

APPLICATION FOR RESOURCE CONSENT To Nelson City Council

Pursuant to Section 88 of the Resource Management Act 1991

To: The Chief Executive Officer
Nelson City Council
PO Box 645
NELSON

1. *Applicant:*
Nelson City Council (Attn: Axel de Maupeou, Team Leader Events).
2. *Proposal:*
To allow special events on nominated public reserves and open spaces (Trafalgar Park, Trafalgar Centre, Rutherford Park, Saxton Stadium, Saxton Oval Pavilion, Tahunanui Reserve, Botanics Playing Field and Reserve, Fairfield Park and the Church Steps/1903 Square/Hardy Street/Upper Trafalgar Street area) and on limited occasions per year, where the use of electronically amplified sound, noise levels, closing times and ancillary structures breach specified rules in the Nelson Resource Management Plan.

(Note: This application is for a renewal/replacement of RM125012V2 and RM1551195V1, for the same activities, but adding up to 6 events per annum at Rutherford Park. Both consents expire in May 2023. A detailed description of the proposal is contained within **Annexure A** – Assessment of Effects on the Environment and **Annexure B** – the existing consents).
3. *Location:*
This application relates to nominated public parks and open space areas in Nelson City, described in 2 above and Table 1 of the application, all of which are zoned either Open Space Recreation or Inner City in the NRMP.
4. *Legal Description:*
The legal descriptions of each of the named parks and open spaces are contained in **Annexure C**.
5. *Owner / Occupier:*
The sites are all owned by Nelson City Council. They are public open space areas and reserves on which recreation activities, festivals, displays, fairs and galas, exhibitions, ceremonies and outdoor performances are generally permitted activities, and which are or have been used to varying degrees for public or community events.
6. *Resource Consents:*
Land use consent is sought through this application. No other resource consents or permits are required for the proposed activities.
7. *Effects on the Environment:*
An assessment of actual or potential effects on the environment of the proposal is contained as **Annexures A and E**, prepared in accordance with Section 88 of and the Fourth Schedule to the Resource Management Act 1991.
8. *Other Information:*
The following information is enclosed to assist in understanding the proposal, and in accordance with the requirements of the District Plan:
 - Existing Resource Consents for RM125012V2 and RM1551195V1 (**Annexure B**);
 - Open Space and Reserves Subject of this Application (**Annexure C**);
 - Letter of Support and existing Event Noise Management Procedures, Team Leader Events NCC (**Annexure D**); and
 - Noise Assessment, Malcolm Hunt Associates (**Annexure E**);

- Volunteered Conditions of Consent (**Annexure F**).

9. *Application Fee:*
Please liaise with Axel de Maupeou (NCC Team Leader Events) regarding payment of any application fees.



.....
(Signed by the Authorised Agent)

Dated: 2nd August 2022

Address for Service:

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Annexure A

Assessment of Effects on the Environment Prepared by Planscapes NZ Ltd

Introduction

Nelson City Council ('the applicant') seeks resource consent from Nelson City Council ('the consent authority') to replace both RM125012V2 and RM155195V1, which are soon to expire, with a new consent to allow special events on nominated public reserves and open spaces (Trafalgar Park, Trafalgar Centre, Rutherford Park, Saxton Stadium, Saxton Oval Pavilion, Tahunanui Reserve, Botanics Playing Field and Reserve, Fairfield Park and the Church Steps/1903 Square/Hardy Street/Upper Trafalgar Street area) and on limited occasions per year, where the use of electronically amplified sound, noise levels, closing times and ancillary structures breach specified rules in the Nelson Resource Management Plan (NRMP).

Existing resource consents RM125012V2 and RM155195V1 enable a total of 52 (maximum possible) separate events listed across 13 possible venues, the majority of which are outdoor locations. These recreational, cultural and entertainment events would otherwise separately require resource consent because they typically involve the emission of amplified sound which would not be able to fully comply with the permitted activity noise limits within either Rule OSr.37.2 (Open Space and Recreation Zone) or Rules ICr.42.1 and ICr.42A.1 (Inner City Zone) of the Nelson Resource Management Plan (NRMP). Resource consent is also sought under Rule OSr.24.3 for closing times within 50m of the Residential Zone and Rule ICr.52.3 for structures on road reserve.

This application proposes that consents RM125012V2 and RM155195V1 be integrated so that one updated resource consent would apply to the full range of specified venues and events.

Although no changes to the numerical noise limits are proposed, this application does seek to change the noise metric from LA10 to LAeq which is in line with recommendations of *NZS6802:2008 Acoustics – Environmental Noise*.

Although the application outlines some changes to current consent conditions, the application does not involve any increase in allowable noise limits however it does increase from 52 to 58 the maximum allowable number of events specified. The reason for this is to allow for use of Rutherford Park (for up to 6 events per annum) which, following its upgrade as part of the Maitai Walkway Project, has become a quality and sought-after outdoor events venue for the City.

The application applies to all specified localities for Council-organised events, or by third parties authorised by Council. The applicant volunteers that the existing consent conditions for both RM125012V2 and RM155195V1 be imposed on the new consent, subject to those changes specified further in his application. A copy of the existing consent conditions is contained in Annexure B.

Malcolm Hunt Associates (MHA) have prepared an assessment of environmental noise effects (AENE) to support the application which is contained in Annexure E. The AENE, along with the letter of support in Annexure D from the Team Leader Events at NCC which addresses the matter of public complaint to noise from events that have operated under the existing consents and explains how the events management system is administered, form part of the application and its assessment of actual or potential effects of the proposal on the environment (AEE).

If the consents are bundled, the proposal is, due to the breach in noise limits at the Residential Zone boundary close to Upper Trafalgar Street, a **non-complying activity** under the NRMP.

The Applicant requests that the application be publicly notified under S95A(3)(a) of the RMA.

This application is made without restriction on the duration of consent. Once consented, and if without a term of consent, both RM125012V2 and RM155195V1 will be relinquished effective immediately.

This application and its AEE have been prepared in accordance with Sections 88 and 104D to and the Fourth Schedule of the Resource Management Act 1991.

Proposed Activity

Clause 2(1)(a) of Schedule 4 to the RMA requires a description of the proposed activities subject of this application.

This resource consent application is to replace both RM125012V2 and RM155195V1 to allow special events on nominated public reserves and open spaces (Trafalgar Park, Trafalgar Centre, Rutherford Park, Saxton Stadium, Saxton Oval Pavilion, Tahunanui Reserve, Botanics Playing Field and Reserve, Fairfield Park and the Church Steps/1903 Square/Hardy Street/Upper Trafalgar Street area) and on limited occasions per year, where the use of electronically amplified sound, noise levels, closing times and ancillary structures breach specified rules in the NRMP.

All of these sites are owned, vested in and /or administered by the Council. Their legal descriptions, or in some cases noted as road reserve, are contained in Annexure C to this application. Without providing a detailed description of each site and their environs, in general terms these are larger regional and local reserves, stadiums and entertainment areas which already have an established connection with activities such as recreational and cultural use, music and sporting events and performances. Those in or near the city centre tend to be more removed from residential zones, however there is a need to be mindful of inner-city residential use. Those such as Fairfield Park and the Botanics are on at least some boundaries in reasonably close proximity to bordering residential zones.

Both consents are held by Nelson City Council (NCC), with RM125012V2 originally granted by Commissioner decision dated 18 October 2012 (on appeal the duration of consent was confirmed to be ten (10) years from the date upon which the resource consent is commenced, being the date of the Consent Order to ENV-2012-WGL-000109 (29 May 2013)). RM155195V1 was originally granted in August 2015 in order to change the position of the main and secondary stages used in the Masked Parade / Carnivale from the Church Steps to two places on Hardy Street, as one of the events originally consented under RM125012.

The consent holder and applicant, Nelson City Council, seeks resource consent to renew or replace both RM125012V2 and RM155195V1 with a new consent in advance of their expiry dates, recognising the uncertainty over resource consenting timeframes and the need for continuity in public use of its parks and reserves for special events involving amplified sound.

Limitations on the duration or term of a resource consent are imposed pursuant to Section 123(b) of the Resource Management Act ('RMA'). Application cannot be made to extend the expiry date on a resource consent, however Section 124 of the RMA allows the consent holder to continue operating under the existing consent until the new consent is either granted or declined and all appeals are determined. A replacement consent application is not considered on exactly the same basis as a new application; the value of the investment of the existing consent holder must be given specific regard under s104(2A).

This application applies to allowing special events on nominated public reserves and open spaces, and on limited occasions per year, where noise (relating to the use of electrically amplified sound), closing times and ancillary structures breach specified rules in the NRMP. This application is essentially to "roll over" the existing approvals, with the same or similar conditions as imposed on both previous consents. It is not proposed to allow additional levels of noise over the current limits of the consents, but an additional venue (Rutherford Park) is included with the same conditions and a similar number of events (6) imposed as at Tahunanui Reserve (see Annexure E).

The reason for adding events at Rutherford Park is to allow for its use following the upgrade of this open space as part of the Maitai Walkway Project. Rutherford Park has become a quality and sought-after outdoor events venue for the City, located between Trafalgar Park and the Trafalgar Centre and close to public parking and the city centre. It offers an alternative venue to those consented in 2012, but without necessarily resulting in more events held under this consent per annum. Rutherford Park is already exempt from specified noise limits in Rule OSr.37 pursuant to conditions, namely that events do not occur outside of the hours of 7am-10pm and that sound does not involve amplified music.

However, its use for events involving amplified music exceeding noise limits currently means that such events have to go through a separate resource consent process. Inclusion of Rutherford Park has been made on recommendation of Council Events Staff, as a means of increasing administration efficiency, and as an alternative option to Trafalgar Park.

The Masked Parade / Carnivale has been brought back into this overall consent, subject to its own set of conditions where appropriate.

Given there is no noticeable change in scope or context of the proposal consented under both RM125012V2 and RM155195V1, in the interests of expediency and to avoid duplication of the assessments of effects earlier prepared, reference will be made to the findings of the Commissioners to each of these earlier consents. Malcolm Hunt Associates services have been retained. Their AENE in Annexure E of this application focuses on summarising the previous noise assessments undertaken for both applications and clarifies the use of LAeq over LA10. This proposal is accompanied by change in how noise from these special events is measured and assessed using the 2008 noise standards, reflected in Condition 1(b) in Appendix A to their report:

"all sound from events on a site (excluding sound from spectators) complies with the stated noise limit within any residential site, when measured and assessed in accordance with NZS6801:2008 Acoustics – Measurement of Environmental Sound and NZS 6802:2008 Acoustics – Environmental Noise, except that no duration adjustment or correction for special audible characteristics provided for in sections 6.3 and 6.4 of NZS6802:2008 shall be applied."

It is noted that compliance with the stated noise limits under both RM125012V2 and RM155195V1 requires that the penalty available under NZS6802 for sound possessing 'special audible characteristics' NOT be applied and that no "averaging" of sound levels be undertaken when assessing compliance. The use of the 2008 Noise Standards requires some wording change to achieve a similar exemption under the 2008 version of NZS6802. The term 'averaging' no longer applies, instead a 'duration' correction applies which allow for a limited relaxation of the applicable noise limit if the noise is present for only a short period of time.

In their AENE, MHA has also noted that:

"Although no changes to the numerical noise limits are proposed, one of the more significant changes is the change in noise metric from LA10 to LAeq..... Consistent with best practice, the Draft (non-statutory) Nelson District Plan, National Planning Standards and the recommendations of NZS6802:2008 Acoustics – Environmental Noise the preferred unit is the LAeq unit in place of the LA10 unit specified in the original consents."

The noise limits in Appendix A of their report, shown as Table 1 below, are to LAeq(15min).

The conditions for RM125012V2 require the consent holder to prepare, maintain and operate in accordance with either an Events Noise Management Plan (ENMP) or a Site Noise Management Plan (SNMP) (refer Annexure B). The Masked Parade has a specific condition requiring only a Noise Management Plan, but specific to that event. These plans contain matters such as how many events per year each site is allowed to have, noise limits, and day and time restrictions. This consent renewal does propose to increase the proportion of events that are controlled under SNMPs rather than requiring a fresh ENMP be prepared for each specific event. The move to more SNMPs is a result of consultation with Council's event staff who indicated this would reduce unnecessary repetition of costs and administration involved in submitting one-off ENMPs when, in fact, a similar noise effects result would occur if the noise management methods were implemented using a SNMP.

These proposed changes for the special events provided for under this new consent are shown in red in Table 1 below.

The applicant has put forward a set of draft conditions, integrating those in RM125012V2 and RM155195V1, as amended by Table 1 and under the recommendations of MHA.

The accompanying letter from Axel de Maupeou, Team Leader Events at NCC, in Annexure D outlines how events are administered, and any complaints are dealt with under both RM125012V2 and RM155195V1.

Table 1: Changes to Table 1 for Special Events Consent

	Events per year	Noise limit	Times	Days	Proposed management plan
Trafalgar Park (sporting or recreational events)	7	65 dB LAeq (15min)	1100h – 2200h	Any	SNMP
Trafalgar Park (music and cultural performances)	3	75 dB LAeq (15min)	1400h – 2200h	Any	SNMP
(New Year's Eve)	2	75 dB LAeq (15min)	1700h – 2300h	Friday Saturday	ENMP
	1	75 dB LAeq (15min)	1900h – 0100h	Any	ENMP
Trafalgar Centre	4	50 dB LAeq (15min)	1700h – 2300h	Any	SNMP
Rutherford Park	4	65 dB LAeq (15min)	1400h – 2200h	Any	SNMP
	2	70 dB LAeq (15min)	1700h – 2230h	Friday Saturday	SNMP
Tahunanui Reserve	4	65 dB LAeq (15min)	1400h – 2200h	Any	SNMP
	2	70 dB LAeq (15min)	1700h – 2230h	Friday Saturday	SNMP
	(New Year's Eve)	1	70 dB LAeq (15min)	1900h – 0100h	Any
Fairfield Park	3	65 dB LAeq (15min)	1400h – 2200h	Any	SNMP
Church Steps / 1903 Square / Upper Trafalgar Street	5	65 dB LAeq (15min)	1000h – 1700h	Any	SNMP
	4	60 dB LAeq (15min)	1400h – 2200h	Any	SNMP
	8	65 dB LAeq (15min)	1400h – 2200h	Any	SNMP
	1	65 dB LAeq (15min)	1000h – 2300h	Friday Saturday	SNMP
	1	65 dB LAeq (15min)	1900h – 0030h	Friday Saturday	SNMP
	(New Year's Eve)	1	65 dB LAeq (15min)	1900h – 0100h	Any
Botanics Playing Field and Reserve	1	70 dB LAeq (15min)	1400h – 2200h	Any	SNMP

Pavilion and Saxton Stadium (indoor events)	3	50 dB LAeq (15min)	1700h – 2300h	Any	SNMP
Church Steps / 1903 Square / Hardy Street / Upper Trafalgar Street (Masked Parade)	1	See Condition 4 in Annexure F		Friday Saturday	ENMP

Background to RM125012V2 and RM155195V1

RM125012V2

In 2011 NCC applied for and was subsequently granted two resource consents:

- RM115245: the use of electrically amplified sound that complies with the permitted noise limits in public parks and reserves zoned Open Space and Recreation in the NRMP; and
- RM125012: to allow special events on nominated public reserves and open spaces (Trafalgar Park, Trafalgar Centre, Saxton Stadium, Saxton Oval Pavilion, Tahunanui Reserve, Botanic Playing Field and Reserve, Fairfield Park, and the Church Steps/1903 Square/Upper Trafalgar Street area) and on limited occasions per year, where the use of electronically amplified sound, noise levels, closing times and ancillary structures breach specified rules in the NRMP.

The separate applications were made to reflect the different activity status and potential consent outcomes under the NRMP. Proposed events using electronically amplified sound were separated into those complying with or breaching the permitted noise limits for the Open Space Recreation Zone. RM125012V2 cover events that breach the noise limits in the NRMP (the 'special' events) as opposed to those complying with them (the 'complying' events).

RM125012 (and RM115245) were granted by Commissioner decision, with the background or rationale behind the applications cited in section 2.10 of the Commissioners decision:

- *most public or community events in the City's parks and reserves use some form of electronically amplified sound, from hand-held to fixed speaker systems;*
- *there is a growing number of public or community events in any year, and this is a valued and marketed feature of Nelson's culture and economy;*
- *it is difficult to establish existing use rights (Section 10, RMA) for particular venues or events;*
- *the effect of Rule OSr.37 is that virtually all public or community events within the OSR Zone require resource consent either as a controlled or discretionary activity;*
- *to deal with use of electronically amplified sound for individual events and/or at specific venues through separate resource consent applications is inefficient and often reactionary;*
- *the resource consent applications that have been submitted prior to the current ones have allowed the Applicant to refine and achieve greater control over the booking and use of its reserves and open space areas for public and community events, including the set-up of sound systems, testing of noise outputs, and monitoring and complaint procedures that accompany individual events;*
- *for the more significant events or venues, noise management plans are now a much more effective means of managing noise than relying solely on the previous Code of Practice.*

The need to replace RM125012V2, rather than let it lapse, is made for these same reasons.

RM125012 allowed for up to 52 'special events' per year across the nominated sites, allowing choice in location and suitability of each for particular events.

RM125012V1 removed from the original consented Table 1 one amplified noise event occurring between the hours of 10am and 11pm at the Church Step/1903 Square/Upper Trafalgar Street on account of RM155195 dealing separately with the Masked Parade Carnival in Hardy Street.

RM155195V1

RM155195 related specifically to the Masked Parade, and was the result of a need to change the position of the main and secondary stages used in the Masked Parade / Carnivale from the Church Steps to two places on Hardy Street. This event involves use of amplified sound that exceeds night and day time noise limits. Both sites are within the Inner City Zone and required consent under Rules ICr.42, ICr.42A and ICr.43. Consent was granted in 2015.

Nelson Resource Management Plan Zoning, Rules and Consents

Section 104(1) of the RMA sets out those matters that a consent authority must have regard to in considering an application for resource consent, and subsection (1)(b) refers to the relevant provisions of national policy statements, national environmental standards, regional plans and district plans.

The relevant unitary plan is the Nelson Resource Management Plan (NRMP).

Zoning

All of the sites which are the subject of this application are zoned Open Space and Recreation (OSR) in the NRMP, with the exception of those sites or venues in Upper Trafalgar Street and environs which are within the Inner City Zone (ICZ).

The purpose of land in the OSR Zone is as follows:

"this Zone contains areas of open space which are of high value to the community primarily for open space and active recreation activities" (OSd.1)

These reserves have historically been vested or set aside for the benefit of the wider Nelson public, and there is an expectation from the community that they will be available and used for cultural and recreational events. The NRMP categorises or "schedules" reserves in the Open Space Recreation Zone according to their primary purpose or amenity, and lists permitted public event activities, facilities and buildings associated with each. These include, variously, informal recreation activities, regional, national and international sporting and other events and tournaments on the three regional reserves, performance, festivals, displays, bazaars, fairs, galas, exhibitions and ceremonies, and facilities and buildings associated with them.

The OSR Zone rules relate to Trafalgar Park, Rutherford Park, Tahunanui Reserve, Fairfield Park, 1903 Square, the Botanics, the Trafalgar Centre, and Saxton Oval Pavilion and Stadium. The sites are all "scheduled" and already used for the type of 'special events' that would arise as a consequence of this application.

The Inner City Zone ('IC Zone' Chapter 8) is defined in the NRMP as the heart off the city - providing a city and regional destination. The city centre contains a concentration of mainly comparison shopping services such as banks and offices as well as a growing number of restaurants, cafes and other entertainment activities which all contribute to the City Centre being a commercial, cultural, tourist and recreational focal point to the city.

The Inner City is used for a range of significant community events such as the Masked Parade, Arts Festival Carnival, Nelson Arts Week, Santa Parade, Jazz festivals, street art, twilight and retail markets and Carols by Candlelight.

Of the sites subject of this application, the IC Zone rules relate only to the cobbled area of Upper Trafalgar Street and the surrounding streets of Church Lane, Morrison Street, and those sections of Hardy Street and Selwyn Place between. The Church Steps and 1903 Square are both located within an inner city location but with OSR zoning.

Rules in the NRMP

Relevant rules for Special Events in the Open Space and Recreation (OSR) Zone are:

- Rule OSr.37 Noise (relevant to all sites)

- Rule OSr.24.1 (a) Closing Times for Activities within 50m of a Residential Zone (relevant to the Trafalgar Centre, Trafalgar and Rutherford Parks and Saxton Stadium, to allow for the dispersal of the public for events ending at 11pm Sunday-Thursday).

The permitted noise limits for the OSR Zone, measured at or within the boundary of any site in the Residential Zone, are (Rule OSr.37.1 (a) and (b)):

Day Time L10: (55 dBA)

Other Times L10: 45 dBA Lmax: 75 dBA

(Day Time means 7am to 10pm Monday to Friday, and 9am to 10pm Saturdays, Sundays and Public Holidays.)

All measurements and assessment in accordance with NZS6801:1991 and NZS6802:1991.

Because these consents involve electric amplified sound, Rule OSr.37.2 (Controlled Activity) states:

Noise from any event involving electric amplification of sound, other than any event that complies with OSr.37.1(c), is a controlled activity.

Control reserved over:

- i) noise levels, and*
- ii) mitigation of noise, and*
- iii) hours of the activity, and*
- iv) monitoring of noise levels, and*
- v) the frequency of events on a site.*

Public events which are permitted activities on sites in the OSR Zone, that do not comply with the noise limits, hours of operation and utilise amplified sound, are **discretionary activities** under Rule OSr.37.3 in the NRMP.

All zones in the NRMP have permitted closing times for services to the public or places of public assembly. Many parks are located within or close to residential areas and Rule OSr.24.5 acknowledges that where activities occur late at night there is potential to create adverse effects which conflict with the residential nature of the neighbouring areas.

There will be a small number of events (10) within the OSR Zone, at Trafalgar Park, Trafalgar Centre and Saxton Stadium, that could be located within 50 metres of a Residential Zone and may operate up to 11pm Sunday to Thursday. Although the events will end by 11pm, their venues will need to remain open until the public or event attendees have dispersed. This would technically breach Rule OSr.24.1 (a) in the NRMP:

Any activity located within 50m of a Residential Zone boundary, which is open to the public or is a place of public assembly, may be open to the public only during the following hours:

Sunday to Thursday inclusive: 7am-11pm

Friday, Saturday, Christmas Eve and New Years Eve: 7am -1 am the following day

This aspect of the application, to allow for people to disperse from venues for Special Events that conclude at 11pm, is a **discretionary activity** under Rule OSr.24.3.

Relevant rules for Special Events in the Inner City Zone are:

- Rules ICr.42 and ICr.43 Noise; and
- Rule ICr.52 Structures on Road Reserve.

Rule ICr.42A applies to the establishment or extension of a 'noise generating activity' which is defined in the NRMP as (underlining added):

“an activity that takes place at a site or building located in the Inner City Zone, involving:

- the assembly of people within a building for a commercial activity involving the playing of amplified sound (from a sound system with greater than 100W output) between the hours of:
 - 11:00pm and 7:00am Sunday to Thursday nights, and for the nights of Friday, Saturday, Christmas Eve and New Year's Eve 1:00am and 7:00am where the activity is located within the Inner City Zone - City Centre; and
 - 10:00pm and 7:00am seven days a week where the activity is located within the Inner City Zone - City Fringe; Nelson Resource Management Plan (1/12/14) 2 -19

or:

- the assembly of people in an outdoor area (i.e. an area that is outside of the main part of the building such as garden bars, outdoor dining and smoking areas) associated with a commercial activity between the hours of:
 - 11:00pm and 7:00am Sunday to Thursday nights, and for the nights of Friday, Saturday, Christmas Eve and New Year's Eve 1:00am and 7:00am where the activity is located within the Inner City Zone - City Centre; and
 - 10:00pm and 7:00am seven days a week where the activity is located within the Inner City Zone - City Fringe.

For the avoidance of doubt, temporary events occurring no more than once per year in any one site or building are excluded from this definition.

The events held in the IC Zone under this application, within the cobbled area of Upper Trafalgar Street and the surrounding streets of Church Lane, Morrison Street, and those sections of Hardy Street and Selwyn Place between, are Council-operated community events rather than commercial "noise-generating activities", so Rule ICr.42A does not apply to this application.

Rule ICr.42.1 (Permitted Activity) states:

The sound level assessed 1 metre from any external wall of any Residential Unit or Short Term Living Accommodation Unit shall not exceed the following noise limit during the hours 10:00pm to 7:00am:

75 dB LAF_{max}

All measurements and assessment shall be in accordance with NZS6801:2008 and NZS6802:2008.

Activities that contravene a permitted condition require consent for a **discretionary activity** under Rule ICr.42.3.

Rule ICr.43 (Permitted Activity) states:

Noise levels measured at any site within a Residential Zone must not exceed:

Daytime - 53 dB LAeq

Other times - 43 dB LAeq / 75 dB LAFmax

(Daytime means 7am to 10pm Monday to Friday, and 9am to 10pm Saturdays, Sundays and Public Holidays). All measurements and assessment in accordance with NZS6801:2008 and NZS6802:2008.

Public events which contravene a condition require a consent. As noise levels measured at any site within a Residential Zone are likely to exceed the daytime noise limit of 53 dB LAeq consent for a **non-complying activity** would be required.

The Special Events in the Inner City Zone in Upper Trafalgar Street and surrounding streets will breach these noise standards and are **non-complying activities** when bundling the consents required under Rules ICr.42 and ICr.43.

All Special Events in the Upper Trafalgar Street area will comply with the closing times in Rule ICr.46. This site is located more than 50m from the Residential Zone boundary.

Certain events in this location will involve the use of associated structures (such as stands, stages, amplifiers, fairground rides etc) located within road reserve. These temporary structures will not comply with the conditions in Rule ICr.52.1 as they are not part of the road infrastructure and will exceed 6m² in area:

Structures on road reserve are permitted if:

- *They are part of the road infrastructure (eg bridges, culverts, street lighting, traffic signals, masts) or relate to the safe use of the road or walkway; or*
- *Structures (including equipment shelters and bus shelters) do not exceed 6m²*

Resource consent is sought for structures on road reserve ancillary to all public events in the Upper Trafalgar Street area, as a **discretionary activity** under Rule ICr.52.3.

Resource Consents Required

Resource consent is required under Rules OSr.37.3, ICr.42.3 and ICr.43.3 of the Nelson Resource Management Plan (NRMP) for noise, Rule OSr.24.3 for closing times within 50m of the Residential Zone and Rule ICr.52.3 for structures on road reserve.

With the bundling of consents, resource consent is required under the NRMP as a **non-complying activity**.

The assessment criteria outlined in the relevant rule above, to which this resource consent relates, will be addressed in the AEE that follows later in this application.

Noise Assessment by Malcolm Hunt Associates

MHA has been commissioned to review the potential noise effects associated with the renewal of both RM125012V2 and RM1551195V1, to enable events in specified localities where the use of electronically amplified sound, noise levels, closing times and ancillary structures breach specified rules in the NRMP.

MHA note:

Overall, this assessment finds that noise effects of events held under RM125012V1 and RM155195V1 are likely to have a less than minor effect when received at residential and other affected sites, yet the sound levels involved could (at times) clearly exceed the normally applying permitted noise standards of the Nelson Resource Management Plan (NRMP) and ambient sound levels normally occurring at the time of the event. Key factors are that event noise emissions are controlled to reasonable levels, events comply with suitable limits on hours, with events on any one site limited so that they occur only infrequently.

Based on available evidence, amplified sound and other sounds (including crowd sounds) from council-led events held on Open Space and Reserve sites in Nelson are being reasonably well managed under existing resource consents RM125012V1 and RM155195V1 without any significant demonstrable adverse noise effects on affected communities. On this basis the assessment below recommends the consents be renewed, with minor amendments as suggested by the applicant.

The application increases the number of events from 52 to 58, outlines some changes to current consent conditions, although does not involve any increases in allowable noise limits. The proposal to include Rutherford Park on the list of permitted events with limitations is consistent with events held at Tahunanui Reserve, an event site similarly located near to residential sites on which infrequent events are also held under this consent. No significant changes are therefore expected in terms of any additional cumulative noise effects experienced in the community as a result of the consent renewals being applied for.

This report does not present a 'zero based' assessment of noise effects for each venue. Rather it relies on evidence and history to show that, to date, events held at each venue authorised by RM125012V1 and RM155195V1 are being successfully run and appropriately organised, managed and operated by Council's Events Team (or authorised third parties) in terms of noise effects. Section 3 below summarises noise level monitoring that has taken place. Noise effects of concern that are mostly related to amplified sound from events which can be experienced within a wide range of affected receiver sites, including at residential sites during night time in some cases. That Council records show very few complaints of

excessive noise associated with Council-led events supports the finding that noise from events authorised to date by the consents involved, are not known as causing community noise issues. Similarly, results of compliance monitoring of event noise levels show a positive picture of compliance with applicable limits. On the basis of acceptable performance to date, the recommendation below is that the renewal be approved on noise grounds.

This consent renewal does propose to increase the proportion of events that are controlled under site-specific noise management plans rather than requiring a fresh plan be prepared for each specific event. Noise management plans have proven a successful component of how Council controlled events are run, ensuring noise management initiatives for each venue or event are effective and well-communicated to key players to ensure precautions are taken to manage noise effects (e.g. procedures for handling noise complaints).

The MHA assessment concludes:

'events are generally being successfully run and organised, managed and operated by Council's Events Team (or authorised third parties) in terms of noise effects.

Information presented indicates noise effects, due mostly to amplified sound from events experienced within a wide range of affected receiver sites (including at residential sites during nighttime) do not appear to cause any widespread noise problems or complaints. Council records show no complaints of excessive noise associated with Council-led events held under RM125012V2 and RM155195V1 which supports the finding that noise from events authorised to date are not responsible for adverse noise effects that could be classified as more than minor, providing the consent conditions are complied with (which appears to be the case). Compliance monitoring indicates compliance is generally achieved within applicable limits.

The proposal to include Rutherford Park on the list of permitted events with limitations is consistent with events held at Tahunanui Reserve, an event site similarly located near to residential sites on which infrequent events are also held under this consent. No significant changes are therefore expected in terms of any additional cumulative noise effects experienced in the community as a result of the consent renewals being applied for.

On the basis of acceptable performance to date, the recommendation is that the renewal be approved on noise grounds providing the recommended conditions (or words of similar effect) are attached to the consent.'

The applicant will be adopting the condition recommendations outlined in Appendix A the AENE prepared by MHA, and these have been added to the volunteered conditions in Annexure F of this application.

Assessment of Environmental Effects

Section 104(1) of the RMA, the framework under which the Council will determine a resource consent, also requires that a consent authority have regard to any actual or potential effects on the environment of consenting to an activity.

Section 88 of the Resource Management Act 1991 states that any application for resource consent must be accompanied by an assessment of effects on the environment prepared in accordance with the Fourth Schedule of the Act. Such assessment must be commensurate with the scale and significance of the effects on the environment that may arise with the proposal.

The volunteered conditions in Annexure F of this application form part of this assessment, in that they have been found to be effective in managing the environmental effects of special events involving amplified sound under RM125012V2 and RM1551195V1.

In addition to the findings and conclusions reached by MHA above and in Annexure E, this assessment has been guided by the assessment criteria for the relevant rules in the NRMP, and the conclusions reached by the Commissioners in their earlier decisions to RM125012V2 and RM1551195V1.

Noise Management Plans

Along with limits on the number and timing of Special Events and their noise limits (Table 1 in Annexure F), and Council's administration of this consent through the Events Management Plan process, a key element in effective mitigation of noise effects can be achieved in implementing approved SNMPs and ENMPs. These are to remain part of the volunteered conditions in Annexure F. The noise management plans specify steps to be taken for authorised temporary events to ensure the potential adverse effects of loud noise are adequately identified beforehand and addressed in the way the event is operated, the layout and equipment used, and the overall hours of the operation. They also require consideration of whether appropriate that events are notified beforehand to residents in the area, ensure noise monitoring takes place prior and/or during the event to ensure limits are complied with, and a clear process to follow in recording and acting on any noise complaint that may be received.

The move to more SNMPs is a result of consultation with Council's event staff who indicated this would reduce unnecessary repetition of costs and administration involved in submitting one-off EMPs when, in fact, a similar noise effects result would occur if the noise management methods were implemented using a SNMP. The move to an SNMP is requested for 3 events at Trafalgar Park, Trafalgar Centre and for 2 events at Tahunanui Reserve.

Careful consideration by Council's event staff has gone into determining whether or not a SNMP would be appropriate in the listed circumstances. Due to what could be considered 'reasonable management' of event noise over time under NCC stewardship for the existing current consents, the Events team has the aim to reduce compliance costs and administration delays involved with submitting one-off type ENMP's, instead of requiring each event to comply with a SNMP which sets out generic requirements for noise management, specific to the venue (but covering the range of expected events). There is common ground between the two types of management plans. For example, both plans include a requirement to report the process for notifying neighbours about details of the event and for this to include notifying Council's after-hours noise complaint telephone number. It is believed the switch to a greater proportion of SNMP's would improve efficiency at Council and not be likely result in any increase in noise effects.

Assessment Criteria in the NRMP

As a non-complying activity Council has unlimited discretion over what to consider when determining whether or not to grant resource consent. In order to guide assessment relevant assessment criteria related to Rules OSr.37.3, ICr.42.3 and ICr.42A.3 of the NRMP for noise, Rule OSr.24.3 for closing times within 50m of the Residential Zone and Rule ICr.52.3 for structures on road reserve have been presented and assessed against below.

Assessment Criteria under Rule OSr.37.4

The following assessment criteria is provided:

- a) *the length of time, and the level by which, the noise standards will be exceeded, particularly at night, and the likely disturbance that may cause.*

As noted in the AENE noise effects associated with the events authorised by the renewal have been previously considered within the original resource consent processes for both RM125012V2 and RM155195V1. Expert evidence on noise effects was presented at the RM125012 hearing by Mr Hunt and Dr Trevathan for the Applicant and by Mr Ibbotson for the Council. The decision on RM125012 by the independent hearings committee states at para 6.91 That "Special events under RM125012 may cause some adverse effects including sleep disturbance, particularly if finishing after 2200h. But, we consider that the numbers, timing and noise limits would appropriately control these effects. We also note that these effects are temporary". In granting RM155195V1 Council was also satisfied that the specified conditions attached to RM155195V1 was appropriate in managing potential disturbance in the Hardy Street area. As no complaints have been received for events that came under either RM125012V2 or RM155195V1 it is seen that Council-led events are being run appropriately under current specified conditions and will continue to do so. As outlined in the AENE the change in noise metric from LA10 to LAeq, which is in line with recommendations of NZS6802:2008 Acoustics – Environmental Noise, will not lead to any anticipated adverse effects.

- b) *the nature and location of nearby activities and the effects they may experience, particularly the night time effects on residentially zoned land.*
- c) *whether the noise is likely to detract from the general environmental quality being proposed for the adjoining zone.*

As outlined above and in the AENE the potential effects of the events on nearby activities has already been assessed through various expert evidence reports and existing consenting processes. On this basis, and the recommendation from the AENE to grant consent to this proposal, potential adverse effects on nearby activities and adjoining zones is assessed to be less than minor pursuant to the recommended conditions outlined in the AENE.

Inclusion of Rutherford Park

Rutherford Park is between the consented venues of Trafalgar Park and the Trafalgar Centre, and is part of the main events location for the City. As stated in the AENE: *'the proposal to include Rutherford Park on the list of permitted events with limitations is consistent with events held at Tahunanui Reserve, an event site similarly located near to residential sites on which infrequent events are also held under this consent. No significant changes are therefore expected in terms of any additional cumulative noise effects experienced in the community as a result of the consent renewals being applied for.'* In line with the AENE and fact existing consent conditions and management has resulted in no complaints being received under either RM125012V2 or RM155195V1, no adverse effects are anticipated as a result of adding Rutherford Park as a venue for special events.

- d) *the effectiveness of, and in particular the certainty provided by, any conditions or controls that might be imposed on the activity.*
- e) *the degree of compliance with the 'Code of Practice – Noise Control for Events in Parks and Reserves', Planning and Consents Division, Nelson City Council.*

As no complaints have been received for events that came under either RM125012V2 or RM155195V1 it is seen that Council-led events are being run appropriately under current specified conditions and will continue to do so when subject to the volunteered conditions in Annexure F. As outlined in the AENE the change in noise metric from LA10 to LAeq, which is in line with recommendations of NZS6802:2008 *Acoustics – Environmental Noise*, will not lead to any anticipated adverse effects.

The *Code of Practice – Noise Control for Events in Parks and Reserves* was taken into consideration during the original consent process for RM125012V2, but has effectively been superseded by the Events Management Plan (EMP) process and the SNMP and ENMP requirements under Conditions 5-8 in the volunteered conditions in Annexure F.

Assessment Criteria under Rules ICr.42.1 and ICr.43

The following assessment criteria is provided:

Rule ICr.42.4

- a) *The length of time, number of times, or the level by which, the noise standards will be exceeded at night, and the likely disturbance that may cause.*
- b) *The nature and location of nearby activities and the effects they may experience, particularly the night time effects on occupants of Residential Units and Short Term Living Accommodation within the Inner City and neighbouring zones.*
- c) *Whether the noise is likely to detract from the amenity sought for the Inner City and Residential Zones.*

As above, through granting the original RM155195V1 application Council determined that no adverse effects were anticipated to occur on nearby activities, including Residential Units, Short Term Living Accommodation and amenity sought for the Inner City and Residential Zones. As no complaints have been received for events that came under either RM125012V2 or RM155195V1 it is seen that Council-led events are being run appropriately under current specified conditions and will continue to do so when rolled over. As outlined in the AENE the change in noise metric from LA10 to LAeq, which is in line with

recommendations of NZS6802:2008 *Acoustics – Environmental Noise*, will not lead to any anticipated adverse effects.

In general all proposed sites already have an established connection with activities such as group gatherings, recreational and cultural use, music and sporting events and performances on those sites. Being in suburban areas, the subject sites are generally in reasonably close proximity to residential zones. As above, as no complaints have been received for events that came under either RM125012V2 or RM155195V1 it is seen that Council-led events are being run appropriately under current specified conditions and will continue to do so when rolled over.

Rule ICr.43.4

- a) *The length of time, number of times, time of day or night, or the level by which, the noise standards will be exceeded, and the likely disturbance that may cause.*
- b) *The nature and location of nearby activities and the effects they may experience, particularly the night time effects on occupants of residential units and Short Term Living Accommodation within the Inner City and neighbouring zones.*
- c) *Whether the noise is likely to detract from the amenity sought for the Residential Zone or result in a nuisance effect, including as a result of low frequency noise.*

As assessed under Rule ICr.42.4.

Assessment Criteria under Rule OSr.24.4

The relevant assessment criteria under Rule OSr.24.4, for closing times in the Open Space Recreation Zone, are:

- a) *The nature and scale of the activity in relation to nearby residential activity, having regard to the nature of the existing and permitted future uses on nearby sites;*
- b) *The effect on the existing and likely foreseeable amenity of nearby residential areas, particularly in relation to noise and traffic generation;*
- c) *The ability to remedy or mitigate any adverse effects of the activity by the layout or design of the site or buildings, or by the provision of landscaping or similar measures;*
- d) *The topography of the site and the neighbouring areas;*
- e) *The adequacy of car parking on the site, and its location in relation to the neighbouring residential activities;*
- f) *The effectiveness, and in particular the certainty, provided by any conditions or controls that might be imposed on the activity;*
- g) *Whether the activity is temporary, and the frequency of such events (where applicable).*

The last assessment criterion is most relevant to this aspect of the application. The need for resource consent relates to a limited number of Special Events annually (should those occur on Sunday or Thursday nights, which is itself less likely for a public or community event), spread between four of the sites. The need for consent is to allow for crowds to leave Trafalgar Park, Rutherford Park, the Trafalgar Centre or Saxton Stadium, with the Special Events themselves (and their resultant breach of the NRMP noise limits) ceasing by at least 11pm. Any adverse effects on the environment will be temporary and minor for the short duration that attendees take to leave the site and area.

Assessment Criteria under Rule ICr.52.4

The relevant assessment criteria under Rule ICr.52, for structures on road reserve in the Inner City Zone, are:

- a) *The size and scale of the structures;*
- b) *Any visual impacts, taking account of the character of the area;*
- c) *Safety considerations including any effects on line of sight for motorists and other road users, having regard to the usage of the road.*

The need for consent to structures on road reserve is limited to the Inner City Zone. This will be accompanied by closure of the roads to vehicular traffic. The structures will be ancillary to the Special Events, limiting their extent, necessity and duration that they remain on road reserve. They will also be sited so as to maintain pedestrian access along footpaths and to retail and other businesses in the area. Any adverse effects on the environment will be less than minor.

Previous Findings of the Commissioners

In their decision on RM125012 the Commissioners stated (paras 6.19 and 6.20):

".....we believe that the relevant potential effects for our consideration can be readily grouped into the following categories:

- *Noise Amenity and Health Effects*
- *Nuisance Effects*
- *Cumulative Effects*
- *Management Issues*

In addition, we are also required to consider any positive effects/benefits arising from the proposal."

They go on to summarise the potential adverse effects of the application for Special Events in paras 6.90-6.92 of the decision:

"6.90 At this point, we can conclude that having considered the issues, the expert and lay evidence and evaluated all the material in front of us, that the nature of the potential effects of both applications are generally acceptable. We have arrived at this conclusion having regard to a number of factors including the permitted baseline, the nature of the existing/receiving environments and, importantly, the proposed management regime.

6.91 Specifically we find the following:

Noise Amenity and Health Effects:

- *Special events under RM125012 may cause some adverse effects including sleep disturbance, particularly if finishing after 2200h. But, we consider that the numbers, timing and noise limits would appropriately control these effects. We also note that these effects are temporary.*

Nuisance Effects will be minor given that:

- *The applications will give rise to a range of effects in addition to noise effects. The majority of these effects would fall within the permitted baseline for both applications*
- *For special events with large crowds and later closing times RM125012, the applications nuisance effects can be managed by limiting the frequency of special events*

Cumulative Effects

- For RM125012, provided RM985339 is surrendered and the number of events at Trafalgar Park, Rutherford Park and Saxton Field (where sound from daytime events is unlimited if there is no amplified music) is limited, there should be no cumulative effects.

6.92 Essentially, and having regard to the proposed management regime, we have determined that the potential adverse effects associated with both applications are, to varying degrees, capable of being mitigated to an acceptable level. The key to ensuring this occurs is the conditions package that enacts the management framework for both applications. "

On account of:

- the findings of MHA in respect of any changes to the venues and number of Special Events, measurement of noise limits and greater use of SNMPs;
- volunteered conditions in Annexure F that reflect those conditions previously imposed by the Commissioners; and
- the complaints history of these consents, indicating that noise effects are being appropriately managed and mitigated in operation of those Special Events that exceed NRMP permitted noise limits,

it can be concluded that these earlier findings of the Commissioners are relevant to the current application.

Duration of Consent

No duration of consent is proposed under this application.

A condition limiting the duration of a consent may be used to address uncertainty about the adverse effects of an activity. This does not appear to be the case with RM125012V2 and its 10 year term, but rather review of the NRMP was an influencing factor (it is noted that RM155195V1 was given an 8 year expiry date only in order to be consistent with NCC's other consents for special events). The Commissioners heard from Council's Planning Policy Manager at that time that review of the NRMP was commencing and it could be assumed that within 10 years the applicant would likely have the benefit of rules in that plan. This has not eventuated, although the intention is still to achieve this same outcome in due course.

In imposing a 10 year term to RM125012 the Commissioners opined that this also:

"provides a reasonable period of time in which to monitor and collect data on the effects associated with the various events across the entire spectrum of sites and allows appropriate consideration of the effectiveness of the management plan regime (effectively like a probation period)".

Given that both RM125012V2 and RM155195V1 have been implemented and any noise effects have been managed as anticipated when granting the consents, it would be neither efficient nor effective to impose further limitation on the duration and future re-consenting of this renewal consent. Any discomfort about the effectiveness of the existing consent and its applicability to a range of local reserves across the city, and unknowns around the activities that may occur on them and their effects, have been addressed with implementation of the consent. Similarly the event management plan process has been tested and is effective in managing noise effects and avoiding complaints.

The consent authority is also required to give specific regard to the value of the investment of the existing consent holder under s104(2A), and this is relevant also to the duration of consent. The applicant has made considerable investment in both time and resources to this and the previous applications, its event management planning and booking procedures, as well as its ongoing public events programme for Nelson City. The applicant and Nelson community are now entitled to more certainty and efficiency in the consent process, noting still that eventually this may be superseded by appropriate permitted rules in the Nelson Plan.

Conclusion

Overall, in line with the recommendations in the AENE, information presented indicates noise effects, due mostly to amplified sound from events experienced within a wide range of affected receiver sites (including at residential sites during night-time) do not appear to cause any widespread noise problems

or complaints. Council records show no complaints of excessive noise associated with Council-led events held under RM125012V1 and RM155195V1 which supports the finding that noise from events authorised to date are not responsible for adverse noise effects, providing the consent conditions are complied with (which appears to be the case). As such, effects from this proposed are assessed to be **less than minor**.

Objectives and Policies in the NRMP

The relevant objectives and policies in the NRMP are found in the respective zones:

Open Space and Recreation Zone

In their decision on the existing consent the Commissioners observed that the policies for the OSR zone in the NRMP:

- specifically provide for existing use of open space and recreation land to the benefit of the community provided adverse effects are minimised (Policy OS1.2);
- seek to ensure existing and new activities are compatible with the amenity values of surrounding zones, with particular reference to the evening (Policy OS1.3);
- subject existing activities to management plans, to manage effects including those on surrounding areas (Policy OS1.2).

The application and its conditions are responsive to the Residential Zone and its noise sensitive activities, but while acknowledging that public access to and use of these local reserves is also part of the established environment in these neighbourhoods. These reserves contribute to the wider community's access to public events, and Objective OS1 seeks to "maintain the social well-being and health of the community by recognising and enhancing opportunities for use of open space and recreation land." The types of public and community events that are provided for under consent RM125012V2 and this application are those for which the sites are scheduled in the NRMP, and which make a positive contribution to the City's social, recreational and cultural fabric.

In renewing the resource consent proposal, subject to over 8 years of operation and monitoring of the effects of existing consent RM125012V2, the application will directly accord with Policy OS1.2 which states that "present use of open space and recreation land should continue where there is a benefit to the community...." and Policy OS1.3 which requires that "activities on open space and recreation zoned land should be compatible with the amenity values of surrounding zones." Implementation of existing consent RM125012V2 has confirmed that its conditions and management of noise are promoting the Open Space and Recreation zone objectives and their supporting policies, and those management practices will follow over to its replacement consent.

Inner City Zone

The following objectives and policies are seen to be relevant to the proposal:

- Policy IC1.2 large scale activities - Activities which are likely to generate large numbers of customers should be sited preferably within the City Centre, on sites with good physical linkages to the City Centre, or on the site defined by Schedule N (see Schedule N in the Industrial Zone).
- Objective IC2 street and public amenity - Streets and public areas which are pleasant and attractive for people to visit and use.
- Policy IC2.6 street enhancement and public facilities - Enhance the attractiveness of the City Centre and the public facilities available to the public.
- Objective IC4 activities and adverse effects - A diversity of activities which do not adversely affect the environment sought for the City Centre and City Fringe.
- Policy IC4.1 range of activities - Activities which enhance the vitality and vibrancy of the City Centre shall be encouraged.
- Policy IC4.2 adverse effects - Activities should not give rise to levels of noise, smell, dust, and smoke, or traffic, landscape, aesthetic or other adverse effects which will detract from the character being sought for the City Centre and City Fringe areas.
- Policy IC4.3 residential amenity - The Inner City, and sites used for residential activity, should provide a reasonable standard of residential amenity, but recognising that the fundamental character of the area is non-residential.

- Objective IC5 effects on neighbouring zones - Development on the edge of the Zone which does not detract from neighbouring or nearby zones but seeks to complement in function and design the values of the adjacent zones.
- Policy IC5.1 amenity of neighbouring areas - Activities within the Inner City should not have adverse effects which significantly diminish the amenity of neighbouring areas, having regard to the character of these areas and the cumulative effects of such activities.
- Policy IC5.2 residential zones - Special regard shall be had to preventing any deterioration of the amenity of the Residential Zone as a result of expansion of activities from the Inner City Zone, or as a result of adverse effects across the zone boundary

The events will generate large crowds and as such are suited to being in the central city where Hardy Street is very accessible with approaches from at least 3 directions (Policy IC1.2). The events will be pleasant for people to visit and witness and will temporarily enhance the attractiveness of the city centre (Objective IC2 & Policy IC2.6). The remaining objectives and policies seek to ensure a reasonable level of amenity is provided within both the centre city and adjoining zones when activities are taking place. As above, as no complaints have been received for events that came under either RM125012V2 or RM155195V1 it is seen that Council-led events are being run appropriately under current specified conditions and will continue to do so under this application.

Consultation

The applicant and its advisors have consulted the Team Leader Resource Consents in the course of deciding how to proceed with renewal of both RM125012V2 and RM155195V1.

No other parties or members of the public have been consulted about this proposal.

Section 104D RMA Assessment

Section 104D of the RMA contains particular restrictions for non-complying activities:

- “(1) *Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only 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 and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity...*”

The proposal must meet one of these threshold tests in order for Council to grant consent.

The assessment of environmental effects above has demonstrated that the effects of the proposal will be less than minor.

The above assessment of relevant objectives and policies of the NRMP demonstrates the proposal is consistent with the relevant policy provisions of the NRMP.

This application meets both threshold tests in Sec 104D of the RMA and accordingly the Council has discretion to grant consent.

Section 95 of the RMA

The Applicant requests that the application be publicly notified under S95A(3)(a).