

Report No:	REP11-11-01
File No:	RM110394, RM110454, RM110455, RM110456, RM110458, RM110523, RM110525
Report Date:	27 October 2011
Decision Required	

Report to: Commissioner Hearing

Meeting Date: Monday, 7 and Tuesday, 8 November 2011

Subject: Tasman District Council (Nelson Cycle Trails Trust)

Report Author: Michael Croxford, Consent Planner Natural Resources

1. SUMMARY OF PROPOSAL

The Tasman District Council on behalf of the Nelson Cycle Trails Trust has applied for consents for the construction of part of the Tasman Great Taste Trail. The portion of the cycle trail covered by this consent application 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 (see Figure 1).

The application describes the design requirements of the cycle trail at paragraphs 11 to 18 and describes the works required to achieve the design and the activities to which the application relates, as being:

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. Paragraphs 20 to 53 of the application describe the route and the specific consent required in detail.

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

It should be noted what falls outside of this application. 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. This application for resource consents is only for that part of the Coastal Route as described above and illustrated in Figure 1.

Figure 1: Map of proposed route for part of the Coastal Route of the Tasman Great Taste Trail.



1.1 Location

Waimea Inlet 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 (See Figure 1).

Eastern end of cycle trail - 2526655E 5986040N

Western end of cycle trail - 2521750E 5989690N

1.2 Legal Description

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 Esplanade; 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.

1.3 Tasman Resource Management Plan

Coastal Marine Area

Land Zone: Open Space, Mixed Business, Light Industrial, Rural Industrial, Rural 2

Area: Land Disturbance Area 1, Coastal Environment Area, Schedule 25.1F - Areas with Nationally or Internationally Important natural Ecosystem Values - Area 22: Waimea Inlet

2. STATUS OF APPLICATION

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)	17.3.3.1	17.3.3.3	Discretionary
	Land Use (Light Industrial)	17.4.3.1	17.4.3.3	Restricted Discretionary
	Land Use (Rural 1)	17.5.3.1	17.5.3.3	Restricted Discretionary

Ref no.	Activity	Relevant permitted rule	Applicable rule	Status
	Land Use (Rural 2)	17.6.3.1	17.6.3.4	Restricted Discretionary
	Land Use (Open Space)	17.9.2.1	17.9.2.2	Discretionary
	Land Use (Rural Industrial)	17.12.2.1	17.12.2.2	Discretionary
	Land Use (Coastal Env Area)	18.11.2.1	18.11.3.2	Restricted Discretionary
	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			
	Land Use	16.1.4.1	16.1.4.2	Restricted Discretionary
	Land Use	16.1.5.1	16.1.5.4	Restricted Discretionary
	To install up to 20 directional signs and information signs in various locations along the cycle trail not 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 consents have been bundled as the chosen route passes through the Coastal Marine Area requiring the construction of boardwalks therefore the proposal is a **Non-Complying Activity**.

3. NOTIFICATION AND SUBMISSIONS

3.2 Notification

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

3.3 Submissions

A full list of submitters is given in Appendix 1. Similar submissions have been grouped in the table below.

Submissions in support

Submitter	Reasons	Heard?
Department of Conservation (6)	<ul style="list-style-type: none"> Promotes enhanced public access Recreational, health, social and economic benefits Raises awareness of the Waimea Inlet 	No
John Gardner (9) Anita Gardner (11)	<ul style="list-style-type: none"> Cyclists' safety Economic benefit 	No

Submitter	Reasons	Heard?
Sean Trengrove (13) Beverly Greig (22) Fiona Conyers (23)	<ul style="list-style-type: none"> Encourages healthy lifestyles 	
Miles Fritton (14)	<ul style="list-style-type: none"> Support as a firearms licence holder 	No
Tiakina Te Taiao (18)	<ul style="list-style-type: none"> Protection of cultural heritage matters Effects on waterways 	Yes

Neutral submissions

Submitter	Reasons	Heard?
Transpower New Zealand Ltd (1)	<ul style="list-style-type: none"> Proximity of mobile plant to transmission lines and poles Location of structures Compliance with NZECP34:2001 	Yes
Royal Forest and Bird Protection Society Inc (2)	<ul style="list-style-type: none"> Screening of boardwalks to minimise disturbance to birds Avoid cutting through any high tide refuges No dogs along cycle trail 	Yes

Submissions in opposition

Submitter	Reasons	Heard?
Nelson Airport Limited (7) Air New Zealand Link (10)	<ul style="list-style-type: none"> Disturbance of birds leading to increased bird hazard risk 	Yes (7) Not specified (10)
Til Melis (12)	<ul style="list-style-type: none"> Screening of boardwalks to minimise disturbance to birds Avoid cutting through any high tide refuges No dogs along cycle trail 	Not specified
Alliance Group Limited (17)	<ul style="list-style-type: none"> Access across submitters land Impact on adjoining landowners 	Yes
New Zealand Historic Places Trust (19)	<ul style="list-style-type: none"> Require an archaeological assessment 	Yes
Helen Campbell for The Friends of Nelson Haven & Tasman Bay Inc (21)	<ul style="list-style-type: none"> No dogs along cycle trail Opposes offset hunting option proposed by Fish and Game Exclusion of full cycle trail No baseline study of ecological values 	Yes
Fish and Game New Zealand - Nelson/Marlborough Region (25)	<ul style="list-style-type: none"> Effects on existing recreational users of area Cycle trail route Exclusion of full cycle trail Disturbance of birds leading to increased bird hazard risk Effects on native bird species Proposes offset hunting Access for hunting dogs 	Yes
Stuart Mirfin (3) Kieran Scott (4) Craig Harley (5)	<ul style="list-style-type: none"> Effects on existing recreational users of area Cycle trail route Ratepayer funding of cycle trail (3, 8, 15, 20) Effects on native bird species (4, 8, 15) 	Yes (5, 8, 15, 16, 20, 26, 28 -

Submitter	Reasons	Heard?
Merrick Allan (8) Robert Jary (15) Marc Jary (16) Glenn Leys (20) Gordon Roberts (24) Marcus Reay (26) Sean Handley (27) Marc Cederman (28) Nigel Gibson (29) Abbie Cederman (30) Greg Taylor (31)	<ul style="list-style-type: none"> • Effects on adjoining farmers (8, 20) • Access issues to Neiman Creek (8, 24) 	31) No (3, 4, 27)
William Cook (32)	<ul style="list-style-type: none"> • contrary to the Waimea Inlet Management Strategy • Ratepayer funding of cycle trail 	Yes

4. STATUTORY CONSIDERATIONS

Section 104

A decision on this application must be made under Section 104 of the Act. The matters for the Council to address are:

- Part 2 of the Resource Management Act 1991 (“The Act”) (Sections 5, 6, 7 and 8)
- Any actual or potential effects on the environment (both positive and negative) (Section 104(1)(a))
- Any relevant provisions of a national policy statement (Section 104(1)(b)(i))
- Any relevant provisions of a New Zealand coastal policy statement (Section 104(1)(b)(iv))
- Any relevant provisions of a regional policy statement (Section 104(1)(b)(v))
- Objectives and Policies of the TRMP (Section 104(1)(b)(vi))
- any other matter the consent authority considers relevant and reasonably necessary to determine the application. (Section 104(1)(c))

Section 104D

As these consents are bundled and are a Non-Complying Activity a consent authority may only grant resource consent if it is satisfied that either:

- (a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or
- (b) the application is for an activity that will not be contrary to the objectives or policies of:
 - i. the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - ii. the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - iii. both the relevant plan and the relevant proposed plan if there is both a plan and a proposed plan in respect of the activity.

Section 105(1)

If an application is for a discharge permit or coastal permit to do something that would contravene section 15 or section 15B, the consent authority must, in addition to the matters in section 104(1) have regard to:

- (a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and
- (b) the applicant's reasons for the proposed choice; and
- (c) any possible alternative methods of discharge, including discharge into any other receiving environment.

Section 105(2)

If an application is for resource consent for reclamation, the consent authority must, in addition to the matters in section 104(1), consider whether an esplanade reserve or esplanade strip is appropriate and, if so, impose a condition under section 108(2)(g) on the resource consent.

Section 107 (1)

Except as provided in subsection (2), a consent authority shall not grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or section 15A allowing:

- (a) the discharge of a contaminant or water into water; or
- (b) a discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water.

If, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same, similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

- (c) the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
- (d) any conspicuous change in the colour or visual clarity;
- (e) any emission of objectionable odour;
- (f) the rendering of fresh water unsuitable for consumption by farm animals;
- (g) any significant adverse effects on aquatic life.

5. RESOURCE MANAGEMENT ACT 1991 - PART 2 MATTERS

This section of the report reviews Part 2 of the Act and the purpose and principles that are relevant to these applications. When considering an application for resource consent, the Council must ensure that if granted, the proposal is consistent with the purpose and principles set out in Part 2.

Purpose of the Act [Section 5]

Section 5 sets out the purpose of the Act which is to promote the sustainable management of natural and physical resources. Section 5(2) explains that “Sustainable management” means “managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment”

The Act defines the “environment” in Section 2 as follows:

Environment includes:

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

It should be noted that the environment specifically includes people and communities and specially notes social, economic conditions.

Section 5 enables people and communities to provide for their social, economic, and cultural well-being while safeguarding the life-supporting capacity of air, water, soil, and ecosystems.

Matters of national importance [Section 6]

Section 6 of the Act refers to matters of national importance that the Council shall recognise and provide for in achieving the purpose of the Act. The matters relevant to this application are:

Section 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.

Section 6(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.

Section 6(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers.

- Section 6(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.
- Section 6(f) the protection of historic heritage from inappropriate subdivision, use, and development.

Other matters [Section 7]

Section 7 of the Act identifies other matters that the Council shall have particular regard to in achieving the purpose of the Act. Relevant matters to this application are:

- S.7(a) kaitiakitanga.
- S.7(aa) the ethic of stewardship.
- S.7(b) the efficient use and development of natural and physical resources.
- 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.

Treaty of Waitangi

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

These principles underpin all relevant Plans and Policy Statements, which provide more specific guidance for assessing this application.

6. KEY ISSUES

Having reviewed the application, the submissions and the environment, I consider that the key issues are:

- Recreation effects and public access
- Disturbance to native fauna and aviation matters
- Disturbance to native flora
- Natural character and amenity values
- Proposed reclamations
- Sedimentation, water quality and disturbance
- Proximity to transmission lines
- Land use matters

6.1 Recreation effects and Public Access

Paragraphs 43 to 52 of the application outline the proposed cycle trail route from the Ravensdown plant to Lansdowne Road (Section 5 in Figure 1). In particular, Paragraph 49 details the matters requiring consent, which include the construction of boardwalks across the Ravensdown Channel and the mouth of Neiman Creek.

The route for most parts of this section follows legal road, Crown Land or is within the Coastal Marine Area. A 200m section of the cycle trail will be on private land owned by Queen Street Industrial Park Limited and the boardwalk adjoining the mouth of Neiman Creek will pass over land owned by Frank Creighton.

Paragraphs 86 to 94 of the application discuss the recreational values for this portion of the cycle trail with particular emphasis on existing gamebird hunting. The application states that the area is used for recreational shooting during the game season and notes that there are approximately six maimai along this section of the cycle trail. Seventeen of the submissions received are concerned about the potential conflict between current recreational use, mostly hunting, and the establishment, use and maintenance of the cycle trail. The submission from Fish and Game New Zealand (FGNZ) is the most extensive on this matter and covers all of the issues raised by other submitters. The key issues that FGNZ raise in relation to recreational values are:

- Proximity of hunters to cyclists and health and safety concerns
- Potential for noise and firearms related complaints from cyclists leading to hunters tending not to use these areas to avoid conflict
- Disturbance to other users relying on a less “active” area such as whitebaiting, horse riding, hunting and people exercising dogs.

The applicant has provided a report from Rob Greenaway regarding recreation effects and in particular effects on local hunting values. The report concludes (page 9) that the proximity of public access to hunting areas which are anticipated is not unusual in the Nelson Marlborough area and cites the Waimea and Motueka River hunting areas as local examples and the Groveland Lagoon and Para Swamp as two examples from Marlborough region. It also notes that hunters will be operating within a recognised hunting area, with adequate signage for cycle trail users, and as such hunters will be in a “highly defensible position” should complaints be made unless they are acting in a reckless manner.

Mr Greenaway also notes that hunting occurs within a confined season, in what is anticipated to be a low-use period for the cycle trail which will reduce the potential for conflict.

Overall, he considers that “the net result will be the retention of a peri-urban hunting option and a very significant cycling and walking opportunity”. Mr Greenaway concludes that “the effects on hunting as stated by submitters are overstated. Compromise is necessary in this setting and is achievable.”

Objective 4 of the New Zealand Coastal Policy Statement 2010 (NZCPS) recognises the need to maintain and enhance the public open space and recreation opportunities of the coastal environment. Objective 6 recognises the need to enable people and communities to provide for their social, economic and cultural wellbeing.

Policy 18 highlights the need for public open space within and adjacent to the coastal marine area, for public use and appreciation including active and passive recreation, and the need to provide for such public open space. While Policy 19 aims to recognise the public expectation of and need for walking access to and along the coast that is practical, free of charge and safe for pedestrian use, it states that a restriction on public walking access to, along or adjacent to the coastal marine area

should only be imposed where such a restriction is necessary. The circumstances where this may be appropriate include to avoid or reduce conflict between public uses of the coastal marine area and its margins.

Chapters 8 and 21 of the Tasman Resource Management Plan (TRMP) contain a number of objectives and policies which specifically relate to public access to the margins of rivers, lakes and the coast. Objective 8.1.2 requires that Council maintain and enhance public access to and along the margins of lakes, rivers, wetlands and the coast, which are of recreational value to the public. Policies 8.1.3.1 and 8.1.3.3 both are relevant and note the need to avoid, remedy or mitigate adverse effects on other resources or values.

Objective 21.6.0 seeks to maintain and enhance public access in the coastal marine area, including public passage, while preserving natural character, and maintaining ecosystems, heritage, and amenity values without undue hazard or loss of enjoyment as a result of private occupation or use of coastal marine space. Policy 21.6.2 states that public access in the coastal marine area will be restricted only where necessary to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna; protect cultural and spiritual values of the tangata whenua; protect public health and safety; or other exceptional circumstances.

In this context it is important to recognise that the definition of environment in Section 5 of the Act includes people and communities. In this case, the existing users of these areas are part of the environment, be they hunters, walkers, bird-watchers, cyclists, horse-riders, whitebaiters or any other member of the public. All users must be considered when determining whether potential adverse effects are going to be more than minor. This must be balanced against the objectives and policies of the TRMP and the NZCPS both of which place emphasis on public access to the coastal marine area.

In my opinion, the policy documents signal that generally one recreational user should not have exclusivity or dominance over another without a very good reason. The question for me is whether the applicant has provided enough mitigation to adequately avoid, remedy or mitigate any adverse effects on all other recreational users of these areas, not just hunters. I agree with Mr Greenaway's assessment particularly his emphasis that all user groups will need to work-out how to co-exist. Conditions requiring clear, informative signage warning cycle trail users of other recreational activities are critical to assist in mitigating any potential adverse effects and reducing possible conflict.

Consideration also needs to be given to ensure information within any signage is relevant to all recreational users. The Cultural Impact Assessment from Tiakina te Taiao notes that signage provides an opportunity to promote Maori culture and history, I agree with this and consider that this opportunity should also be taken by the hunting community.

Having considered the submissions and mitigation measures proposed I do not consider that the provision of an alternative route for the cycle trail as suggested within some of the submissions is necessary.

A number of submissions raise the concept of offset hunting areas as compensation for any potential disturbance to hunting. In my opinion, this is not required as the premise is that hunting will be curtailed by the presence of the cycle trail. I agree with Mr Greenaway's observations that both activities can co-exist, albeit with some degree of compromise. The provision of an offset hunting area would also require an amendment to the Reserve Management Plan for the area identified, which would be the subject of public notification and a third party agreement and therefore could not be guaranteed to occur.

6.2 Disturbance to Native Fauna and Aviation Matters

Disturbance to native avifauna resulting from the use of the cycle trail and potential increase in risk of bird strike to planes are discussed in the supplementary report from David Melville. The key recommendations he makes are:

- Screening of two wader roost sites identified by Mr Mike Bell in his report is required to reduce disturbance to a level where the continued use of the roosts is not compromised. Permanent screening by landscaping and temporary screening (until the landscaping is sufficiently established) is required on the seaward side of the cycle trail at the northwestern end of the Nelson Pine Industries site and at Neiman Creek (as shown by Mr Bell).
- That the 10 metre wide surveillance zone to improve safety for users (as suggested by Liz Gavin) should not apply to those areas where screening to avoid disturbance to birds is recommended.
- That dogs should be excluded from the Sandeman to Lansdowne Road sections of the cycle trail in order to avoid disturbance to feeding and nesting bittern, crakes and banded rails. However, Mr Melville suggests that the exclusion should be extended to all TDC managed land within the vicinity of the cycle trail.
- That consideration should be given for rerouting the cycle trail away from the small piece of land near the entranceway to Bark Processors Ltd on Lower Queen Street to avoid disturbance to a potential high tide roost for banded rail.
- Fencing should be erected to prevent access to land adjoining the Ravensdown Channel.
- That construction work in the areas adjoining Neiman Creek and Ravensdown Channel be avoided during periods when banded rail are more susceptible to disturbance.
- That predator control should be required between Nelson Pine Industries and Lansdowne Road due to the improved dry access that the cycle trail will provide to vulnerable bird habitat.

- That three further bird surveys repeating the September 2011 survey are completed in December 2011 and March and June 2012 to provide a baseline and then a repeat of the surveys over one whole cycle, two years after the cycle trail opens along this section. This will assist in determining changes in bird behaviour and potential bird hazards for the Nelson Airport. A further assessment of banded rail presence should be conducted.

Mr Melville does not anticipate that the location of the two boardwalks across the Waimea Inlet will adversely affect banded rail. The reasons for coming to this conclusion are the setbacks from banded rail habitat and the ability of the birds to pass under the boardwalks. He also considers that the screening of the two roosting areas will minimise the disturbance of bird species which have the potential to increase the birdstrike risk for Nelson Airport.

I agree with this assessment and most of the key points have been included in my suggested consent conditions.

6.3 Disturbance to Native Flora

Removal of any native flora will be limited to any existing plants within the formation area of the cycle trail. Where reclamation is to occur some vegetation will be required to be relocated. In these areas the plant communities are adapted to a confined niche. Those species capable of being relocated should be required to be replanted as close as practical to the pre-existing site. Consideration should be given as to how this is achieved as temporary storage of the plants while work is being completed could be problematic and this type of work needs to be completed under the supervision of a suitably qualified person. Overall, I consider that the supplementary planting offered as mitigation will offset the small areas of native vegetation that will be lost and therefore any adverse effects are anticipated to be less than minor.

6.4 Natural Character and Amenity values

The natural character of the coastal environment in the vicinity of the proposed cycle trail is already somewhat compromised by existing adjoining land uses. This is acknowledged by the applicant, Council staff and some submitters. However, two areas retain a certain degree of natural character and amenity values, these are located near the Ravensdown Channel and Neiman Creek tidal areas. The application and accompanying Landscape and Ecological reports highlight the opportunity that the mitigation measures proposed will provide to enhance the coastal margin and link some of these important estuary margins.

The foreshore areas which are the subject of these applications have already been substantially modified due to reclamation, land drainage and adjoining land uses (Refer Jack Andrew's report). However, the Waimea Inlet is identified in the TRMP as an area with nationally important natural ecosystem values and as noted in Mr Melville's report could be considered internationally important too for other values.

Policy 14 of the NZCPS promotes the restoration or rehabilitation of the natural character of the coastal environment. Subject to the mitigation measures proposed I consider that this application is consistent with this policy and Objective 8.2.2 and Policies 8.2.3.1 and 8.2.3.17 of the TRMP which focus on the maintenance and

enhancement of the natural character of the margins of the coast. Objective 21.1.0 and Policy 21.1.1 of the TRMP aim to avoid, remedy or mitigate adverse effects on the natural character of the coastal marine area from activities. Objective 21.3.0, 21.7.0 and Policy 21.3.1 and 21.7.1 require the maintenance of the natural character and landscape of the coastal marine area and of the amenity value derived from the natural character of the coastal marine area.

I consider that generally the construction of the cycle trail, excepting part of the proposed reclamation between Neiman Creek and Lansdowne Road, will enhance public access to and along the coastal marine area in a manner which will not compromise any outstanding natural features, landscapes, significant indigenous vegetation or habitat. The ability for the public to access many of the estuarine margin and areas where there is a degree of natural character already exists by virtue of the existing legal road network. The mitigation measures proposed, particularly the additional landscape plantings, will ensure that the natural character and amenity values will be enhanced along this stretch of the Coastal Marine Area.

6.5 Proposed Reclamations

The application identifies two sections where reclamations will be required in order to ensure that the cycle trail is accessible at all stages of tide and during adverse weather conditions.

Lower Queen Street

Section 4 of the cycle trail adjoining Lower Queen Street between the entranceway to Bark Processors and the Ravensdown plant will require some works in order to accommodate the installation of a wire safety barrier beside the road carriageway, achieve the design width for the cycle trail and provide a stable batter to the Coastal Marine Area. The application states that three reclamations will be required along this section - paragraph 41 details the extent of each with the accompanying diagram indicating the approximate locations of the works.

The area adjoining Lower Queen Street is very constrained and there is no alternative but to reclaim small areas of the coastal marine area. In my opinion, further reclamation works are likely to be required near Ravensdown although they have not been applied for. If the existing power poles are a general guide for the width required to accommodate all the components of the cycle way then it is reasonable to assume that some further reclamation will be required along this Section 4 of the route. No cross-sections have been supplied by the applicant for this area so it is difficult to assess the effects although the diagram on page 22 of the application does indicate the extent of the fill required.

A recent reclamation undertaken to provide a walk/cycleway adjoining Wharf Road, Motueka can be used as a guide for the works required. In this case both rock and planted batter slopes were used. In the case of the sections formed with rock revetment a maximum 2H:1V batter was required with appropriate conditions to guide construction methods. For the areas without rock revetment a maximum 4H:1V batter was required to provide a more natural planted batter.

At the Lower Queen Street sites it is recommended that a steeper batter slope be required for the three areas of reclamation applied for, so that the reclamations do not extend beyond the power-lines as the network utility operator would not have had

opportunity to consider this matter. This will also minimise the area of reclamation of the estuary. It is also recommended that the material used to finish the batter slope be similar to that already used on the road batter (i.e. mid size river boulders). Pest plants should be removed as far as practicable, any recoverable native plants immediately relocated elsewhere along the section and ecosourced plants used to naturalise the environment.

Lansdowne Road-Neiman Creek

The second area of reclamation results from the raising of the existing access track within the road reserve which provides access to Neiman Creek. Two areas will require reclamation, the first 150m from Lansdowne Road and then a second area approximately 40m long under the existing macrocarpa trees. The applicant proposes to raise the track surface in order to ensure all tide access is achieved along this section of the cycle trail. Again, no details of the proposed reclamations are given within the application.

Careful consideration of the need for the first area from Lansdowne Road is required as there appears to be sufficient space within the legal road to construct the cycle trail on the landward side of the coastal marine area. This land is currently occupied by the adjoining landowner. In my opinion, this option should be explored further as part of this hearing and the applicant needs to address why this area of proposed reclamation is required.

For the second area (40m long) it is recommended that a gentler batter slope of 4H:1V be considered with material carefully selected to ensure successful plant establishment and to minimise its ability to be eroded. Submitters have raised concerns with respect to their continued access along this part of the estuary margin. I support the purpose of this 40m area of proposed reclamation which will provide continued vehicle access because the area is within existing legal road and caters for access to and along the coastal area, specifically the mouth of Neiman Creek.

I consider that the proposed reclamations, except for the first area off Lansdowne Road are consistent with Policy 10 of the NZCPS. Both sections of the coastal margin are adjacent to land which has already been significantly modified and as such have limited natural character. In the section from Lansdowne Road to Neiman Creek a more natural batter and careful consideration of materials will be required to replicate the gentler gradation that exists elsewhere along this section. The reclamation needs to have sufficient width to support the addition of ecosourced plants between the path and Mean High Water Springs. This will provide a buffer between the cycle trail and the Coastal Marine Area and will provide some offset mitigation to the loss of coastal marine area resulting from reclamation.

Section 105(2) of the Act requires that Council considers whether an esplanade reserve or esplanade strip would be appropriate along the coastal margin of the reclamations. In both these cases the reclamations are for the purpose of widening or raising an existing formed legal road. The reclamations will provide for and enhance public access to and along the coastal marine area. No one has proposed or advocated that esplanade reserves or strips be created and I consider that they are not required.

Lastly if the Commissioners are of a mind to grant the proposed approximately 450 square metre (assuming 3 by 150 metres in area) reclamation at Lansdowne Road, then they should be aware of the offset mitigation condition (in the form of a financial contribution for planting/works in the estuary in addition to that proposed by the applicant) that was imposed on coastal permits held by the NZTA and TDC for reclamations in the Moutere Inlet. Whether this is justified or reasonable in this case would be a matter for Council to determine. However, no written submissions have been made on this issue and other offset planting elsewhere along the cycleway may be considered sufficient.

6.6 Sedimentation, Water Quality and Disturbance

Discharge of sediment into the Coastal Marine Area may result during both the construction of the cycle trail on land or the boardwalks in the estuary. Earthworks required for the formation of the cycle trail will be limited to the scraping off of the surface layer and placement of fill to ensure a generally consistent grade. A layer of base course suitable for compaction will be placed similar to the recently constructed cycle trail from the entrance to Rough Island to the western coast of Rabbit Island.

Paragraphs 65 to 68 of the application outline the works and where there is a risk of sediment discharging to the surrounding environment. I recommend that a condition of consent require the preparation of a sediment and erosion control plan for approval. There may be the temptation to open long sections of cycle trail prior to placement of base course. Although this is generally not problematic given the scale of the works there is the potential in high rainfall events for significant run-off into the coastal marine area which is an estuarine environment sensitive to sedimentation.

Another potential concern is the construction methodology for the boardwalk. It is proposed to drive the piles and/or dig holes prior to placement of the piles. Driving the piles is the preferred option to avoid sedimentation and potential water quality issues in the coastal marine area. In locations where holes must be dug it is preferable for the material excavated to be removed and disposed of off-site.

Policy 22 of the NZCPS, Objective 33.1.2 and Policy 33.1.3.2 of the TRMP are all concerned with sedimentation and discharge of contaminants to the Coastal Marine Area. Given the limited scale of the proposed works I consider that the risk of associated sedimentation and discharge of contaminants (sediment) to be minor and consistent with these objectives and policies.

The application also proposes in paragraphs 26 and 27 that a concrete ford could be formed to span the mouth of Borck Creek at Headingly Lane. Considering the close proximity of an existing bridge 200m upstream of the proposed ford then the disturbance is not appropriate given that approximately 60 square metres would need to be excavated and concreted in order to construct the ford. A bridge at this point would be more appropriate.

6.7 Proximity to transmission lines

The submission from Transpower New Zealand Limited notes that the alignment of the proposed cycle trail crosses under the Stoke - Upper Takaka A 66kV single circuit transmission line seven times between Poles 30 to 45 and will be located close to Poles 31, 35, 39, and 44 (refer submission 1, Attachment B for location of poles and

line). The issues in relation to the proposed alignment are listed in Paragraph 8 of the submission.

The applicant has discussed this matter further with the submitter and has volunteered the inclusion of three conditions that seek to ensure compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP34:2001), exclude all structures within 100m of the transmission line support structures and ensure that landscaping does not impact on the transmission lines. The submitter is now no longer opposed to the application.

When making a decision on the suite of applications the Council must be mindful of Policy 10 of the National Policy Statement on Electricity Transmission 2008 (NZSET) which states that “decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised”. If the Council grants the consents sought then the inclusion of the volunteered conditions will ensure that the decision is consistent with the NPSET. If, in the interest of avoiding duplication or ensuring consistency in language used, there are any amendments made to the wording of the conditions or they are incorporated into other conditions then the Council should be mindful of the intent of the conditions.

6.8 Land Use Matter: Signage; Coastal Environment Area, Cultural and Heritage

Cultural and historic heritage matters have been addressed within Mr Andrew’s supplementary report and I agree with his assessment.

Key points that he raises are:

- that the signs are for direction and safety purposes and to also provide appropriate information so that the New Zealand public and overseas visitors are aware of the wildlife and cultural importance of the area they are in;
- level board walk structures are expected to have only a minor effect on the coastal character and amenity of the land over which the cycle trail runs;
- the application has addressed the potential effects of the proposed activities on cultural values and volunteered conditions are appropriate.

I agree with Mr Andrew’s assessment and his recommendations have been included within the proposed consent conditions.

7. SUMMARY OF KEY ISSUES

Overall, the key issues to consider with respect to these applications are the interaction between the existing and new recreational users of the estuary and its margins and the potential of adverse effects on indigenous taxa and habitats of indigenous species. With respect to the first issue, I agree with Mr Greenaway’s assessment that different users can co-exist in the same area and that a degree of compromise by both parties is required. On the latter issue I agree with Mr Melville’s assessment that although the areas around Ravensdown Channel and Neiman Creek support a number of species listed as threatened or at risk, the route selected

for the cycle trail and the activity of cycling itself will not necessarily give rise to an adverse effect on the species or the ecosystem supporting the species.

Except for the proposed reclamation off Lansdowne Road, which requires better justification, I consider that the mitigation measures volunteered by the applicant and the recommended conditions of consent will result in the adverse effect of the activity being minor.

8. SECTION 5 AND RECOMMENDATION

As a planner weighing up all of the relevant considerations in terms of Section 5 of the Act, I consider that a grant of consent **would** promote the sustainable management of natural and physical resources and, on balance, I **RECOMMEND** that the application(s) be **GRANTED IN PART EXCLUDING THE PROPOSED 150 METRE LONG RECLAMATION AT NEIMAN CREEK (unless it can be clearly demonstrated that such access on the landward side of the Mean High Water Spring is not feasible) AND THE FORD AT BORCK CREEK**, subject to conditions.

9. CONDITIONS, ADVICE NOTES, PLANS

GENERAL CONDITIONS

1. The Consent Holder shall ensure that the activities authorised by these consents are undertaken in general accordance with the applications submitted by APL Property Nelson Ltd on behalf of the Tasman District Council dated 1 July 2011 and with Plans A - F dated 8 November 2011. 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 Resource Management 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 Resource Management Act 1991; or
 - (e) to address any increase in bird numbers considered to be a bird strike risk which can be attributed to the exercise of these consents.
3. Pursuant to Section 125 of the Act, these consents shall lapse three 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 completed within two 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 on 8 November 2046.
5. RM110454, RM110455 and RM110523 expire on 8 November 2016.
6. The reclamations authorised by RM100458 shall have an unlimited term in accordance with Section 123(a) of the Resource Management Act 1991.
7. The land use authorised by RM110456 shall have an unlimited term in accordance with Section 123(b) of the Resource Management Act 1991.
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 five 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 Tasman District Council Engineering Standards & Policies 2008 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”).
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 five 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 and an archaeologist 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 consult with 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 consult with 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 consult with 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 13 to 15

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.
21. 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 18 and 22.
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 left in a finished and tidy condition following the completion of the works. The site shall be kept free of debris and surplus construction materials.

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. No dogs shall be permitted on the section of cycle trail between Sandeman Reserve (2524240E 5987220N (NZ Map Grid Datum)) and Lansdowne Road (25222930E 5989130N (NZ Map Grid Datum)) and this restriction shall be displayed on any relevant advisory sign at the entranceways to or along this section of the cycle trail.

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 Plan A and B, dated 8 November 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).
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) 2 square metres for Trail Entrance, Information, Warning and Restricted Activity signs
 - (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 4.00 pm and midnight for the first day of game bird hunting season each year.

BIRDS

42. Prior to the cycle trail being open to the public temporary two metre high screening shall be placed on the seaward side of the cycle trail at the northwestern end of the Nelson Pine Industries site and at Neiman Creek (as shown on plans C and D attached and dated 8 November 2011). Such screening shall remain in place until a continuous band of vegetation has established on the seaward side of the cycle trail to a height of at least 1.5m as determined by Council's Co-ordinator Compliance Monitoring. The proposed design of the screening structures and the material used shall be submitted to the Co-ordinator for approval prior to being installed.

Advice note:

The purpose of the screening is to avoid disturbance to the roosting sites as shown on Plan C and D. Materials considered suitable for screening should be recessive in colour. Viewing holes within the screening greater than 1.5m in height at regular intervals are allowed.

43. 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. A second annual cycle shall take place two years after the cycle trail is open 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.

44. The Consent Holder shall provide a report after each of the two annual cycles prepared by an experienced and qualified ornithologist summarising information gathered and shall include copies of the raw data gathered and management responses required.

45. The Consent Holder shall undertake monitoring of Banded Rail presence by an experienced and qualified ornithologist in March and/or April annually for the first three years after granting of consent and then every 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 after each survey prepared by an experienced and qualified ornithologist summarising information gathered and shall include copies of the raw data gathered and management responses required.

47. Traps for feral cats and mustelids and rodent traps and/or bait stations shall be placed at 100m intervals along and the length of the cycle trail between Nelson Pine Industries and Lansdowne Road and shall be maintained throughout the life of the consent.

LANDSCAPING

48. Prior to construction a landscape / planting plan shall be developed by a Landscape Architect. This shall include:

- (a) Identification and refinement of specific planting areas as per maps X and Y (appendix 4 of the resource consent application);
- (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 and the proposed planting plan; and
 - (iii) Further restoration and bridge screening planting along the Headingly Stream edge.
- (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) All planting shall 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 of replacement of any dead plants given that any dead plants are to be replaced in the next planting season following their detection.
49. In areas where screening is required on both sides of the track, the planting mitigation should aim, where practical, to provide clearance on either side of the path to a width of 10 metres, 5 metres either side of the centre line of the track for the safety of the users. Only ground cover or small grasses/*Juncus sp.* (with a height no greater than 500mm) should be planted within this 10 metre width, or trees with clear trunks and a canopy that does not reduce visual surveillance.

Advice Note:

This condition does not apply to those sections of the cycle trail identified in Condition 42.

ELECTRICAL SAFETY

50. 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 (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.
51. Without limiting the generality of Condition 49 above, all structures (such as information signs, seats and toilets) must be located so there is at least 100 metres between the structures and the nearest high voltage transmission line support structure, or at a lesser distance subject to approval of Transpower. Any proposal for a reduction to the 100 metre separation distance may require engineering assessment of the potential risk from Earth Potential Rise.
52. 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

53. 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.
54. The Consent Holder shall ensure all the requirements of Section 245 and 246 of the Resource Management Act 1991 are undertaken following completion of the works.
55. 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

56. The three reclamation batters adjoining Lower Queen Street shall have a maximum slope of 2H:1V and the face of the batter shall be comprised of the same material as used in the existing road batter.

Advice Note:

The existing material is observed to be river rounds roughly 300mm in diameter.

57. The material used to construct the batter face shall be laid on a graded and shaped face of competent, compacted material.
58. 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.

Advice Note:

For the purposes of this condition, fill shall only include subsoil. Concrete or other demolition-type material shall not be used.

59. 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.

60. 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.
61. 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 visual continuity.
62. Regardless of Condition 55 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

63. The reclamation batter between points 2523145E 5989030N and 2523185E 5989015N (NZ Map Grid Datum) at Neiman Creek 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.
64. 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.

DISCHARGES

- 65. 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.
- 66. 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.
- 67. 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.

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. Pursuant to Section 127 of the Resource Management Act 1991, the Consent Holder may apply to the Consent Authority for the change or cancellation of any condition of this consent.
7. 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.

Michael Croxford
Consent Planner Natural Resources

Trail Entrance, Information Sign, up to 2m by 1m

Centre the logo with the title words.

Where there is a number of activity icons the width of the cycle trail logo should match the total width of the grouped icons.

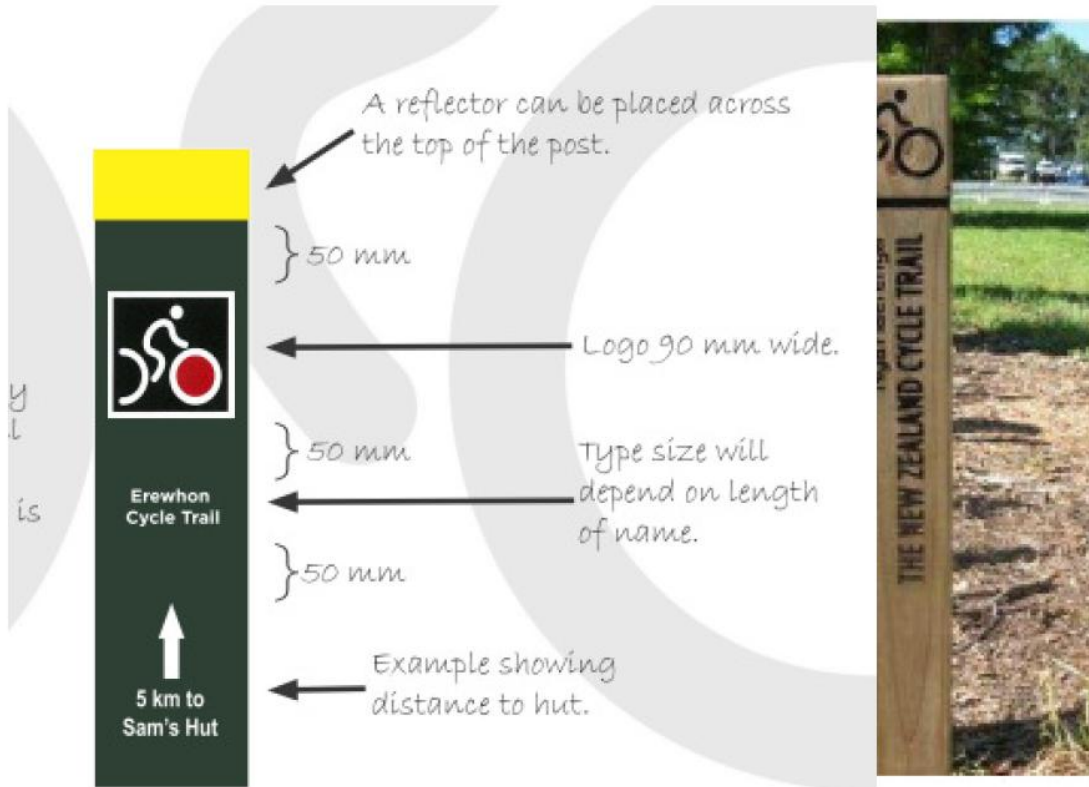
Trail may have its own colour scheme.

Times shown are for walking only		
	Nowhere Trail - uphill in parts	5 hr/15 km
	Butler track - partly unformed	7 hr/22 km
	Erewhon Pass	3 hr/10 km
	Samuel Alley	6 hr/18 km

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



Trail Markers, 110mm by 1400mm



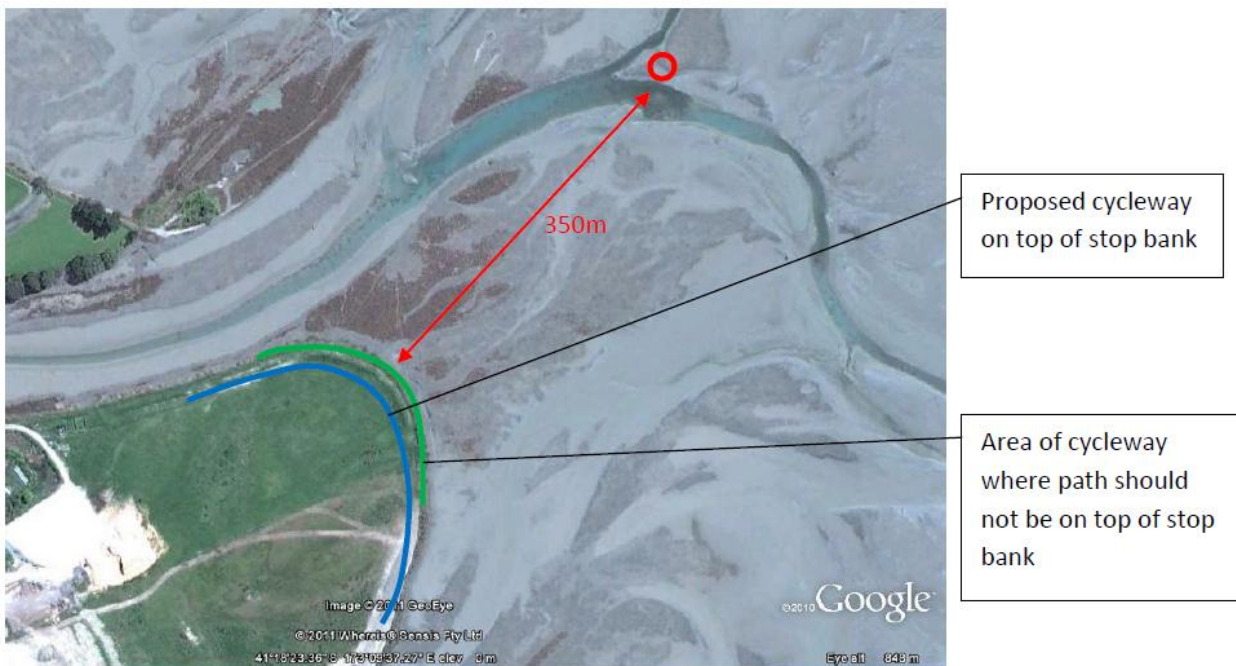
Trail Finger Sign, 1000mm by 200mm

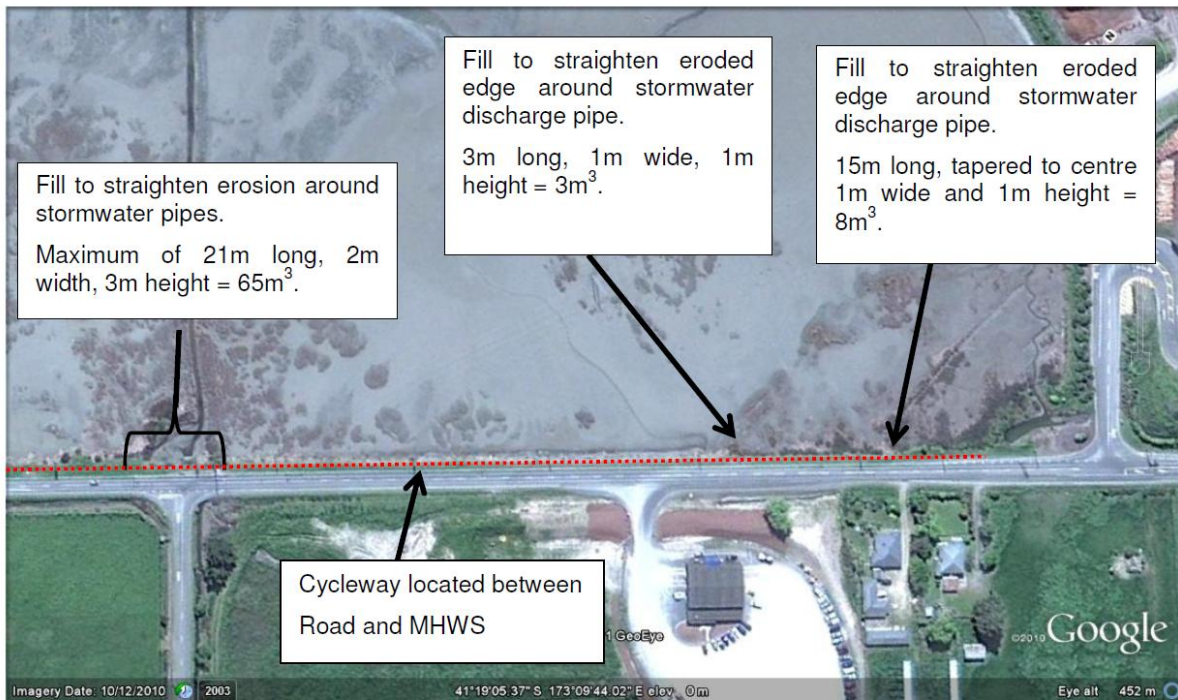


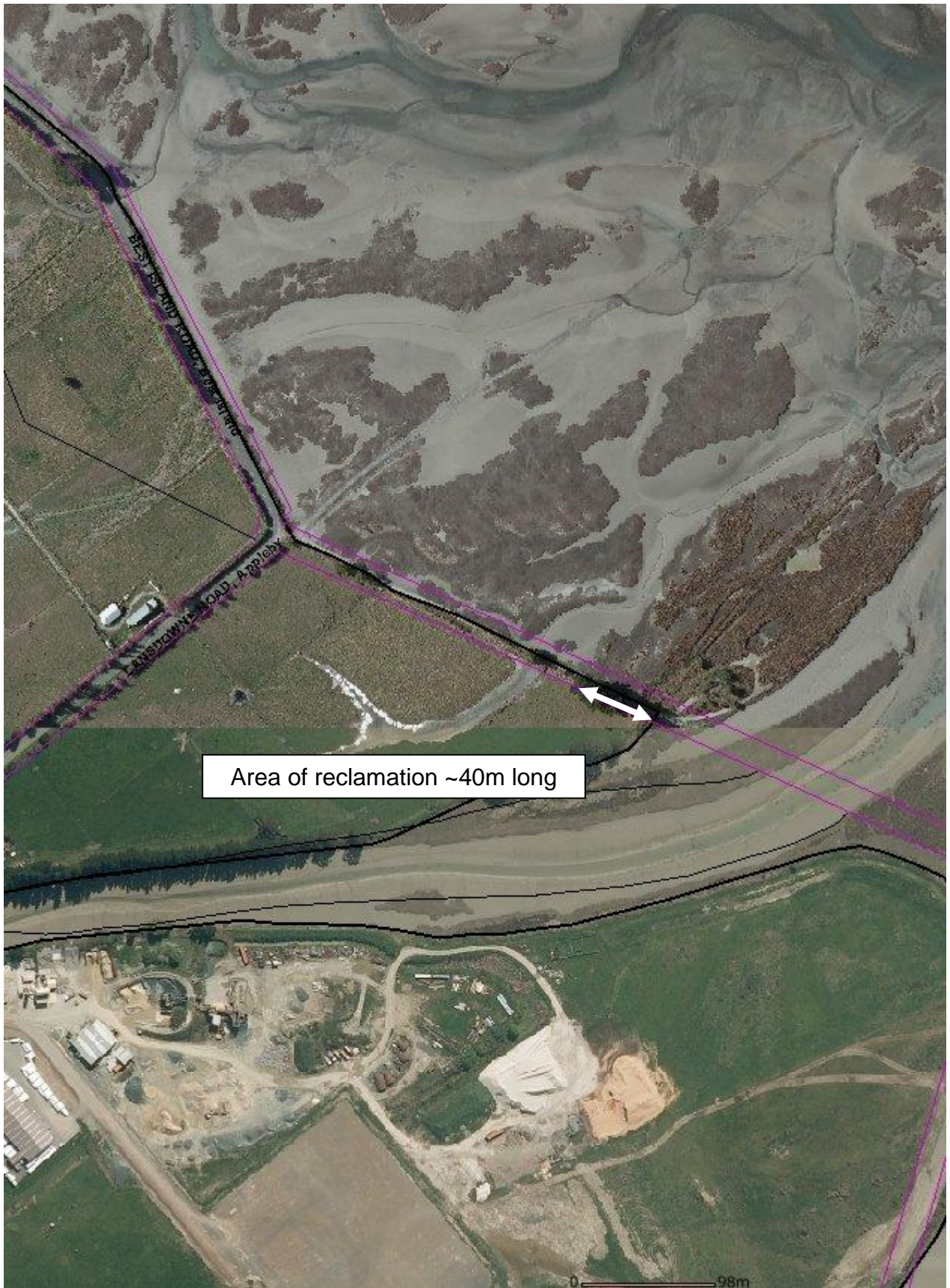
RM110394 *et al.* Plan C: dated 8 November 2011



RM110394 *et al.* Plan D: dated 8 November 2011







SUPPLEMENTARY STAFF REPORT

TO: Commissioner Hearing

FROM: Jack Andrew - Coordinator Land Use Consents

REFERENCE: RM110456 - Construction of a Trail including Erection of Signs

SUBJECT: Tasman Loop Cycle Trail, Part stage 1(Coastal Section) - REPORT REP - Report prepared for hearing of 7-8 November 2011-10-25

1. INTRODUCTION TO APPENDIX REPORT

This report is prepared as an appendix to the main report by Mr Croxford that relates to stage 1 of the Tasman Loop Trail application. Mr Croxford's report outlines the reference numbers and various types of applications required by Stage 1 of the proposal and that they need to be processed together as one bundled suite of applications that have a non complying activity status.

The district land use application component of the bundle of applications is resource consent RM110456.

Stage 1 of the trail is approximately 8.5km long extending westward from the existing cycleway/walkway near Reservoir Creek and alongside the Richmond Deviation (SH6) around the south eastern edge of the Waimea Inlet to the Waimea River. From west to east the trail crosses several TRMP zone boundaries including Rural 1/ Open Space, Industrial, Rural Industrial, and Rural 2. While this appears to be quite a complex zoning situation in reality most of the proposed trail is within the Open Space and Rural 2 Zone(approximately 8.1 km) with only small side steps into the two Industrial zones(approximately 0.4 km).

To elaborate:

- In section 1 from SH 6 to Beach Road 6 metres is zoned Industrial(currently transferring to esplanade reserve through subdivision consent RM110232) and the rest is Open Space zone;
- Section 2 has been constructed;
- Section 3 from Sandeman Road around the MDF Nelson Pine Industries and Dynea plants approximately 200 metres is zoned Rural Industrial and the rest is Open Space zone;
- Section 4 alongside Lower Queen Street approximately 80 metres is zoned Rural Industrial and the rest is Open Space zone;

- Section 5 to Ravesdown to Nieman's Creek approximately 150 metres is zoned Rural Industrial (around some of Gibbons property) and the rest is Open Space zone;
- Section 6 and part section 5 from Neiman's creek to the Waimea River end of Lower Queen Street is entirely within legal road reserve that is zoned Rural 2.

Without the bundling of consents any trail within the Rural Industrial zones would require resource consent as a discretionary activity. Within the Rural 2 and Open Space zones the Trail would not need resource consent if it did not have relatively small lengths of boardwalks on land. The boardwalk structures constitutes "buildings) under the TRMP and do not meet the zone building setbacks. In addition the boardwalks are a new building structure within the Coastal Environment Area and any new building requires resource consent.

Up to 20 signs have been applied for and although their locations are not yet determined the largest free standing signs require resource consent approval. Overall a District Land Use Resource consent is needed for up to 20 signs and for the trail because of small portions of it are within the Rural Industrial zone and as the boardwalks are classified as new buildings in the Coastal environment area and do not meet some boundary setbacks for buildings. I will now consider both signs and structures using the TDC key issue report format.

2. KEY ISSUE SIGNS

The application proposes erecting up to 20 advisory signs along the 8.5km trail. The signs are covered in paragraphs 59 to 62 of the application along with diagrams of them. The signs are restricted to three types of signs being:

- (i) Directional Finger Signs up to 1 metre by 200mm;
- (ii) Entrance Information Signs up to 2 metre by 1 metre;
- (iii) Trail Markers 110mm by 1400mm

These three types of signs are for public safety and to provide information about the wildlife and cultural values of the Waimea Inlet.

The trail traverses several zones including the Mixed Business, Open Space, Light Industrial, Rural Industrial, and the Rural 1 & 2. The TRMP has different sign rules for each of these zones. The proposed signs will breach different rules in each zone although in all zones they will breach the rules that restrict free standing signs to one sign per Certificate of Title, breach the size for a large free standing sign, and also breach some design details such as the lettering height for messages on signs.

Under the TRMP the signs are a Restricted Discretionary Activity with Council restricting its discretion to the following matters:

- (1) Location and legibility in respect to traffic safety.

- (2) Amenity effects on the surrounding area, including cumulative effects of signs.
- (3) The need for the sign to provide for ready identification of the activity, event or property to which the sign relates, including alternative means to provide for it.

The TRMP's objectives and policies generally seek to control a potential plethora of commercial and community events signs from dominating the main road networks, attractive visitor destinations and the coastal and rural environments of the district. The main relevant objectives and policies for signs are:

- site amenity objective 5.2.2 and policy 5.2.3.10 ***“To allow signs in residential, rural residential, recreation and rural areas that are necessary for information, direction or safety;***
- *and objective 9.1.2 and policy 9.1.3.5 ***“To promote awareness and protection of landscape (including seascape) values.”***

All the proposed signs are considered to be consistent with these policies as they are either providing trail users with directional and safety information or educational information to increase their awareness of the special features of this particular coastal environment.

Before discussing the three matters of Councils discretion I would make the following general observations:

- *The trail is likely to be very popular with locals and visitors and could be a target for marketers of biker's apparel, equipment, food and drinks, and accommodation. Limiting the signs to the number applied for and not permitting any sponsorship advertising on them should not compromise the relevant signage objectives and policies of the TRMP. In addition as there are three dwellings located near the trail in Route Section 4 and no large signs should be located between those dwellings and their view out over the Waimea Inlet;
- *The signs need to meet the intent of recommendation 11 in the Tiakina te Taiao cultural assessment report that was included as part of the application. Any signage containing information on aspects of manawhenua iwi culture should be agreed in advance with Tiakina te Taiao so that it is correct and appropriately located from an iwi perspective;
- *The signs can provide information on geographical, wildlife, and cultural features that visitors might never otherwise encounter such as Mai Mai's which add to the interest to the trail.

Keeping these observations in mind my assessment in relation to the three matters of Councils discretion are:

(1) ***Location and legibility in respect to traffic safety.***

The actual location of the signs is not established in the application. The trail in places is close to busy roads where signs could create roading issues. In this situation it is prudent to impose a condition of consent so that any sign erected within 100 metres of a public road be sited to the satisfaction of Councils Engineering Manager.

(2) ***Amenity effects on the surrounding area, including cumulative effects of signs.***

The signs are not bold commercial signs but are discrete public information signs similar to those on the Wakatu Drive trail. Those signs do not detract from the amenities of the environment. Provided the larger signs are not located where they might detract from the outlook of existing dwellings or significant public views over the Waimea Inlet then in my opinion the signs will not generate adverse amenity effects.

(3) ***The need for the sign to provide for ready identification of the activity, event or property to which the sign relates, including alternative means to provide for it.***

The signs are directly related to a public need for direction safety and information about the environment. In addition signs need to address periodic high tide flooding of parts of the trail and indicate an alternative route to avoid flooded sections.

Overall I consider that there is a need for some signs and with conditions they should not detract from the amenities of area.

3. KEY ISSUE (2) STRUCTURES WITHIN THE OPEN SPACE ZONE, RURAL INDUSTRIAL ZONE, INDUSTRIAL ZONE, RURAL 1 ZONE AND RURAL 2 ZONES AND THE COASTAL ENVIRONMENT AREA AND IN BREACH OF BUILDING SETBACKS FROM BOUNDARIES.

The proposal requires construction of some boardwalks which are defined as "buildings" under the TRMP. Most boardwalks are on land immediately adjoining and crossing title boundaries and linking into the main part of the boardwalk which is below Mean High Water Springs.

In relation to Zone Rules on land most of the board walks are within the Open Space Zone where a walkway /cycleway is a permitted activity pursuant to Rule 17.9.2.1(b)(iii). However in the Open Space zone all buildings are to be setback 3 metres from any boundary (Rule 19.9.2.1(e)) and so the boardwalk has to be considered as a full discretionary activity pursuant to Rule 17.9.2.2 as the 3 metre setback is not met. In the other zones adjoining MHWS where boardwalks maybe located close to the coast the activity is either restricted

discretionary (Industrial rule 17.4.2.1 trips to 17.12.2.2; Rural One rule 17.5.3.1 trips to 17.5.3.3 and Rural Two rule 17.6.3.1 trips to 17.6.3.4) or fully discretionary (in Open Space as outlined above and in Rural Industrial rule 17.12.2.1 which trips to 17.12.2.2).

Land within 200 metres of the MHWS is within the Coastal Environment Area where building setbacks apply. These are not met by the proposed boardwalks (which breach Permitted Activity rule 18.11.2.1(b)(new building), Controlled Activity rule 18.11.3.1(new building setback)). They need to be considered as a Restricted Discretionary Activity pursuant to rule 18.11.3.2. As a Restricted Discretionary Activity Council has restricted its discretion to the following matters:

- (1) The effects of the location, design and appearance of the building, including its scale, height, materials, landscaping and colour, on the amenity and natural character of the locality, including effects on:**
 - (a) natural features;**
 - (b) landscape and seascape values;**
 - (c) significant natural values;**
 - (d) the character of any existing development.**
- (2) The effects of natural hazards.**
- (3) The effects on a site of cultural significance to Maori.**
- (4) The duration of the consent (Section 123 of the Act) and the timing of reviews of conditions and purpose of reviews (Section 128).**
- (5) Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Section 108).**

Applying the Zone and Area rules together and the bundling of consents the application falls for consideration as a non complying activity application. In my opinion it is appropriate in considering the boardwalk structures to have regard to the criteria (1) to (5) above and any other matters. Of the five matters 1 and 3 are most relevant to this application.

The main TRMP objectives and policies that are relevant to those two matters are:

- Objective 8.1.2
“the maintenance and enhancement of public access to and along the margins of lakes, rivers, wetlands and the coast, which are of recreational value to the public”;
- and associated policies- policy 8.1.3.5

“To seek public access linkages between reserves and public access adjoining water bodies or the coastal marine area in the vicinity.” and

- 8.1.3.7
“To ensure that adequate public access is available to outstanding natural features and landscapes in the coastal environment area...or wetlands, except where the impact of such access is incompatible with the duty to protect these areas ...”;
- Objective 8.2.2
“Maintenance and enhancement of the natural character margins of the coast, and the protection of that character from adverse...development....”;
- and associated policy 8.2.3.16
“ To manage the location and design of all future buildings in the coastal environment to ensure they do not adversely affect coastal landscapes or seascapes.”.
- Objective 10.2.2
“Appropriate protection, management and enhancement of historic heritage, including cultural heritage sites....”;
- and associated policy 10.2.3.2
“To reduce the risk of modification, damage or destruction of cultural heritage sites arising from subdivision, use and development activities.”

The general approach of the TRMP is to discourage structures from locating close to MHWS and to be setback at least 100 metres with a maximum building height of 6.5 metres where that is practical in the Rural zones within the Coastal environment Area. Usually the structures are dwellings and rural buildings of a totally different nature and scale to boardwalks.

In the Rural Industrial zones different rules apply in part reflecting an existing situation of well established industries with large buildings located close to the coast. For instance in the Rural Industrial zones the setback of buildings in the Coastal Environment area varies with a setback of 15 metres in the Rural Industrial at Nelson Pine Industries(with a building height of 15 metres) and 10 metres at Nieman’s Creek(with a building height of 15 metres).

The proposed boardwalks are of a completely different nature and scale to these other buildings being almost at ground level and have the objective of facilitating public access to the coast by concentrating it and preventing damage to the wildlife and flora values.

The applicant through the Tiakina te Taiao cultural impact assessment, along with supplementary reports on landscape from the landscape architect, Mrs Gavin (nee Kidson), on archaeology from the archaeologist Ms Young and

the bird habitat assessment by Mr Bell have assessed the two matters of discretion that I consider are most important of the matters over which Council has reserved its discretion.

In relation to matter (1)

- (1) *The effects of the location, design and appearance of the building, including its scale, height, materials, landscaping and colour, on the amenity and natural character of the locality, including effects on:***
- (a) *natural features;***
 - (b) *landscape and seascape values;***
 - (c) *significant natural values;***
 - (d) *the character of any existing development.***

The low level board walk structures are expected to have only minor effect on the coastal character and amenity of the land over which the trail passes. On the land the boardwalks are located close to the ground and will be finished to be visually recessive in the coastal land margin. The general location of the proposed boardwalks is shown on the aerial maps included within the Kaitiaki report. Generally they are well setback from roads and dwellings and in areas where the inlets edge has been extensively modified by large industrial development, transmission lines and past reclamation. This south eastern part of the Waimea Inlet has been so modified in the past that it is not an outstanding natural landscape. The Planning Tribunal has considered the coastal character of the general south eastern portion of the Waimea Inlet in the past and has considered that it has been so modified by industrial development that it is not an outstanding natural landscape. For example when looking at a Richmond Borough proposal for rezoning rural land to industrial about Headingly Lane in 1988 the Planning tribunal observed:

“...we do not consider this area is any longer qualified for protection as a matter of national importance under s.3 of the Act (Town and Country planning Act 1977) in respect of the preservation of the coastal environment. Nevertheless if the council choose to zone this further land industrial a liberal coastal reserve should be considered to which the public would have access. “(Page 6 Planning Tribunal Decision No W 61/88)

In the event 29 hectares of land adjoining the MDF plant to Headingly Lane was rezoned from Rural to Industrial with a 4 hectare reserve being created between the Inlet and Sandeman Road. Since then Council has undertaken extensive planting in the coastal reserves and more recently through resource consents has encouraged developers to plant species listed in the Tasman Bay Native Plant Restoration List, “Waimea Inlet Coastal Flats Ecosystem”, which are generally suitable for the estuary margin.

Mrs Gavin’s report outlines how the degraded Inlet edge can be visually enhanced by a landscape management plan that increases the indigenous plant communities, allows for restoration of native vegetation displaced by the trail development, requires continual removal of pest species and where screen planting occurs provides sufficient space for visual surveillance and overall provides a net environmental gain.

In addition in my opinion it is likely that as public access to the area is better provided for by developments such as the applicants trail then it is also likely that the degraded Inlet edge will become an area that will gradually be returned to a more natural character. It is possible that there will be some downsides such as an increase in some types of rubbish but that can be addressed by the applicant as consent holder.

Overall the landscape report suggests ways improvements can be made to the environment and conditions to achieve that have been volunteered by the applicant.

In relation to matter (3)

(3) *The effects on a site of cultural significance to Maori.*

The cultural heritage values of the area are outlined in the Tiakina te Taiao report contained in the application which is an assessment of the larger coastal trail of which the application area covers but a relatively small part. The cultural impact assessment includes 14 recommendations (although noting that recommendation 4 has three parts to it) that Tiakina te Taiao request the applicant adopts in all stages of the development and operation of the wider trail network. The 14 recommendations should be addressed before and during each stage of the trail's development. In relation to the portion of the trail covered by the application the applicant has engaged Ms Young an archaeologist to investigate the trail and volunteered conditions to cover the recommendations that are pertinent to this particular section of trail.

Ms Young's archaeological assessment of the application area concludes that while this section of the trail it is unlikely to adversely affect archaeological sites, three conditions should be included in any consent. She notes that excavation for this section of the trail is minor, that there are two recorded archaeological sites near the application area for the trail and that there should be monitoring of excavation of a short section along Lansdowne Road. The applicant has volunteered conditions to cover these recommendations.

The two recorded sites referred to are N27/135 a find-spot and N27/156 midden/oven.

Recorded site N27/135 is located between Beach Road and Whakatu Drive as shown on page 5 picture 3.1 of the archaeological report. The report states that: "*The route of the trail across the paddocks and estuarine margin was walked and the adjacent beach section examined. No archaeological evidence was found.*" It concludes "*It is unlikely the cycle trail will adversely affect any archaeological sites through this area. It is a highly modified environment.*" And she recommends that "*the small chance of archaeological evidence being uncovered can be covered by robust archaeological site discovery protocols.*"

Recorded site N27/156 midden/oven has been located by Ms Young and she describes it as being in close proximity to the trail. It indicates Maori occupation in the area and that is also supported by the presence of Maori made soils.

While much of the trail in this area is on roads where no excavation is needed some excavation is to be undertaken along the verge of Lansdowne Road. The report recommends monitoring that excavation and *“If Maori made soils or any other archaeological evidence is uncovered which cannot be avoided then an application to modify an archaeological site will need to be made under the Historic Places Act 1953”*

Overall the application has addressed the potential effects of the application on cultural values and conditions are appropriate.

In relation to matters (2), (4) and (5) and any other matters.

(2) *The effects of natural hazards.*

(4) *The duration of the consent (Section 123 of the Act) and the timing of reviews of conditions and purpose of reviews (Section 128).*

(5) *Financial contributions, bonds and covenants in respect of the performance of conditions, and administrative charges (Section 108).*

In my opinion these matters of Councils discretion are not so relevant to this application.

The boardwalks are relatively low key and low cost structures compared to the other large industrial structures in the Coastal Environment Area. Sections of the boardwalks and signs can be replaced and maintained in the event of damage from hazards such as storms without any major environmental consequences being likely to arise.

In relation to review procedures the applicant is considering an annual review of its management plan. I consider that this is appropriate as the effects on the environment from the proposed boardwalk and sign structures are likely to be relatively minor.

I do not believe that there is a substantial potential environmental threat from the application that would warrant special financial contributions or performance bonds. Council’s normal standard advice note in relation to development contributions has been included for the applicant’s information.

4. CONCLUSION AND RECOMMENDATION

The district land use application is a small part of the overall bundle of consents that arises because of the need to provide information signs, boardwalks being new buildings, and the trail not being a permitted activity in the Rural Industrial Zone. In the context of the scale of industrial building that has occurred along the south-eastern edge of the Waimea inlet constructing low level board walk structures there is not expected to detract from the coastal character and landscape amenity of the area. The applicant has given detailed consideration to cultural heritage values and conditions are appropriate to ensure further care

is taken during construction. The proposed signs are for direction, safety and information purposes so that the New Zealand public and overseas visitors are aware of the wildlife and cultural importance of the area they are travelling through. They should also provide warning of any section that is subject to inundation and alternative safe routes.

Overall the proposal is in accordance with the relevant TRMP objectives and policies.

I recommend that consent is granted to RM110456 with conditions contained in Mr Croxford's report.

Jack Andrew
Coordinator Land Use Consents

EVIDENCE OF DAVID STUART MELVILLE

APPLICATION FOR RESOURCE CONSENTS FOR TASMAN LOOP CYCLE TRAIL, Part Stage 1 (Coastal Section)

INTRODUCTION

My full name is David Stuart Melville. I am an ecologist specialising in ornithology. I graduated from the University of Ulster with an Upper Second Class Honours Degree in Biology in 1971. For the past 40 years I have worked as an ornithologist and ecologist, the majority of my work being in East/South/Southeast Asia. I moved to New Zealand on a permanent basis in November 1999, since when I have worked as an independent ecologist/ornithologist.

My fields of expertise that are relevant to matters currently under consideration, include coastal wetland management, environmental impact assessment, and ornithological studies. I have appeared as an expert witness at hearings on development applications in both Hong Kong and New Zealand.

I am a member of a number of professional societies including the British Ornithologists' Union, the Ornithological Society of New Zealand (of which I am a Council member), and the New Zealand Ecological Society. I was a founder member of the Hong Kong Institute of Environmental Impact Assessment. I was a member of the Nelson/Marlborough Conservation Board from 2003-2009, and am a member of Biosecurity New Zealand's (MAF) Avian Influenza Technical Advisory Group. I am an Honorary Research Fellow at the Kadoorie Agricultural Research Centre, The University of Hong Kong.

I have published over 150 papers and one book on topics relating to various aspects of ornithology, wildlife management and environmental impact assessment.

I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Consolidated Practice Note 2006. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

SCOPE OF EVIDENCE

This document reports on ornithological aspects of the application by the Tasman District Council for the construction of a cycleway between SH6 at Richmond to the Waimea River at Lower Queen Street.

I have read the original application, submissions and the additional reports prepared in response to a request for further information. Two documents relate specifically to birds: Appendix 4 of the application, an *Ecological assessment along Sections 3, 4 and 5 of the Proposed Nelson Cycle Trails Trust Cycleway* and *Additional bird*

habitat assessment of Sections 3,4 and 5 of the proposed cycleway, Waimea Inlet that was submitted in response to a request for further information.

I am familiar with the area subject to the application and have undertaken field studies of birds in Waimea Inlet since 2000.

New Zealand Coastal Policy Statement 2010

The New Zealand Coastal Policy Statement includes two Objectives and one Policy that are of particular relevance to birds. These are:

Objective 1

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:

- protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna;

Objective 7

To ensure that management of the coastal environment recognises and provides for New Zealand's international obligations regarding the coastal environment, including the coastal marine area.

Policy 11: Indigenous biological diversity (biodiversity)

To protect indigenous biological diversity in the coastal environment:

- a. avoid adverse effects of activities on:
 - i. indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;
 - ii. taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
 - iii. indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;
 - iv. habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;
 - v. areas containing nationally significant examples of indigenous community types; and
 - vi. areas set aside for full or partial protection of indigenous biological diversity under other legislation; and
- b. avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:
 - i. areas of predominantly indigenous vegetation in the coastal environment;
 - ii. habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;

- iii. indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;
- iv. habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;
- v. habitats, including areas and routes, important to migratory species; and
- vi. ecological corridors, and areas important for linking or maintaining biological values identified under this policy.

Objective 1

This is implemented through Policy 11 and is discussed further below.

Objective 7

New Zealand is a party to the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (the Ramsar Convention). The Controller and Auditor General (2001) identified the “key obligation” under this convention to be Article 3. 1: *The Contracting Parties shall formulate and implement their planning so as to promote the conservation of wetlands included in the List [of Wetlands of International Importance], and as far as possible the wise use of wetlands in their territory.*

Waimea Inlet qualifies for inclusion in the Ramsar List (see below) but has not yet been so designated. Nonetheless, the obligation to promote “as far as possible the wise use” of the estuary, remains.

There has been much debate over the meaning of “wise use” in the context of the Convention. The current definition is:

“Wise use of wetlands is the maintenance of their ecological character, achieved through the implementation of ecosystem approaches, within the context of sustainable development”

[The phrase “in the context of sustainable development” is intended to recognize that whilst some wetland development is inevitable and that many developments bring important benefits to society, developments can be facilitated in sustainable ways by approaches elaborated under the Convention, and it is not appropriate to imply that “development” is an objective for every wetland. (Ramsar Convention Secretariat 2010)].

The development of a cycleway along the margins of Waimea Inlet is, in my view, not inherently incompatible with the Ramsar “wise use” definition.

Birds in Waimea Inlet

The application summarises some information on birds in Waimea Inlet, but relies heavily on a paper by Owen and Sell (1985), that reports observations mostly made in the period August 1976 to July 1978. There have been some notable changes to

parts of the estuary since that time and some bird populations have changed both in terms of numbers and distribution.

The application, surprisingly, makes no reference to Schuckard (2002) who details numbers of waders (shorebirds) present in Waimea Inlet. Schuckard notes that 1% or more of the global/flyway populations of four waders occur in Waimea Inlet: South Island Pied Oystercatcher, Variable Oystercatcher, Wrybill and Bar-tailed Godwit. As such, Waimea Inlet qualifies for designation as a “Wetland of International Importance” under the Ramsar Convention¹. My own observations of Black-fronted Terns indicate that Waimea Inlet is also probably of international importance for this species as well.

Following a request for further information, two days of field observations were made on 14 and 20 September 2011 (Bell 2011) to provide some current information on birds in the vicinity of the application site. The timing of the observations, after most New Zealand-breeding waders had left and before many of the northern hemisphere-breeding birds had returned, is a limitation. Uncertainty resulting from the limited amount of current information available means that a precautionary approach needs to be taken with respect to potentially adverse effects of the cycleway on birds.

I have based the following review of potential impacts on birds on information provided by the applicant, other published material as stated, and my own experience of Waimea Inlet gained over more than ten years of visiting the area.

“Threatened” and “At Risk” bird species

Policy 11 of the NZCPS requires that adverse effects are avoided for “indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists”.

Twenty bird species which are currently listed as “threatened” or “at risk” have been recorded from eastern Waimea Inlet (Table 1).

TABLE 1. Threat classification of birds occurring in Waimea Inlet

Common name	Scientific name	Status
THREATENED		
White Heron	<i>Ardea modesta</i>	Nationally critical
Australasian Bittern	<i>Botaurus poiciloptilus</i>	Nationally endangered
Black-billed Gull	<i>Larus bulleri</i>	Nationally endangered
Black-fronted Tern	<i>Chlidonias albobriatus</i>	Nationally endangered
Pied Shag	<i>Phalacrocorax varius</i>	Nationally vulnerable
Banded Dotterel	<i>Charadrius bicinctus</i>	Nationally vulnerable
Wrybill	<i>Anarhynchus frontalis</i>	Nationally vulnerable

¹ Criterion 6 - A wetland should be considered internationally important if it regularly supports 1% of the individuals in a population of one species or subspecies of waterbird. http://www.ramsar.org/cda/en/ramsar-documents-guidelines-strategic-framework-and/main/ramsar/1-31-105%5E20823_4000_0_#V

Red-billed Gull	<i>Larus novaeholladiae</i>	Nationally vulnerable
Caspian Tern	<i>Hydroprogne caspia</i>	Nationally vulnerable
AT RISK		
South Island Pied Oystercatcher	<i>Haematopus finschi</i>	Declining
Pied Stilt	<i>Himantopus himantopus</i>	Declining
White-fronted Tern	<i>Sterna striata</i>	Declining
South Island Fernbird	<i>Bowdleria punctata</i>	Declining
Variable Oystercatcher	<i>Haematopus unicolor</i>	Recovering
Marsh Crane	<i>Porzana pusilla</i>	Relict
Little Shag	<i>Phalacrocorax melanoleucos</i>	Naturally uncommon
Black Shag	<i>Phalacrocorax carbo</i>	Naturally uncommon
Little Black Shag	<i>Phalacrocorax sulcirostris</i>	Naturally uncommon
Royal Spoonbill	<i>Platalea regia</i>	Naturally uncommon
Banded Rail	<i>Gallirallus philippensis</i>	Naturally uncommon

Threat status from Miskelly *et al.* 2008; nomenclature after Checklist Committee (OSNZ) 2010.

Furthermore, Policy 11 requires that adverse effects are avoided for “habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare”. The Banded Rail is classified as “naturally uncommon” (Miskelly *et al.* 2008), and is at the limit of its natural range (Robertson *et al.* 2007).

Effects of the construction and operation of the cycleway

The application² states:

Potential construction and post construction effects are categorised as follows:

- Physical damage
- Wildlife disturbance
- Contaminants

This report addresses matters relating to wildlife disturbance.

Issues raised in submissions

There were 32 submissions received, 14 of which included expressions of concern about potential disturbance to wildlife, three mentioned protection of wildlife and two expressed concern regarding potential aviation safety/birdstrike hazard issues. These matters are considered below, together with matters identified by the applicant in the *Ecological Assessment*.

² Application p. 35

Human disturbance

Current levels

The application notes that part of the proposed route “follows legal unformed road, where there is already public access”³ to the coastal margin. However, the reality is that currently very few people access the coast between Nelson Pine Industries and the end of Lansdowne Road, with the exception of a limited number of wildfowlers during the hunting season (7 May to 31 July - exact timing depending on species), and an even smaller number of fishers during the whitebait season (15 August to 30 November inclusive).

My observations indicate that currently the area is largely free of human disturbance, apart from vehicles travelling along Lower Queen Street.

Future levels

The construction of the cycleway will require personnel and equipment in the coastal margin.

The operation of the cycleway will greatly increase the number of people in the coastal margin - Appendix 3 of the Application (Cultural Impact Assessment) states that “The funding application proposes that the Tasman loop will provide for 9,000 full trail cyclists, 12,000 part trail cyclists per annum”, but notes that “other numbers of cycle users mentioned during the course of presentations, however, are 10,499-18,998 whole loop, and 21,497-35,996 part loop - Year 5 predictions, based on other trails”⁴.

In my view the Richmond to Rabbit Island/Mapua section of the cycleway is likely to be among the most heavily used parts of the Tasman loop, thus thousands of cyclists can be expected to use this section annually. Furthermore, the coastal route is designed as “dual purpose cycle and pedestrian access”⁵, and thus increased pedestrian traffic is expected, although there are no forecasts given in the Application.

Effects of human disturbance on birds

The *Ecological Assessment* notes that a number of birds may be adversely affected by disturbance:

“Banded Rail are shy and secretive...They prefer habitat that has limited disturbance...”⁶

“Marsh Crake prefer habitat with little, to no, disturbance as they can be affected by human presence...”⁷

“Bittern are secretive birds.....They are affected by human presence...the most important aspect of their habitat is the dense fringe vegetation....preferably with little human disturbance.”⁸

³ Application p. 24

⁴ CIA p. 8

⁵ Application p. 10

⁶ EA p. 14

⁷ EA p 15

White Heron” ...were generally located in the tidal zones that were free of disturbance..“9

Royal Spoonbill “..congregate in small groups or flocks in the tidal zones that have the least human disturbance...”10

The *Ecological Assessment* then states: “It is important to determine the way in which these significant species [it is unclear which species are referred to] may respond to disturbance and what can be done to reduce or remove these impacts”11.

It is surprising that this matter is not subsequently addressed in any detail. Indeed there is only one reference to cyclists:

“Some visitor effects, such as cyclists and walkers passing by, may be incidental to wildlife, whereas others, such as ecotourism visits or photography, may impact directly on wildlife”12.

No source is provided for this statement, however it appears to be a modified quote from Cessford and Dingwall (1999), the original wording being:

*Some visitor effects, such as trampers passing by, may be incidental to wildlife, whereas others, such as ecotourism visits or photography, may be specifically directed at wildlife.*13

The applicant has provided no material to support the insertion of “cyclists” in this quote, or for the other modifications to the wording.

The statement in the *Ecological Assessment* cannot be taken as a valid assessment of potential impacts of cyclists on wildlife.

There is a large, and growing, body of research into the effects of disturbance on wildlife (see e.g. Knight and Gutzwiller 1995, DeLong 2002, Woodfield & Langston 2008), with most peer-reviewed studies reporting negative effects (Steven *et al.* 2011). Some studies suggest that some species may apparently “habituate” to disturbance in certain circumstances, however demonstration of “habituation” is not straightforward and a bird’s decision as to whether to stay or flee is likely to be a result of a variety of factors (Bejder *et al.* 2009). Whilst it is often suggested that species that show the greatest avoidance of disturbance are the most vulnerable, this may not necessarily be the case. For example, if suitable habitat is limiting, birds may not be able to avoid disturbance since they cannot move to alternative sites (Gill *et al.* 2001); birds in poor condition may be less likely to respond to disturbance than those in better condition (Beale & Monaghan 2004). Furthermore, birds that are disturbed but do not disperse may still suffer from reduced foraging success (Coleman *et al.* 2003).

8 EA p. 16

9 EA p. 17

10 EA p. 17

11 EA p. 21

12 EA p. 22

13 Cessford and Dingwall (1999), p. 7, s.2.2

Many studies focus on the response of individual birds to particular stimuli, the distance at which birds become alert or fly, etc., however the matter of importance to conservation is whether or not there is an impact at the population level (increased mortality/reduced survivorship or reduced recruitment) (Gill *et al.* 1996), and this is difficult to determine without detailed study (see e.g. Goss-Custard *et al.* 2006, Stillman *et al.* 2007). Figure 1 shows how repeated disturbance could result in population effects.

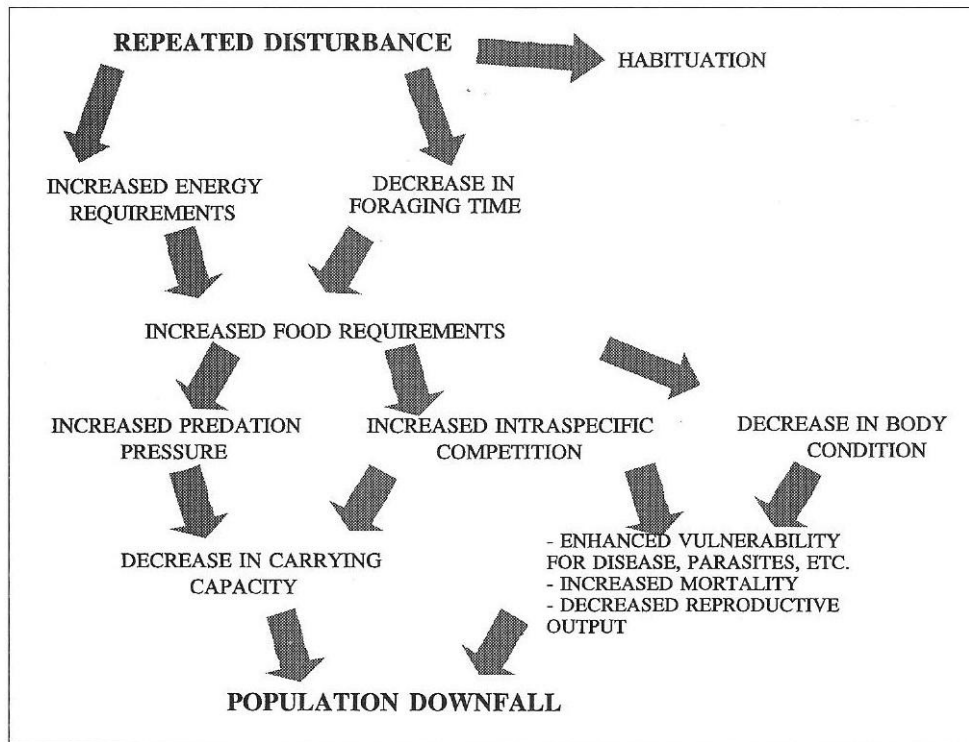


FIGURE 1. Schematic overview of the routes along which repeated disturbances may either lead to habituation of individual birds or to a population downfall (from Platteeuw & Henkens 1997)

Gill *et al.* (2001) concluded that “In the short-term, the most sensible approach may, therefore, be to concentrate research and protection efforts on species that are threatened or whose populations are declining, and for which human disturbance is implicated as a possible cause. Otherwise there is a risk that valuable resources will be spent and human access to wildlife areas will be restricted in order to protect species for which human presence alters behaviour but has no other impact.”

There have been relatively few studies of the effects of cycling on birds. As noted by Bennett and Zuelke (1999): “Either cycling has not been perceived as having an effect on wildlife or it may not be an activity that has occurred with great frequency in areas where wildlife management and recreation activities are both goals”.

Some studies that have assessed the effects of cycling have, unfortunately, lumped the results with other disturbing activities making separation impossible (e.g. Klein 1993, Gill *et al.* 1996). Lafferty (2001) found that walkers and bikers had a similar effect on shorebirds on a sandy beach in California.

Anon. (2000) states that “There is increasing evidence that cyclists cause very little disturbance to wildlife. This is because their movements are predictable, in that they tend to stay on metalled paths rather than wandering at will, and they stop infrequently”. In support of this statement reference is made to Tensen & Zoest (1983 - see also Smit & Visser 1993) who found that cyclists caused very little disturbance to shorebirds roosting in cultivated grassland in the Netherlands. However, another document cited in support by Anon. (2000) apparently does not exist (RSPB in litt.), while the example given of Route 93 at Belfast Lough, Northern Ireland involves a bund with planting and fencing to screen users. The statement is thus somewhat misleading. Interestingly, visitors to an Austrian national park identified bicycling as having a greater disturbing effect on wildlife than walking (Sterl *et al.* 2008).

Cyclists have been identified as causing disturbance to birds at some UK estuaries (Anon. 2010, Cruickshanks *et al.* (2010), and concerns have been raised regarding the development of cycleways adjacent to some estuaries, e.g. Dublin Bay (Anon. 2011). The use of trails around San Francisco Bay (both by pedestrians and cyclists) resulted in reduced use of adjacent areas by foraging waders (Trulio & Sokale 2008), while Pease *et al.* (2005) found that pedestrians and cyclists disturbed ducks more than vehicles did. However, Rees *et al.* (2005) found that cyclists could approach Whooper Swans more closely than pedestrians before eliciting a response.

As part of an assessment of potential impacts of a new cycleway on the Exe estuary, UK, Goss-Custard (2007) reviewed experience of cycleways in the UK, Eire and the Netherlands. His summary of this qualitative approach included:

Birds do become used to people and can become remarkably tame, allowing people to see them at very close quarters. This tolerance is encouraged by frequent visitation and by the people not being outlined against the sky.

A new cycleway can increase the numbers of people using the area considerably, in winter and well as in summer. Many people may use a cycle track to commute to and from work. The numbers of associated users [e.g. walkers] can increase dramatically as well.

Sensitive areas can be screened effectively using fences or vegetation.

People can be deflected from sensitive areas by providing a new track with a very good surface, so long as their views are at least partially retained. Observation points and hides encourage people to restrict their potentially high-profile viewing activities to controlled locations. Most people also respond well to requests to avoid disturbing the birds.

Subsequent monitoring of part of the newly constructed cycleway indicated that birds responded to disturbance in a variety of ways, but that in general effects were not as great as initially predicted (Goss-Custard 2008) - it should be noted, however, that the area was adjacent to a railway track where birds would have been previously subject to disturbance.

Buffer distances are commonly used to reduce disturbance impacts on birds - these usually being established on the basis of local studies of flight initiation distance (FID) (but see caveat above). No FID studies have been undertaken locally so we must rely on studies elsewhere for guidance. Goss-Custard (2007) recommended a buffer zone of 200-400m for shorebirds on the Exe estuary, UK, subject to a cycleway development while Paton *et al.* (2000) considered that a buffer zone of 350m would be required to safeguard the most sensitive species at the Coorong, South Australia, this being greater than the FIDs recorded for waders in Victoria, Australia (Glover *et al.* 2011).

The proposed cycleway will run along the edge of Waimea Inlet with a margin between the edge of the track and the MHWS of only a few metres at most for much of its length, so it is not possible to designate a buffer zone. However, Bell (2011) reported that the majority of foraging by shorebirds took place more than 200m from the landward margin of the estuary adjacent to the proposed route of the cycleway. The two wader roost sites identified by Bell (2011) are some 180m and 350m from the stop bank/proposed route. Thus, if the cycleway is screened along the seaward margin at these two locations, as recommended by Bell (2011), it is my opinion that disturbance will be reduced to a level that the continued use of these roosts is not compromised.

I recommend that a **condition of consent** be that 2m high screening be placed on the seaward side of the cycleway at the northwestern end of the Nelson Pine Industries site, and at Neiman Creek (as shown by Bell 2011); such screening to remain in place until a continuous band of vegetation has established on the seaward side of the cycleway to a height of at least 1.5m.

It should be noted that there are opportunities for the placing of viewing slots in the screens, thereby providing an opportunity for people to view birds.

Landscape assessment

A *Landscape Assessment* was prepared in response to the request for further information. This report identifies a key issue as being “crime prevention in areas where both sides of the cycle trail are vegetated”¹⁴.

With respect to Section 1 of the application, where it is proposed to plant both sides of the trail, the *Landscape Assessment* notes that it is “important to maintain adequate clearance on either side of the path (a width of 10 metres, 5m either side of the centre line of the track) for the safety of users”¹⁵.

14 LA, p. 7, s. 30(1)
15 LA, p. 3, s. 14

The report then includes a recommendation, which is not tied to any particular section of the route, that:

In areas where screening is required on both sides of the track, the planting mitigation should aim to provide where practical clearance on either side of the path to a width of 10 metres, 5m either side of the centre line of the track for the safety of users. Ground cover or small grasses/juncus (with a height of no greater than 500mm) only should be planted within this 10 metre width, or trees with clear trunks and a canopy that does not reduce visual surveillance.¹⁶

This recommendation appears to be in accord with the Ministry of Justice's (2005a, 2005b) *National Guidelines for Crime Prevention through Environmental Design in New Zealand*, which "outline how urban planning, design and place management strategies can reduce the likelihood of crime and deliver numerous social and economic benefits in the long-term". "CPTED provides a framework for incorporating crime prevention within quality urban design by focusing on reducing the opportunity to commit crime, therefore lessening the motivation to offend" and may well be appropriate for Section 1 of the cycleway which is close to an urban population.

The recommendation states that the 10m surveillance should be provided "where practical". Currently it is proposed that "a 1-2m undisturbed buffer between cycle way alignment and inlet or bank margins will be provided¹⁷". This means that it will be impossible to accommodate a 10m wide surveillance zone and screening to avoid disturbance to birds (particularly "threatened" and "at risk" species) in Waimea Inlet, especially at the Gibbons site adjacent to Neiman Creek, where the land owner requires planting on the landward side of the track, and at the Nelson Pine Industries site where screening is required to avoid disturbance to the roost site used by "threatened" and "at risk" bird species.

Dogs

"Dogs are known to disturb the feeding and nesting of...bittern, crakes, banded rail,..."¹⁸, and Walls (1999) notes that Banded Rails are "often taken by domestic dogs".

Taylor *et al.* (2005) note that "A walker with a dog has a larger "sphere of influence" with regard to wildlife than a walker without a dog". Dogs, even when leashed, can disturb birds (Lord *et al.* 2001) and may result in reduced species diversity and abundance (Banks & Bryant 2007), yet dog walkers may be unaware of the potential disturbance they may cause (Sterl *et al.* 2008, Williams *et al.* 2009).

I agree with the *Ecological Assessment* which states that "Dogs should not be permitted to use the cycle way between Sandeman Road and Lansdown Road"¹⁹.

¹⁶ LA, p. 9, s. 7

¹⁷ EA p. 25, Table 6.1

¹⁸ <http://www.doc.govt.nz/parks-and-recreation/plan-and-prepare/dog-access/northland>

¹⁹ EA p. 27, Table 6.2

The *Ecological Assessment* provides no mechanism for prohibiting dogs, however, it is understood that consideration is being given to a Bylaw for the cycleway, which would prohibit horses and dogs from the section between Sandeman Road and Lansdown Road²⁰.

Route

The route of the cycleway generally avoids areas of habitat suitable for the “at risk” Banded Rail, with the exception of the junction with Lower Queens Street by the entrance to Bark Processors Ltd. Two routes are variously shown in the application and in supplementary documents; one passes at an angle across an area of estuary margin vegetation, including *Plangianthus*²¹, the other avoids this native vegetation, joining the road margin by the open drain²².

The applicant has confirmed that the route through the native vegetation is correct²³, but has offered no explanation as to why this route is preferred.

I have seen Banded Rail in the area between Ravensdown and Bark Processors Ltd. in the past year, although breeding was not confirmed in this area during 2010/2011 (W.A. Cook, pers. comm.).

Bearing in mind that Banded Rail is listed as “at risk” and is at the limit of its natural range the routing of the cycleway through this area of native vegetation (albeit that exotic species are mixed in) which provides potential high tide roosting cover, seems unnecessary, and consideration should be given to rerouting away from this area. The *Ecological Assessment* states that “the areas of rushes and ribbonwood are very important for breeding locations for banded rail and should be protected from disturbance and predators. These areas of natural vegetation should be maintained and enhanced²⁴”.

The *Ecological Assessment* notes that areas of “established high importance species habitat” at Ravensdown Channel and Neiman Creek have been avoided, “the proposed cycle trail boardwalks at this point are 300m and 530m respectively from these habitats²⁵”. The distance between the Ravensdown Channel boardwalk and the main Banded Rail habitat appears to be 250m, rather than 300m as shown in the *Ecological Assessment*²⁶. There is, however, a band of *Plagianthus* running along the edge of the Gibbons property right out to the point of the proposed boardwalk landfall and this is potentially suitable habitat for Banded Rail.

It is my opinion that the proposed route will minimise potential adverse effects on Banded Rails in the Ravensdown Channel area, however to further safeguard the area from human disturbance I recommend that fencing be erected at both ends of

20 Report to Engineering Services Committee, 4 August 2011, RESC1-08-11

21 Application Map 2

22 EA p. 32, Fig. 6.3.2

23 Tony Quickfall letter to Michael Croxford, 5 October 2011.

24 EA p. 24

25 EA p. 23

26 EA p. 20, Fig. 6

the boardwalk to prevent access to the landward side of the cycleway [it is possible that the land owners have already requested such an arrangement].

Effect of boardwalk structures on birds

The presence of the boardwalks could result in negative impacts on birds; Banning *et al.* (2009) reported that relative abundance of obligate marsh birds (including rails) was negatively related to the density of long piers in coastal marshes in Maryland, USA.

In view of the fact that the two boardwalks are sited away from the main areas of Banded Rail habitat, and that rails could potentially pass underneath the boardwalks, I do not anticipate that they will be adversely affected by the structures themselves.

Birdstrike hazard

Nelson Airport Ltd and Air Nelson raised concerns about potential birdstrike hazard to aircraft. These concerns centred on possible effects of disturbance to birds caused by the construction and operation of the cycleway, and the potential effects of reduced game bird hunting on bird populations - the latter issue falls outside the scope of this report.

The whole of the application area falls within the 13km “safeguarding” radius of Nelson Airport.

Species of particular concern with respect to potential birdstrike risk at Nelson Airport include South Island Pied Oystercatchers and Black Swans. The former occur on the airfield to roost at high tide as well as feed on invertebrates on the grassed areas, while the latter pose a potential hazard when in flight (Melville 2010). Should birds such as South Island Pied Oystercatchers be disturbed from the vicinity of the cycleway there is potential for them to move to the airport, although the Bells Island shellbank would offer a closer alternative roost site under most tidal conditions.

Bell (2011) noted South Island Pied Oystercatchers roosting at high tide at two sites to the west of Nelson Pine Industries, some 180m from the proposed cycleway, and recommended that planting be undertaken on the estuary side of the cycleway.

The South Island Pied Oystercatcher is an “at risk” species (Table 1) and thus adverse effects are to be avoided. Screening of the cycleway would avoid disturbance to roosting birds thereby satisfying the requirements of NZCPS Policy 11 while also satisfying the concerns of Nelson Airport and Air Nelson. The proposed area for screening recommended by Bell (2011) is already included as “screening of bike movement to mitigate possible disturbance to game birds and wading birds” in the Site Map included in the *Planting Plan*²⁷.

The Planting Plan notes that “screening to some degree should start to occur within 3 years on planting²⁸” thus it will be necessary to install temporary fixed screening

²⁷Planting Plan p. 2
²⁸ Bell (2011) p. 15

along the length of cycleway shown by Bell (2011) until such time as the vegetation becomes sufficiently established to act as a screen.

Bell (2011) did not record any Black Swans during his observations in September 2011 and my own observations suggest that these birds usually remain in the vicinity of Saxton Island and are unlikely to be affected by the cycleway.

Provided that screening is in place at the northwestern end of the Nelson Pine Industries site, and at Neiman Creek, as recommended by Bell (2011), before the cycleway is opened to public use it is my opinion that birds should not be disturbed such that they are likely to move to Nelson Airport.

I recommend that a **condition of consent** be that 2m high screening be placed on the seaward side of the cycleway at the northwestern end of the Nelson Pine Industries site, and at Neiman Creek (as shown by Bell 2011); such screening to remain in place until a continuous band of vegetation has established on the seaward side of the cycleway to a height of at least 1.5m.

Timing of works

The Ecological Assessment states²⁹ that “Birds are most vulnerable during their breeding season, especially when they have eggs and young chicks. Several are also vulnerable during moulting..”. The EA further states, with respect to construction, that it is “important to reduce noise from machinery and to phase the construction during times of the year that are not crucial to breeding”. However, no information is provided as to when construction should/should not be undertaken.

The only species for which disturbance to breeding birds is likely to be a cause for concern is Banded Rail. This species is “at risk” and at the limit of its natural range, and thus adverse effects must be avoided (NZCPS Policy 11).

Banded Rail is known to have bred in the Ravensdown Creek area in 2010/2011 (W.A. Cook, pers. comm.). Elliott (1983) recorded Banded Rails breeding in Waimea Inlet from the beginning of September to the end of December, and noted that elsewhere in New Zealand they had been recorded breeding in August. Heather and Robertson (1996) note that “clutches have been recorded as late as March and dependent chicks have been seen in April” - chicks “are accompanied by both parents throughout the c.60 days to fledging”. Adult Banded Rails undergo a complete post-breeding moult, at which time they become flightless for a period of about 35 days (Elliott 1983). Captive Banded Rails had completed moult by early April, and the latest wild-caught bird still in moult was on 2 April (Elliott 1983); however birds still moulting head and body feathers have been recorded in May (Marchant and Higgins 1993).

In light of the foregoing I recommend that a **condition of consent** should be that no construction works be undertaken in the ecologically sensitive areas of Ravensdown and Neiman Creeks, or the adjacent stop banks, in the period 15 August to 15 April inclusive.

²⁹ EA p. 21

Predator control

The Environmental Assessment³⁰ notes that the “The cycle way may allow dry access ways for predators (such as rats, feral cat and mustelids) into areas they usually have avoided. As such predator control for these species in the area where the cycle way passes through habitat of bird species of high importance is vital”. However Table 6.1 states “Monitoring of predatory animals and trapping if required should be carried out during construction” and there is no mention of predator monitoring and/or control during the operational phase (Table 6.2). Since the trapping of predators has been identified as “vital”, Tables 6.1 and 6.2 require revision to reflect this - clearly potential access by predators will continue to be an issue as long as the cycleway exists.

The Banded Rail is an “at risk” species at the limit of its natural range, thus adverse impacts should be avoided. Banded Rails are known to be particularly susceptible to predation by cats (3 of 4 birds predated) (Elliott 1983), and mustelids (Heather and Robertson 1996). “Stoat predation of a nest and rat scavenging of an abandoned nest” also have been recorded locally (Anon. 2007).

Feral cats and mustelids are listed as “containment pests” in the *Tasman-Nelson Regional Pest Control Management Strategy 2007-2012*. The Tasman District Council recommendation for pest control in coastal areas is the placement of mustelid kill traps every 100-200m; for rodents, poison bait stations should be placed in a 100m x 100m grid, and for traps a 100m x 50 m grid (Anon. 2007).

I recommend that a **condition of consent** should be included that traps for feral cats and mustelid and rodent traps and/or bait stations be placed at 100m intervals along and the length of the cycleway between Nelson Pine Industries and Lansdowne Road to be maintained throughout the life of the consent.

Monitoring

The applicant has only undertaken bird surveys in the month of September, at a time of relatively low wader numbers. I recommend that further surveys be undertaken quarterly (December 2011, and March and June 2012) using the same protocol as the September 2011 survey. A repeat survey should be conducted 2 years after opening of the cycleway (September 2013 to June 2014).

An assessment of Banded Rail presence should be conducted in March/April annually for the first three years and then every five years thereafter.

SUMMARY

In my opinion the proposed cycleway from the Richmond Deviation to Lansdowne Road could be constructed and operated with little or no adverse impacts on avifauna, and with no adverse impacts on potential bird hazard at Nelson Airport provided that the following controls are implemented:

³⁰ EA p. 24

- No construction works in the period 15 August to 15 April inclusive in the Ravensdown Channel and Neiman Creek areas and adjacent stopbanks.
- Full screening on the seaward side of the cycleway at Nelson Pine Industries and Gibbons.
- Placing of mammal traps along the length of the cycleway between Nelson Pine Industries and Lansdown Road.
- A prohibition on dogs along the section from Sandeman Road to Lansdowne Road, including the whole of the Ravensdown channel area.

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