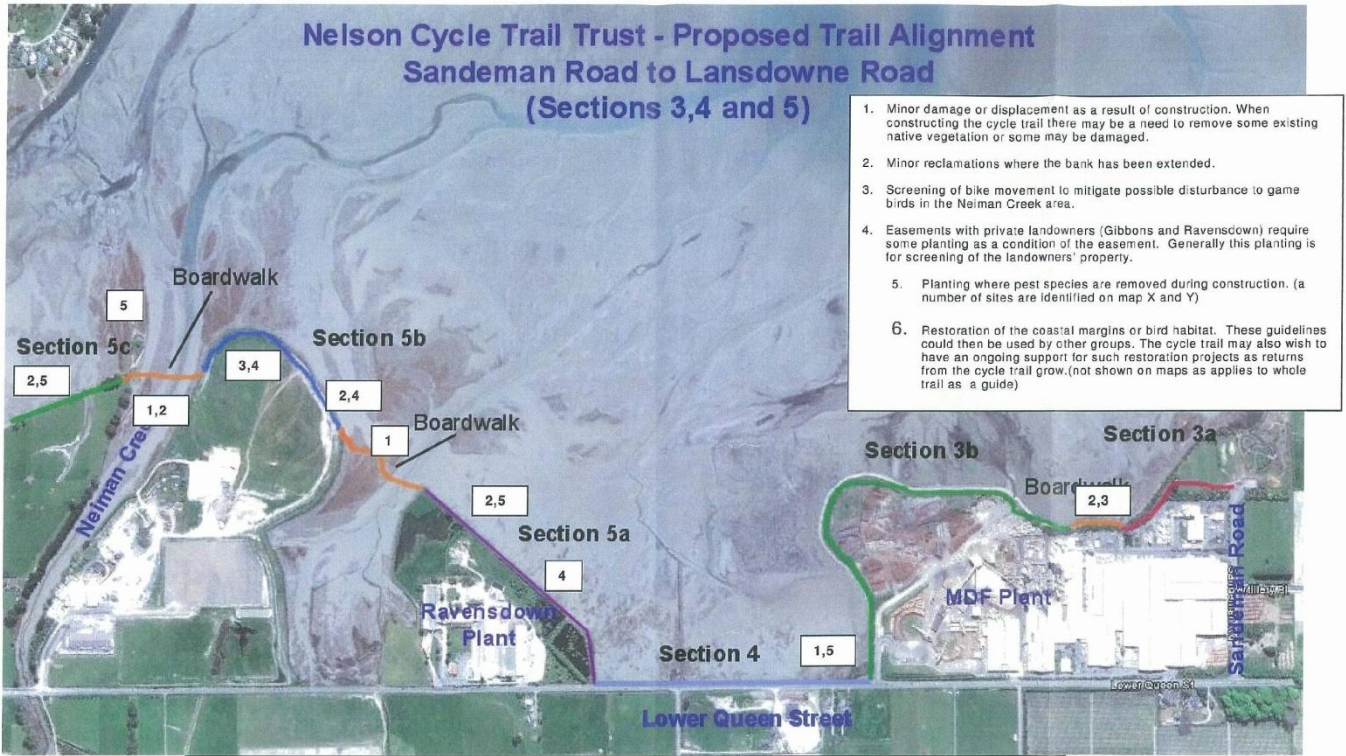


RM110394 et al. Map 2: dated 6 December 2011



RM110394 et al. Map 3: dated 6 December 2011





Map X- Identified areas for indigenous planting and restoration



Map Y- Identified areas for indigenous planting and restoration

Date Confirmed:

Chair: