

COPY RM 115245

NELSON CITY COUNCIL
(Community Development)

Application for Resource Consent
Use of Electrically Amplified Sound where Complying with Noise Limits for the
Open Space Recreation Zone



An Application to Nelson City Council
Pursuant to Section 88 of the Resource Management Act 1991

Prepared by Planscapes (NZ) Ltd
October 2011



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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 (Community Development).

2. *Proposal:*
To allow the use of electrically amplified sound that complies with the permitted noise limits in Rules OSr.37.1(a) and OSr.37.1(b) on all public parks and reserves zoned Open Space Recreation under the Nelson Resource Management Plan.

(A detailed description of the proposal is contained within **Annexure A – Assessment of Effects on the Environment**).

3. *Location:*
This application relates to public parks and open space areas throughout Nelson City, all of which are zoned Open Space Recreation in the NRMP and are listed in **Annexure B**.

4. *Legal Description:*
The legal descriptions of each of the named parks are contained in **Annexure B**.

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 C**, prepared in accordance with Section 88 of and the Fourth Schedule to the Resource Management Act 1991.

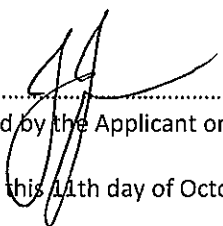
8. *Other Information:*
The following information is enclosed to assist in understanding the proposal, and in accordance with the requirements of the District Plan:

- List of Sites Subject of this Application (**Annexure B**);
- Noise Assessment and Management Recommendations – Malcolm Hunt Associates (**Annexure C**);

- Existing Resource Consents (**Annexure D**);
- Existing Nelson City Councils Code of Practice for Noise Control for Events in Parks and Reserves (**Annexure E**).

9. *Application Fee:*

Please liaise with Kath Inwood (NCC Manager Community Development) regarding payment of application fees.


.....
(Signed by the Applicant or its Authorised Agent)

Dated this 11th day of October 2011

Address for Service:

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ANNEXURE A
Assessment of Effects on the Environment
Prepared by Planscapes NZ Ltd



1.0 INTRODUCTION

- 1.1 Nelson City Council - Community Development ('the Applicant') seeks resource consent from Nelson City Council ('the consent authority') to allow the use of electrically amplified sound that complies with the permitted noise limits in Rules OSr.37.1(a) and OSr.37.1(b) on all public parks and reserves zoned Open Space Recreation under the Nelson Resource Management Plan ('the NRMP').
- 1.2 A list of all parks and reserves subject of this application is contained in **Annexure B**.
- 1.3 The Open Space Recreation Zone ('OSR Zone') is defined in the NRMP as land already used for and of high value to the community for open space and recreation purposes (Policy DO16.1.1.5 and Chapter 11). Most of the land is reserve land vested in and administered by the Council for the use and enjoyment of the Nelson community. In maintaining the social well-being and health of the District's permanent and visitor populations, the NRMP provides for a variety of activities – passive and active recreation, galas, public performances, play equipment, festivals, conferences and conventions etc – that recognise and enhance opportunities for the public to use this land.
- 1.4 The NRMP states that activities in the OSR Zone involving electric amplification of sound (other than sound from events and spectators at Trafalgar Park, Rutherford Park or Saxton Field occurring between 7am and 10pm and not involving electrically amplified music), are **controlled activities** where complying with the permitted noise limits for the zone. Most sporting, cultural and public events held in the OSR Zone now involve some form of sound or PA system. It is not unusual for the public to have personal amplified sound systems such as radios, ipods and walkmans when using public parks. The effect of this rule is that, regardless of the significance of any noise source or level, any activity involving electrically amplified sound on the city's reserves, including informal public use and organised community or public events for which these public spaces have historically been made available and are managed, must obtain resource consent.
- 1.5 Nelson City Council has in the past obtained resource consents to exceed the permitted noise standards for certain venues (Trafalgar Park, Church Steps/1903 Square, Tahunanui Reserve and Saxton Field) on a limited number of occasions annually (RM985339, out of which Council developed an application system, noise control agreement and guidelines to control excessive noise at these venues) and for one-off events such as Opera in the Park on the Tahunanui Reserve (RM095310). It has most recently obtained resource consent to allow use of electric amplified sound at Founders Park to permitted noise levels, subject to a Noise Management Plan specific to that site and its various buildings and outdoor performance areas (RM105091). Copies of these consents are contained in **Annexure D**.
- 1.6 The purpose of this application is to legitimise the use of electrically amplified sound that complies with the permitted noise levels in the NRMP on all parks and reserves in the OSR Zone, under a generic resource consent whereby:
 - activities generating the amplified sound may only occur during daytime hours (9am to 10pm); and
 - all events on land in the OSR Zone, whether Council-organised or private events, are planned, undertaken and monitored in accordance with NCC's events noise management guidelines "Event Noise Control Information and Agreement".
- 1.7 This resource consent application **does not** seek to allow additional levels of noise emission from the OSR Zone over and above the current limits in the NRMP.

- 1.8 As a controlled activity under the NRMP, Section 104A of the Resource Management Act 1991 states that the consent authority must grant consent, and may only consider and impose conditions in relation to those matters over which it has retained control. These matters, under Rule OSr.37.2 in the NRMP, are:
- (i) noise levels
 - (ii) mitigation of noise
 - (iii) hours of the activity
 - (iv) monitoring of noise levels
 - (v) the frequency of events on a site
- 1.9 The application is accompanied by a Noise Assessment and Management Recommendations report by Malcolm Hunt Associates (**Annexure C**). That report forms part of the application and its assessment of actual or potential effects of the proposal on the environment (AEE).
- 1.10 This application and its AEE have been prepared in accordance with Section 88 to and the Fourth Schedule of the Resource Management Act 1991.

2.0 SITES SUBJECT OF THIS APPLICATION

- 2.1 The parks, reserves and open space areas subject of this application are listed in **Annexure B**, along with their legal descriptions.
- 2.2 The sites are all zoned Open Space Recreation under the Nelson Resource Management Plan. The assigned category of park – horticultural park, sportfield, city reserve, regional reserve, neighbourhood park, cemetery or motor camp – is also consistent with the NRMP.
- 2.3 These sites are all owned, vested in and/or administered by the Nelson City Council. The OSR Zone includes some Crown land (such as Albion Square) and privately owned land (Whakatu Marae and the Nelson Golf Course) however use of those sites does not fall within the scope of this application.
- 2.4 Existing consents RM985339 and RM105091 are to remain effective. Although complying with the permitted noise limits, Founders Park is subject to its own resource consent and is therefore not covered by this current application.

3.0 SECTION 16 OF THE RESOURCE MANAGEMENT ACT AND COUNCIL'S NOISE COMPLAINTS REGISTER

- 3.1 "Excessive noise" for the purpose of enforcement purposes is defined in Section 326(1) of the Resource Management Act 1991 ('RMA') as meaning

any noise that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person (other than a person in or at the place from which the noise is being emitted), but does not include any noise emitted by any—

- (a) Aircraft being operated during, or immediately before or after, flight; or
- (b) Vehicle being driven on a road (within the meaning of section 2(1) of the Land Transport Act 1998); or
- (c) Train, other than when being tested (when stationary), maintained, loaded, or unloaded.

- 3.2 Section 16 of the RMA imposes a duty to avoid unreasonable sound, notwithstanding the general duty under Section 17 of the RMA to avoid, remedy or mitigate adverse environmental effects of activities:

(1) Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or ... the coastal marine area,

shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.

- 3.3 The RMA does not define what is a reasonable level of noise, however Malcolm Hunt Associates states in relation to this:

"The noise limits sets out in the NRMP represent a reasonable level for activities taking place on a daily basis, however higher noise levels can be justified where the activities are limited in duration, infrequent and adopt practical methods to ensure the emissions of noise is no louder than necessary. (para 5.1, Noise Assessment and Management Recommendations Report, Annexure C).

The best practicable option may include physical precautions (eg taking into account sound volumes and orientation of speakers in a sound system) and management based methods (eg the management of music sound levels, duration and the ability to act upon complaints received during an event).

- 3.4 The Council has in place procedures to receive, monitor and act on complaints when noise is perceived as being "unreasonable" by the surrounding community. Most of these complaints occur outside normal office hours at times when the receiving environment is more sensitive to intrusive noise. The following information has been obtained from the NCC after hours noise complaints register for 1 July 2010 to 30 June 2011:

- a total of 1722 noise complaints were received in the past year;
- those complaints relating to public or community events on public parks and open space were:

Date:	Event:	Location:	Source and Time of Complaint:
8 October '10	Nelson Cycle Festival	Central Nelson	Loudspeaker (11.21pm)
17 October '10	Regional Skateboarding Champs	Neale Park	Megaphone (7.53pm)
6 November '10	Bike rally	Maitai Camp	Bands playing (2.04pm)
14 December '10	Summer Festival Lantern Spectacular	Botanics	Drums (10.15pm)
8 January '11	Summer Six	Trafalgar Park	Rock concert (9.01pm)
26 January '11	Opera in the Park	Trafalgar Park	Concert (8.57pm)
5 June '11	Use of Clubrooms	Trafalgar Park	(5.42pm)
28 June '11	Rugby Game (Makos vs Japan)	Trafalgar Park	(10.12pm)

- There were a further three complaints relating to noise from members of the public on Council reserves, at Tahunanui Camp Ground (20 November 2010, 10.26pm), Wigzell Park (31 December 2010, 3.41pm) and the Boulder Bank (31 December 2010).
- The register does not record whether or not these complaints were upheld.

- 3.5 In the past year Nelson City Council received 8 complaints about noise from public or community events on Council reserves or open space. This represents 0.46% of all noise complaints for the year. Some of those events (ie Opera in the Park, Summer Six, the Lantern

Spectacular) were of themselves quite substantial community events or part of longer festivals, and yet only one complaint was received to each. Even if all of these complaints were upheld, the degree to which public or community events in Nelson City are generating noise that is considered “unreasonable” is statistically very minimal.

4.0 **NELSON RESOURCE MANAGEMENT PLAN – RULES RELATING TO USE OF AMPLIFIED SOUND**

4.1 This application relates to land in the Open Space Recreation Zone (Chapter 11) under the Nelson Resource Management Plan (NRMP).

4.2 Relevant rules for noise in the OSR Zone are as follows:

Rule OSr.37.1, Permitted	Rule OSr.37.2, Controlled	Rule OSr.37.3, Discretionary
<p>a) <i>Noise levels measured at, or within the boundary of any site in the Residential Zone must not exceed:</i> Day Time <i>L 10: (55 dBA)</i> Other Times <i>L10: 45 dBA</i> <i>Lmax: 75 dBA</i> <i>(Day Time means 7am to 10pm Monday to Friday, and 9am to 10pm Saturdays, Sundays and Public Holidays.)</i></p> <p>b) <i>All measurements and assessment in accordance with NZS6801:1991 and NZS6802:1991.</i></p> <p>c) <i>Sound from events and spectators at Trafalgar Park, Rutherford Park, or Saxton Field shall be exempt from the application of the limits in (a) above, provided that</i> <i>i) the events do not occur outside the hours of 7am to 10pm, and</i> <i>ii) the sound does not involve electrically amplified music.</i></p>	<p><i>Noise from any event involving electric amplification of sound, other than any event that complies with OSr.37.1(c), is a controlled activity.</i></p> <p><i>Control reserved over:</i> <i>i) noise levels, and</i> <i>ii) mitigation of noise, and</i> <i>iii) hours of the activity, and</i> <i>iv) monitoring of noise levels, and</i> <i>v) the frequency of events on a site.</i></p>	<p><i>Activities that contravene a permitted condition or a controlled standard are discretionary</i></p>

4.3 All zones in the NRMP have permitted noise limits, however the OSR Zone is the only one in which electrically amplified sound is specifically controlled. This is likely a reflection of the purpose of land with the OSR Zone:

“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)

and the use of such land for public and community events. 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.

- 4.4 In explanation of the noise rules for the Open Space Recreation Zone, OSr.37.5 states:

“The rule is to prevent unreasonable levels of noise affecting neighbouring properties. What is reasonable needs to take account of the nature of the neighbourhood, the time of day or night, and whether it is a week day or weekend.

What is reasonable may also relate to the duration or frequency of the event. Habitual noise may be more annoying than one off louder events. Temporary noise may also be tolerated more (within reason) than ongoing disturbance eg noise associated with construction.

Noise from public events in parks and reserves requires a more flexible method of control. The main source of complaint is amplified PA and sound systems, especially in parks where activities are not expected, or when noise levels will be particularly high (eg a rock concert). On the three main regional reserves (Saxton Field, Trafalgar Park and Rutherford Park) where regular events are held, an exemption from the usual residential standards is provided during the day up to 10pm, providing amplified music is not involved. For events on other parks, where amplified sound is used (whether a PA system or amplified music), the activity is controlled and will be assessed against the Nelson City Council’s Code of Practice for Noise Control for Events in Parks and Reserves. Thus a concert at Trafalgar Park (or the Botanic Gardens) would require a controlled activity consent, as would a rugby match with amplified music associated with it.”

- 4.5 A copy of the Nelson City Council’s Code of Practice for Noise Control for Events in Parks and Reserves is contained in **Annexure E**, and this has been reviewed in forming the “*Event Noise Control Information and Agreement*” appended to Malcolm Hunt Associates Report. The Code was prepared in accordance with conditions accompanying RM985339, a consent allowing the noise limits in the NRMP to be breached on a specified number of occasions per year at Saxton Field, Tahunanui Reserve, Trafalgar Park, and Church Steps/1903 Square. The Code is therefore intended to relate to only specified reserves, not the wider OSR Zone.
- 4.6 The NRMP is modelled on a cascading rule structure, ie only if the standards for a permitted activity are not met do you move into the controlled activity column and so forth.
- 4.7 There is an argument that events using amplified sounds but which comply with the noise standards in Rule OSr.37.1(a) and Rule OSr.37.1(b), and events at Trafalgar Park, Rutherford Park and Saxton Field which may exceed the noise limits but occur before 10pm and involve amplified sound other than music, are permitted activities for which no resource consent is required. That being the case, Rule OSr.37.2 would only apply to electrically amplified sound that (i) exceeds the permitted noise limits in Rule OSr.37.1(a) and Rule OSr.37.1(b) or (ii) at Trafalgar Park, Rutherford Park or Saxton Field where occurring after 10pm and/or involving amplified music.
- 4.8 The contrary interpretation, and which appears in the explanation in OSr.37.5, is that any activity in the Open Space Recreation Zone involving electrically amplified sound, or electrically amplified music at Trafalgar Park, Rutherford Park or Saxton Field, is a controlled activity:

“For events in other parks (other than Saxton Field, Trafalgar Park or Rutherford Park) where amplified sound is used (whether a PA system or amplified music), the activity is controlled...”

- 4.9 Further, where electrically amplified sound or music complies with the noise limits in Rule OSr.37.1(a) and Rule OSr.37.1(b), it cannot cascade beyond Rule OSr.37.2. It is these events or activities which are the subject of this application, as a controlled activity under the NRMP.
- 4.10 Most public or community events now involve some form of amplified public address system. As society gets more active, and in a community that values its access to arts and culture, public or community events are also becoming more frequent in Nelson.
- 4.11 The effect of these rules is that many public or community events on Council reserves, the provision of which accords with the purpose for which the reserves are managed and activities permitted on them under the NRMP schedules, technically require resource consent unless existing use rights can be established.
- 4.12 Faced with the difficulty of establishing existing use rights for activities of this nature, and the extreme inefficiency in dealing with resource consents for individual events, the Applicant has decided to address this by way of a "global" consent for events involving use of electrically amplified sound within the reserves and open spaces it administers. That consent is to be accompanied by a clear and consistent management and monitoring structure for all events, both Council and privately organised.

5.0 SECTION 104A OF THE RESOURCE MANAGEMENT ACT 1991

- 5.1 Section 104A of the Resource Management Act 1991 states:

After considering an application for a resource consent for a controlled activity, a consent authority—

- (a) must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and*
- (b) may impose conditions on the consent under section 108 only for those matters—*
 - (i) over which control is reserved in national environmental standards or other regulations; or*
 - (ii) over which it has reserved its control in its plan or proposed plan.*

- 5.2 The consent authority must grant consent, and in this case may only impose conditions in relation to noise levels, mitigation of noise, hours of the activity, monitoring of noise levels, and the frequency of events on a site.

6.0 PROPOSED ACTIVITIES

- 6.1 This resource consent application relates to the use of electric amplified sound on sites within the Open Space Recreation Zone where compliant with permitted noise limits (Rules OSr.37.1(a) and OSr.37.1(b) in the NRMP.
- 6.2 The application anticipates that the activities or events undertaken in accordance with this consent will otherwise comply with all permitted standards in the NRMP for the OSR Zone, including as the event must comply with the list of permitted activities for which any individual site is scheduled.
- 6.3 The Applicant is also volunteering that this consent is limited to the use of amplified sound during daytime hours (as defined by the NRMP) of 9am to 10pm.
- 6.4 The focus of the application is not on personal sound systems such as hand-held radios, ipods or walkmans, but small to modest sized systems as may presently be used in many parks, reserves and indoor stadiums, usually involving small hand-held loud hailer devices or small to modest sized sound systems with an amplifier of less than 200 watts audio power and 1 or 2 speakers, used to amplify sound so heard by small gatherings at a sports fixture or an audience

enjoying a small band. The use of amplified sound systems of greater than 200 watts would only arise when used indoors (ie the Trafalgar Centre) where the building will provide a degree of sound insulation or for concerts (ie Saxton Field) where the site is large and well buffered from residential areas. In all of these cases, the permitted noise limits measured at, or within the boundary of any site in, the Residential Zone will not exceed L10: 55 dBA.

- 6.5 It is important that this application is considered in the context of existing and foreseeable future events which may include amplified sound within complying noise levels. Table 1 in the MHA gives examples of existing daytime activities and events at various sites within the city which would fall within the scope of this application. The application is in effect an acknowledgement of activities already occurring in the community's use and enjoyment of the City's parks and reserves. The application does not provide for or anticipate any significant or dramatic increase in these types of sporting, recreational and cultural events.
- 6.6 There are also sporting, recreational and cultural events held in the City's parks and reserves that exceed the permitted noise limits for the OSR Zone. These are in part covered by the 1998 resource consent for four nominated public open space areas. Where not, the Applicant proposes a separate resource consent application to which it is anticipated and appropriate that wider public input to any decision be sought. This will be addressed by way of a resource consent application separate to but following on from the current one.

7.0 VOLUNTEERED CONDITIONS OF CONSENT

- 7.1 The following resource consents conditions are volunteered by the Applicant:
- (a) Any activity or event involving the use of an electrically amplified sound system under this consent must be a permitted activity for which the site is scheduled under Chapter 11, OSs.1-OSs.7 in the Nelson Resource Management Plan.
 - (b) Any activity involving the use of electrically amplified sound (other than person hand-held devices such as radios or ipods) shall only take place on any day between 9am and 10pm.
 - (c) The use of the amplified sound system shall be controlled so that the ensuing noise emissions, when considered cumulatively with the sound of non-amplified sound sources associated with the activity (excluding sounds from spectators) comply with noise limits set out under NRMP OSr.37.1(a) when measured and assessed in accordance with NRMP OSr.37.1(b).
 - (d) Speakers associated with any sound amplification systems shall be oriented to emit sound in directions as far as practical facing away from the closest residentially zoned sites.
- 7.2 As owner of these sites, the Council requires that event organisers first obtain approval from Council to hold any event on its land. With that, the Council will secure the agreement of organisers to adhere to a code of practice for noise management and control at their events. It also defines the Council's role in monitoring and enforcing noise limits. It is appropriate that this internal management system be reflected as an Advice Note on the resource consent.
- 7.3 It is appropriate, in the context of this proposal, to impose a review condition under Section 108 of the RMA. This would allow the effectiveness of the consent and its conditions to be tested, and if necessary further conditions imposed, to manage the noise impacts from the use of amplified sound on public reserves and open space. The Council's Noise Complaints Register, and records arising from the Event Noise Information and Agreement, could form the basis of an annual review.

8.0 ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT

- 8.1 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 (AEE) 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.
- 8.2 Use of the words “*effect*”, “*environment*” and “*amenity values*” in this assessment of effects on the environment should be interpreted as follows, in accordance with Sections 2 and 3 of the Resource Management Act 1991:

“**Effect**” ... includes-

- (a) Any positive or adverse effect; and
- (b) Any temporary or permanent effect; and
- (c) Any past, present, or future effect; and
- (d) Any cumulative effect which arises over time or in combination with other effects- regardless of scale, intensity, duration, or frequency of the effects, and also includes-
- (e) Any potential effect of high probability; and
- (f) Any potential effect of low probability which has a high potential impact.

“**Environment**” includes –

- (a) Ecosystems and their constituent parts, including people and communities; and
- (b) Any 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.

“**Amenity values**” means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

- 8.3 The application relates to a rule in the NRMP seeking to manage the **noise impacts** of events involving electrically amplified sound. The actual use of parks and reserves within the Open Space Recreation Zone is not at question given that:
- these sites have historically been vested and are managed for public use and enjoyment; and
 - any use of amplified sound under this consent on any individual site must be associated with an activity permitted in accordance with the NRMP schedule for that site.
- 8.4 The consent authority must also take into account any conditions volunteered or mitigation measures proposed as part of the application which will impact on the potential effects of the proposed activities. These are outlined in 7.0 above.
- 8.5 The noise effects of the proposed activities form the basis of the assessment and management recommendations of Malcolm Hunt Associates (MHA). Their report is contained in Annexure C to the application.
- 8.6 The application proposes compliance with the permitted noise limits in the NRMP – 55dBA L10 measured at or within the boundary of any site in the Residential Zone for non-music sound, with a 5dBA “penalty” to music sound in accordance with NZ 6802:1991 to offset annoyance to sounds with special audible characteristics. Given compliance with these permitted noise limits in the NRMP, and various mitigation measures that are to be employed (see 7.0 and 10.0), MHA has determined that a “reasonable” level of noise will result.

- 8.7 MHA has taken into account a range of factors in assessing the actual or potential effects of noise as a result of this activities proposed under this application:
- the representative events that are or have occurred on various sites subject of this application;
 - the physical qualities of the sites, including their size and proximity to noise-sensitive residential sites;
 - the nature of indoor sound systems for events completed by 10pm at Saxton Stadium and the Trafalgar Centre, the location of these venues relative to residential boundaries, and the noise insulating effect of the buildings themselves;
 - the type of outdoor sound systems and number of amplified sound systems that is likely for each of the representative events.

From this, MHA has predicted the L_{A10} sound levels of electrically amplified sound and other sources associated with daytime events held at representative open space and reserve sites.

- 8.8 From Table 3 in the MHA report it has been determined that:
"predicted L_{A10} sound levels ... indicate a limit of 50dB is generally met within the closest residential site when measured and assessed in accordance with NZS 6801:1991 and NZS682:1991 (as per the NRMP)" (pg 11)

Compliance with the permitted noise limits is therefore attainable on the application sites, and this will assist in the robustness of any consent.

- 8.9 These predictions have also allowed MHA to conclude that *"this translates to only reasonable levels of noise received at residential sites (if any)."* (pg 18)

- 8.10 MHA has determined that any adverse noise effects on residents will be no more than minor:

"The overall finding is that provided the specified noise management and mitigation measures are implemented, allowing the use of amplified sound in the manner proposed would result in only minor, temporary effects on the environment which are no more than minor." (pg 17)

"On this basis potential noise effects set out in Section 4 (of their report) will be suitably avoided, remedied or mitigated the resultant effects on any residentially zoned site will be no more than minor providing the consent holder adheres to the proposed conditions. On this basis, there appear no noise-related reasons why resource consent cannot be granted." (pg 19)

- 8.11 This AEE must also take into account the matters under Rule OSr.37.2 in the NRMP over which the Council has retained its control in determining this application:

- noise levels;
- mitigation of noise;
- hours of the activity;
- monitoring of noise levels; and
- the frequency of events on a site.

8.12 Noise Levels

Condition (c) in 7.0 above restricted noise levels to the permitted levels for the OSR Zone as prescribed by Rules OSr.37.1(a) and (b) in the NRMP.

MHA has determined that this translates to reasonable levels of noise (if any) received at residential sites in close proximity to the open space and reserve sites in the City.

8.13 *Mitigation of Noise*

The following measures will assist in mitigating any adverse noise effects:

- Council ownership of the sites, which afford the consent holder ultimate control over which events can or cannot take place in the OSR Zone, and the duration of amplified sound emitted from such events (none are expected to emit amplified sound for periods exceeding about 5 hours duration);
- Council involvement in running many of the events which are covered by this resource consent;
- Requirement that event organisers adhere to an “Event Noise Information and Agreement” as a noise management focus;
- The ‘daytime’ nature of the activities subject of this consent.

The Event Noise Information and Agreement is an NCC in-house management tool designed to ensure that activities permitted by the consent are properly planned and carried out in compliance with the consent. It requires that event organisers nominate a person, with contact details, who will take ultimate responsibility for setup, operation, and any monitoring and enforcement issues arising from the event. It specifies the duties of the event manager in terms of information that is required to be provided to Council both prior to and post event, the use, setup and calibration checks of sound systems, hours of operation, and monitoring of sound levels during the event. It imparts advice to event managers such as noise minimisation techniques and resource consent requirements, and requires the payment of a bond which may be fully forfeited and equipment seized for reason of excessive noise or breach of the resource consent conditions.

8.14 *Hours of the Activity*

Condition (b) in 7.0 above limits the hours during which amplified sound may be used under this consent (other than for personal devices such hand-held radios and ipods) from 9am to 10pm.

These hours fall within the definition of “daytime hours” prescribed for varying noise levels under the NRMP (*daytime means 7am-10pm Monday to Friday, and 9am-10pm Saturdays, Sundays and public holidays*), and the closing times for services open to the public in the OSR Zone where within 50m of the Residential Zone (*Sunday to Thursday inclusive 7am-11pm and Friday, Saturday, Christmas and New Year Eves 7am – 1am*). They also fall outside of those hours of 10pm – 7am which the NRMP describes as “normal sleeping hours” within the Residential Zone (Rule RER.20.4, Residential Zone).

8.15 *Monitoring of Noise Levels*

The Event Noise Information and Agreement contains specific provisions in relation to monitoring, including:

- pre-event monitoring or sound checks with the approval of and/or under the supervision of Council staff;
- nomination of an events manager or person who will be directly contactable during the event if complaints are received;
- the event organiser will be required to carried out noise monitoring for any event where the electrical amplified sound will be played at a level greater than the background sound levels at a distance of 10m from the source, for any event for which a complaint is received, or for any event if Council deems it necessary to comply with this resource consent;
- procedures to be followed in direct response to a public complaint during an event;

- the event manager must render all reasonable assistance and co-operation to the Council or its officers in monitoring and/or enforcement action required to assess and/or control noise at events.

8.16 *The Frequency of Events on a Site*

It is not proposed to limit the frequency of events at any of the sites. The reason for this is explained in 6.0 to the MHA:

"...even though these activities do not take place regularly or frequently on each site, the noise emitted from these daytime events will comply with the NRMP permitted activity noise standards. It would be ultra vires to set a higher standard of protection compared to the permitted activity standard simply because the activity involved a low level of sound (which in many cases could not be detected boundary the site boundary)."

9.0 ALTERNATIVE SITES AND METHODS

- 9.1 Any adverse effects on the environment are a result of the proposal will be no more than minor. The RMA does not require consideration of alternative sites and methods under those circumstances.
- 9.2 The application relates to Council land (reserves and open space areas) vested and managed for public use and enjoyment. These sites are appropriate for, and are where the public anticipate, that sporting, recreational, cultural and other community events and activities will be held. There are no alternative sites better suited to these activities, which contribute significantly to the culture, health and well-being of the Nelson community.
- 9.3 The Applicant has considered whether only certain sites in the OSR Zone fall within the scope of this consent. That is determined to be unnecessary due to the compliant noise levels, the size and location of various parks influencing their use, and limitations on the total number of such events that is likely to be sustained for a community the size of Nelson. A 'generic' consent applying to all OSR zoned land was considered the most efficient and appropriate in the circumstances.
- 9.4 This application arises due to the far-reaching implications of one rule in the NRMP that captures nearly all use of amplified sound in the Open Space Recreation Zone. Alternative methods of meeting the Applicant's objectives would have been a Plan Change to the Nelson Resource Management Plan, or provisions for use of amplified sound systems through Reserves Management Plans for each of the parks. The Council's Plan Policy Division has stated that it does not favour a Plan Change under its current priorities. As very few reserves have Reserve Management Plans, the second option would be a considerable task.
- 9.5 This resource consent application is considered to be the most expedient and effective means of addressing this matter. It allows for ease of administration in that all parks and open spaces will be subject to the same conditions and management requirements for events involving amplified sound systems where operated to compliant noise levels.
- 9.6 RM105091 requires a site-specific management plan for Founders Park. Founders Park is a indoor-outdoor multi-venue events complex that is growing in popularity. MHA has determined that this management technique is not justified for the current sites if the specified noise management and mitigation measures recommended in their report are implemented.

10.0 MITIGATION MEASURES

- 10.1 Mitigation measures have been addressed the volunteered conditions of consent (7.0 above), in 8.13 above, and in 6.2 of the MHA report. No further mitigation measures are considered necessary in managing the potential effects of the proposal.

11.0 MONITORING

- 11.1 Noise monitoring obligations for individual events have been incorporated in the NCC Event Noise Information and Agreement.
- 11.2 Monitoring of the effectiveness of the resource consent is provided for through the Section 128 review condition.
- 11.3 The scale and significance of any effects on the environment arising from use of amplified sound that complies with the noise limits for the OSR Zone does not warrant any special monitoring requirements beyond that provided for above.

12.0 CONSULTATION

- 12.1 Because of the nature and scale of any noise effects anticipated as a result of this application, the Applicant has not consulted any neighbours to the Open Space Recreation Zone or the wider public.
- 12.2 This application seeks to legitimise existing use of and events involving amplified sound to compliant noise levels on public parks and open space, and to formalise a management regime that will be imposed on all such events. Review of the Council's Noise Complaints Register for the past year indicates the extremely low level of complaint arising from community events on Council reserves and open space. This suggests that the wider public are not being adversely affected by events of the nature anticipated and provided for through this application.
- 12.3 It is acknowledged that there are events using amplified sound that are or will breach the noise limits for the OSR Zone. Where occurring at Trafalgar Park, Saxton Field, Tahunanui Reserve, and Church Steps / 1903 Square these may be covered by the 1998 consent, however the Applicant proposes a separate resource consent application to encompass such events and limited number of sites on which they occur. Further noise assessment analysis is being undertaken in respect of those activities. Direct consultation with neighbours to those sites, and public notification of that application, will occur.

ANNEXURE B
Sites Subject of this Application



OPEN SPACE RESERVES AND PARKS SUBJECT OF THIS APPLICATION FOR RESOURCE CONSENT

Name Legal Description

Horticultural Parks

Anzac Park	Section 1125 Nelson SO 8456, Section 1104A City of Nelson SO 112
Isel Park	Lot 3 DP 7254
Church Hill	Part Section 1179 Nelson DP 1112, Road Reserve
Fairfield Park	Section D City of Nelson SO 112
Broadgreen Rose Gardens	Lot 2 DP 2965, Part Lot 1 DP 2784, Part Section 50 DP 4585, Lot 46 DP 5508, Lot 39 DP 5508, Lot 42 DP 5508, Lot 41 DP 5508, Lot 43 DP 5508, Lot 44 DP 5508, Lot 45 DP 5508, Lot 1 DP 8376, Lot 19 DP 6193
Melrose Gardens	Part Section 1091 Nelson A767, Part Section 1093 City of Nelson SO 112, Part Section 1091 Nelson SO 112
Miyazu Japanese Gardens	Part Lot 3 DP 3202, Part Section 112 Suburban North SO 12694, Part Lot 1 DP
Queens Gardens	Part Section H Nelson SO 112, Section M of H Nelson SO 112, Lot 1 DP 10091, Part Section 202 Nelson DP 5209, Part Section 202 Nelson SO 112, Part Section 204 Nelson DP 3778, Lot 5 DP 5070

Sportsfields

Andrews Farm	Part Section 1 Brook and Maitai SO 1836, Part Section 1 Brook and Maitai SO 1210, Section 1173 Nelson SO 11570, Lot 12 DP 10777
Botanics Sports Ground	Section 1219 Nelson SO 9331, Lot 1 DP 7425
Greenmeadows Sports Field	Part Section 50 DP 4585, Lot 46 DP 5508
Marsden Recreation Ground	Lot 3 DP 10426, Part Section 57 Suburban South SO 1210, part Section 57 Suburban South A945
Neale and Guppy Parks	Lot 2 DP 7447, Lot 1 DP 7447, Part Section 2,3 ,7 & 8 Block H Wakatu SO 112 SO 10871, Part Section3, 7 &8 Block H Wakatu SO 112 SO 9340, Part Section 9 Block H Wakatu SO 112 SO 9430, Part Lot 2 DP 4261, Part Section 1, 2 Block H Wakatu SO 112 SO 10871, Lot 4 DP 4261, Part Lot 1 DP 11014, Part Lot 1 DP
Tahunanui Sports Field	Lot 1 DP 7075, Lot 6 DP 7075
Victory Square	Section 1131 City of Nelson SO 112
Waahi Taakaro Golf Course	Lot 1 DP 10588, Legal Road
Tahunanui Golf Course	Part Section 85 Suburban South-0, Lot 2 DP 17638, Lot 1 DP 4838, Part Section 111 Suburban South SO 9526
Nayland Pool	Nayland Park Complex Rec Reserve DP1770
Riverside Pool	Part lots 10 and 11 DP272
Maitai Cricket Ground	Part of Lot 5 DP10782, Lot 1 DP17416

City Reserves

Botanical Hill	Part Lot 1 DP 8194, Section 1219 Nelson SO 9931, Lot 1 DP 12660 Section 367A Nelson A296, Section 367 MR Nelson DP 1425, Part Lot 69 DP 2806, Part Section 370 Nelson SO112
Branford Park	Part Lot 1 DP 8194
Grampians	Part Section 7 Suburban South SO 1210, Lot 2 DP 5365, Lot 1 DP 5365, Lot 1 DP 13393, Wakatu SO 111, Section 21 Block D Wakatu DP 1637, Section 20 Block D Wakatu DP 1637, Section 19 Block D Wakatu DP 1637, Section 18 Block D Wakatu DP 1637, Lot 1 DP 16668, Part Section 1079B Nelson SO 112, Part Section 1229 Nelson SO 10549, Section 12 Block D Wakatu SO 112, Section 11 Block D Wakatu SO 112, Section 194A Nelson SO 112, Section 4 Block D Wakatu SO 112, Sec30 Block D Wakatu SO 1210, Section 31 Block D Wakatu SO 1210
Haulashore Island	Lot 1 DP 14762, All DP 1398 and Sections 1100, 1097, 1098 City of Nelson
Oyster Island	Part DP 599
Sir Stanley Whitehead Park	Lot 1 DP 17014, Lot 1 DP 7425
Tahunanui Beach Reserve	Lot 1 DP 7075, Lot 7 DP 7075, Part Section 85 Suburban South-0, Lot 4 DP

OPEN SPACE RESERVES AND PARKS SUBJECT OF THIS APPLICATION FOR RESOURCE CONSENT

Corder Park	Part Section 12 Suburban North A503, Part Section 11 Suburban North A503, Part Section 11 Suburban North A511, Part Section 11A Suburban North A511, Part Section 11A Suburban North SO 10632, Lot 1 DP 6100
Wakapuaka Sand Flats	Lot 1 DP 13614, Lot 1 DP 5602, Lot 1 DP 14320
Marsden Valley Reserve	Part Section 29 Suburban South DP 1054, Part Section XVII Suburban South DP 1054, Part Section 29 Suburban South SO 1210, Lot 5 DP 15422, Part Section VII Suburban South SO 1235
Founders QEII etc	Part Section 9 Block H Wakatu SO 13384, Part Section 112 Suburban North SO 12694, Part Lot 1 DP 6968, Lot 1 DP 10735, Lot 2 DP 10735, Lot 3 DP 10735,
Wakefield Quay	Lot 1 DP 17332, Lot 2 DP 6513, Lot 1 DP 6513, Lot 3 DP 3033, Lot 2 DP 3303, Lot 4 DP 17301, Lot 1 DP 3033,
Airport Peninsula	Lots 1 and 2 DP 19886
1903 Site Reserve	Part Lot 2 DP 15732
Maitai Cricket Ground surrounds/ Maitai Walkway	Part of Lot 2 DP 8194, Part of Lot 5 DP 10782, Gaz 1919 p777 Sec 15 Blk IX Wakapuaka SD
Monaco Airnoise Reserve	Lots 1, 2, 3, 4 and 5 DP 18320, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 DP 18321

Regional Reserves

Rutherford Park	Part Section 1126 Nelson SO 1131, Part Section 1178 Nelson SO 2207, Part Section 1167 SO 2207, Part Lot 3 DP 11014, Part Section 148MR Nelson SO 7620, Part Section 148MR Nelson DP 1473, Section 1168 Nelson SO 7187, Part Section 1178 Nelson SO 7733, Part Road, Part Maitai River
Saxton Field	Part Section 76 Waimea East DP 3154, Part Section 76 Waimea West SO 1210 SO 9878, Part Section 75 Waimea East SO 1210 SO 9878, Part Section 75 Waimea East DP 3154, Lot 2 DP 3926
Trafalgar Park	Part Section 239A Nelson SO 9463, Part Section 239A Nelson SO 112 So 6667, Section 242A Nelson A274, Section 10 Block H Wakatu A274, Section 1162 Nelson SO 6796, Part Section 11 & 12 Block H Wakatu A274, Part Lot 3 DP Maitai Bowling Club: Part H 11, Part H 12, H13, H14 SO 4906

Neighbourhood Parks

Abraham Heights Reserve	Lot 87 DP 9669, lot 90 DP 9583
Aldinga Reserve	Lot 48 DP 16211, lot 16 DP 16328, lot 75 DP 14559, lot 24 DP 13748, lot 91 DP 15047, lot 39 DP 14024
Ballard Drive Reserve	Lot 6 DP 17792
Bayview Road Reserve (North)	Lot 40 DP 8723
Beatson Road Reserve	Lot 22 DP 2049
Betsy Eyre Park	Sec 1272 City of Nelson SO 12461
Bishopdale Reserve	Lot 2 DP 9329, lot 3 DP 11570, lot 2 DP 15613
Bishops Park	Lot 62 DP 3786
Bisley Reserve	Lot 11 DP 1413
Blackwood Street Reserve (East)	Lots 18 and 19 DP 9332
Blackwood Street Reserve (West)	Lot 12 DP 13786
Bledisloe Avenue Reserve (North)	Lot 2 DP 7646, Pt lot 22 DP 4057
Bledisloe Avenue Reserve (South)	Pt lot 8 DP 3704, lot 4 DP 6186
Bolt Road Reserve	Lot 12 DP 14442
Branford Park	Pt lot 1 DP 8194 (part of)
Brook Street Playground	Sec 1272 SO 12461
Burrell Park	Pt lot 1 DP 6156, Pt lot 2 DP 979
Cawthron Crescent Reserve	Lot 48 DP 6335
Centennial Park	Lot 5 DP 3010, Pt lot 1 DP 3691, Pt lot 8 DP 3010
Corder Park	Pt sec 11B A511, Pt sec 11A A511, Pt sec 11 A511, Pt sec 11 A503, Pt sec 12 Pt sec 11A SO 10632, lot 1 DP 6100
Devon Street Reserve	Lot 4 DP 9765

OPEN SPACE RESERVES AND PARKS SUBJECT OF THIS APPLICATION FOR RESOURCE CONSENT

Emano Street Reserve (West)	<i>Pt sec 33 Blk E Wakatu District SO112</i>
Enner Glynn Kindergarten	<i>Lot 17 DP 17744</i>
Enner Glynn Reserve	<i>Lot 49 DP 13107</i>
Erin Street Reserve	<i>Road reserve</i>
Foster Reserve	<i>Lot 1 DP 7749</i>
Fountain Place Reserve	<i>Road reserve</i>
Grove Street Kindergarten and	<i>(part of) Lot 2 DP 2359</i>
Guppy Park Carpark Reserve	<i>Pt sec 3 Blk H Wakatu District SO112 SO 10871, Pt sec 2 Blk H Wakatu District SO 112 SO 10871, (part of) lot 1 DP 7447</i>
Hanby Park	<i>Lot 1 DP 18106, road reserve</i>
Harford Court Reserve	<i>Lot 11 DP 16440, part road reserve</i>
Hira Store Reserve	<i>Sec 108 Suburban North District SO 2103</i>
Keats Crescent/Shelley Crescent Central Reserve	<i>Lots 19 and 20 DP 7178, lots 3 and 4 DP 7106</i>
Kowhai Avenue/Stafford Avenue	<i>Lot 8 DP 2382, lot 28 DP 3415</i>
Maire Street Reserve	<i>Lot 10 DP 1783</i>
Manson Avenue Reserve	<i>Pt lot 10 DP 5220</i>
Marybank Reserve	<i>Lot 6 DP 5737, lot 38 DP 6490</i>
Miyazu Park	<i>Pt sec 9 Blk H Wakatu District SO 13384, Sec 39 Blk IX Wakapuaka Survey District SO 13384, Pt lot 2 DP 6099, Sec 41 Blk IX Wakapuaka Survey District SO 13384, Lot 1 DP 6099, Road reserve</i>
Monaco Reserve	<i>Lot 32 DP 1288</i>
Moncrieff Reserve	<i>Lot 12 DP 17474</i>
Montrose Drive Reserve	<i>Lot 3 DP 9940</i>
Murphy Street Reserve (Lower)	<i>Lot 54 DP 4341, lot 55 DP 4341</i>
Murphy Street Reserve (Upper)	<i>Pt sec 35 Blk E Wakatu District DP 4099</i>
Neale Avenue Reserve	<i>Lot 36 DP 5608</i>
Ngaio Street Reserve	<i>Lot 58 DP 3315</i>
Ngapua Reserve	<i>Lot 43 DP 9961</i>
Nikau Street Reserve	<i>Lot 4 DP 4819</i>
Orchard Stream Gardens	<i>Lot 1 DP 16994</i>
Paddy's Knob	<i>Lot 26 DP 2064</i>
Paru Paru Road Reserve	<i>Sec 1169 City of Nelson SO 2308</i>
Peace Grove	
Pepper Tree Park	<i>Lot 14 DP 17751</i>
Pioneers Park	<i>Lot 10 DP108, Lot 11 DP 108, Lot 12 DP 108, Lot 8 DP 97, Pt Sec 78 City of Nelson A 221, Lot 2 DP 846, Pt Sec 73 City of Nelson DP 689.</i>
Pipers Park Observatory	<i>Lot 2 DP 5769, Road reserve</i>
Poplar Reserve	<i>Lot 4 LT 18225</i>
Princes Drive Lookout	<i>Lot 26 DP 14687</i>
QEII Landfill Mounds	<i>Pt lot 1 DP 6968</i>
Ranui Reserve	<i>Lot 27 DP 2930, lot 7 DP 3129, Lot 18 DP 3496, Lot 8 DP 4062</i>
Russell Street Playground	<i>Lots 1 - 3 DP 1764</i>
Sequoia Reserve	<i>Lot 16 DP 12084</i>
Songer Street/The Ridgeway Corner Wilderness Reserve	<i>Lot 1 DP 6529, Lot 4 DP 806, Road reserve</i>
Station Reserve	<i>Lot 17 DP 4603, (part of) Suburban South District SO 11507</i>
Te-Ata Place Reserve	<i>Lot 42 DP 996</i>
Tosswill Reserve	<i>Pt sec 11 Suburban South District DP 1186, Lot 2 DP 3125, Lot 3 DP 3125, Lot 4 DP 3125, Pt lot 2 DP 2314, Pt lot 1 DP 3125</i>
Tresillian Avenue Reserve	<i>Lot 43 - 45 DP 8969</i>
Vosper Reserve	<i>Lot 8 DP 14078</i>
Waimea Road Kindergarten	<i>Lot 9 DP 4321</i>

OPEN SPACE RESERVES AND PARKS SUBJECT OF THIS APPLICATION FOR RESOURCE CONSENT

Wakapuaka Hall Playground	<i>(part of) Lot 1 DP 9159</i>
Wards Playground	<i>Lot 2A 229, Lot 3A 229</i>
Waterhouse Street Reserve	<i>Lot 1 DP 10314, Lot 33 DP 13828</i>
Wellington Street Playground	<i>Lot 3 DP 7326</i>
Wellington Street Walkway and	<i>Road reserve</i>
Werneth Reserve	<i>Lot 14 DP 11754, Lot 7 DP 13656</i>
Wigzell Park	<i>Pt sec 908 City of Nelson A 158, Road reserve</i>
Wolfe Street Reserve	<i>Lot 4 DP 16928</i>
Basin Reserve	<i>Road reserve</i>
Douglas Reserve	<i>Lot 11 DP 10170, Lot 12 DP 10170, Road Reserve</i>
Queens Road Reserve	<i>Sec 1212 City of Nelson SO 9715</i>
Future Reserve	<i>Lots 1 to 35 DP 353023: Private Plan Change 05/03 or Lots 36 & 38 DP 353023, CT 233530: Private Plan Change 05/04. Final legal description pending subject to future subdivision.</i>
Future Reserve	<i>Lots 1 to 35 DP 353023: Private Plan Change 05/03 or Lots 36 & 38 DP 353023, CT 233530: Private Plan Change 05/04. Final legal description pending subject to future subdivision.</i>

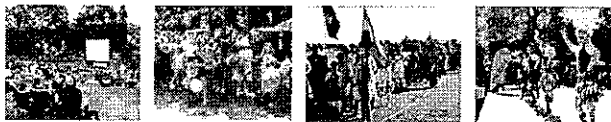
Cemeteries

Hallowell	<i>Part Section B City of Nelson SO 4180</i>
Hira	<i>Part Section 28 SO 1174, Part Section 9 Block VI Wakapuaka SO 6924, Part Section Suburban North SO 1174 VI</i>
Marsden Cemetery	<i>Section 110 Suburban South, Lot 1 DP 18451 and Lot 6 DP 18204.</i>
Quakers Acre	<i>Lot 6 DP 1571</i>
Seaview Stoke Cemetery	<i>Lot 46 DP 9983, Sections 127, 128 & 129 District of Suburban South SO 10649</i>
Wakapuaka Cemetery	<i>Part Lot 1 DP 655, Part Section 1 Suburban North SO 2995, Part Section 1 Suburban North SO 994 SO 9259, Road Segment</i>

Motor Camps

Brook Reservoir Motor Camp	<i>Lot 2 DP 764, Lot 53 DP 210, Section 47 Brook and Maitai SO 12445; Part Section 41 Brook and Maitai SO 112, Part Section 9 Brook and Maitai DP2634, Lot 49 DP210, Part Section 9 Brook and Maitai SO 112, Part Lot 51 DP 210, Lot 1 DP 5496, Part Section 9 Brook and Maitai SO 1210</i>
Tahunanui Motor Camp	<i>Lots 2, 4 & 7 DP 7075</i>
Maitai Motor Camp (Waahi)	<i>Part Section 6 Block I Maungatapu SD CT 43/66</i>

ANNEXURE C
Noise Assessment and Management Recommendations
Prepared by Malcolm Hunt Associates



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Assessment of Environmental Noise Effects

Use Of Amplified Sound At Compliant Levels Within Open Space Sites In Nelson City

Noise Assessment & Management Recommendations

Date of Issue:
Monday, 22 August 2011

Report Reference:
Reference: 87556-11[Rpt-FIN V3]

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Use Of Amplified Sound At Compliant Levels Within Open Space Sites In Nelson City

Noise Assessment & Management Recommendations

MalcolmHuntAssociates

noise and environmental consultants



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Use of Amplified Sound at Compliant Levels Within Open Space Sites In Nelson City

Noise Assessment & Management Recommendations

MalcolmHuntAssociates

Consultants

1.0 Introduction

Malcolm Hunt Associates [MHA] have been commissioned by Nelson City Council [NCC] to assess noise effects associated with a Resource Consent application to authorise electrically amplified sound associated with cultural, recreation and sporting events to be emitted during daytime¹ on any site within the Open Space/Recreation zone at levels up to [but not exceeding] the permitted noise limits of Rule OSr.37.1 [a] and [b] of the Nelson Resource Management Plan [NRMP].

The application does not include a proposal to increase allowable NRMP noise limits currently protecting residentially zoned sites from excessive or unreasonable noise arising on Open Space and reserve sites. This assessment of environmental noise effects focuses on noise emissions that create effects no greater than those already provided for by the current NRMP noise limits. The assessment has been prepared in accordance with the fourth schedule to the Resource Management Act 1991 [RMA] specifically considering this limited amount of sound emitted from electrically amplified sources associated with a range of sporting, recreational and cultural activities taking place on nominated Open Space /Recreation sites.

The assessment is in terms of potential adverse effects of sounds from amplified sound systems affecting residential receiving environments located within proximal distance to the Open Space sites. This is an appropriate focus given that the NRMP requires noise from all other sources located on Open Space and Reserve sites to comply with limits designed to protect only residentially zoned sites.

The noise effects being assessed are those would arise during daytime only and be limited to those associated with the maximum noise limits as currently specified within the NRMP. The consent does not seek to allow additional levels of noise emission from Open Space sites over and above the limits currently stipulated with the NRMP which remain in effect.

2.0 Background

The Nelson Resource Management Plan does not allow the use of "electric amplification of sound" on Open Space Reserves as a permitted activity. As explained below, Rule OSr.37.2 sets out that noise from "electrical amplification of sound" on any site zoned Open Space requires resource consent as a controlled activity. That is the case, whether or not the level of sound from such systems can be shown to fully comply with the decibel limits applying to activities on Open Space and Reserve sites.

The term "electric amplification of sound" is not defined in the NRMP although this is generally used to describe outdoor sound systems known as "public address" or PA systems. Wikipedia states "*The simplest PA systems consist of a microphone, a modestly powered mixer amplifier and one or more loudspeakers. Simple PA systems of this type, often providing 50 to 200 watts of power, are often used in small venues such as school auditoriums, churches, and small bars. A sound source such as a CD player or radio may be connected to a PA system so that music can be played through the system.*"

¹ According to the Nelson Resource Management Plan "Day Time" means 7am to 10pm Monday to Friday, and 9am to 10pm Saturdays, Sundays and Public Holidays.

Outdoor sporting, cultural and sporting events held on Open Space and Reserve sites under this application generally only involve small scale outdoor sound systems with amplifiers having a "audio power"² in the order of 50 to 200 watts [total]. Outdoor sound systems likely to be employed under this application with an audio power rating greater than about 200 watts are those used in association with outdoor music concerts at Saxton Field which, as explained below, is a large site with large buffer areas resulting in only low sound levels at residential sites. Concerning indoor events held on Open Space/Recreation zoned sites, the use of amplified sound systems >200 watts relates only to concerts held within the Trafalgar Centre which, as discussed below, is sufficiently designed to contain high levels of sound within the building, and is located at sufficient distance to residential sites such that compliance is achieved with the applicable NRMP noise limits.

The focus of the application is therefore on modest sized outdoor systems as may be used at many parks and reserves often involving small, hand held "loud hailer devices" or small or modest sized sound system with an amplifier <200 watts audio power, 1 or 2 speakers suited to amplifying voice such that this sound can be heard by small gatherings at a sports fixture or an audience enjoying a small jazz band.

An example of the activities proposed to be provided for by the current application is the use of modest sized indoor public address system installed in the new Saxton Indoor Stadium which has an indoor area of 7,000m² and incorporates five netball courts, five basketball courts, and 12 volleyball courts. The small amplified sound system installed within this facility provides for public announcements for information [and safety] for users of the complex and is not suited to use for amplified music. The stadium is over 250 metres to the closest residentially zoned site. There is no likelihood of these sounds being detected beyond the site boundary.

An outdoor example is the use of amplified sound at Nayland Swimming Pool which has one small outdoor speaker sometimes used for public announcements which currently does not operate on an Open Space or Reserve site under a controlled activity consent. Schools conducting swimming sports at this venue bring along handheld loud hailers to the sports to help with announcements which would also fall outside of the range of activities permitted for this site. Under the NRMP these sources need to be authorised as a controlled activity.

The last category of amplified sound sources which are sought to be authorised by this consent are the many small personal radios, iPods, CD players, walkman etc. which are used by many people on Open Space and Reserve sites on a daily basis to electrically amplify sound and convey it directly into the ear canal via headphones. The sounds generated by such systems on Open Space and reserve sites appear to be captured by Rule OSr.37.2 although these small sounds have no effect on wider environment.

To a large extent the noise sources, events and activities covered by this consent already take place within the district, largely without any demonstrable adverse noise effects on the environment. The Council has developed methods to manage the effects of amplified sound on Open Space and Reserve sites, where these sounds are likely to arise at significant levels due to indoor or outdoor sources. In some cases Council has obtained resource consents to permit the use of amplified sound on some sites, to a limited degree, with built-in management controls to ensure compliance with the NRMP noise limits. The management of noise effects is aided by;

1. Council ownership of the sites which gives Council ultimate control on what can or cannot take place on Open Spaces sites and Reserves.
2. Existing relationships with event organisers, with Council in many cases directly involved in running the event assists in managing effects, including noise.
3. Permissions by Council for use of Council Open Space and Recreation sites require event organisers to adhere to an "Event Noise Control Information and Agreement" which has a noise management focus. This document is an updated version of an earlier Code Of Practice used to control events [including noise from these events].

² "Audio power" is the electrical power transferred from an audio amplifier to a loudspeaker, measured in watts. The electrical power delivered to the loudspeaker and its sensitivity determines the sound power level. Ref: http://en.wikipedia.org/wiki/Audio_power

While provision sought within this application to reasonably provide for foreseeable future events which include amplified sound, the application does not provide for any large increase in these types of sporting, recreational and cultural events or in their ensuing noise effects.

This consent application does not include provision for the use of electrically amplified sound at Founders Park. As set out in **Section 5.3** below, NCC currently hold a resource consent [RM105091] approved in April 2010 to allow the use of amplified sound at Founders Park, subject to a Noise Management Plan and use of specific buildings and outdoor areas. Consent RM105091 will remain in effect authorising electrically amplified sound at Founders Park regardless of the outcome of this consent.

3.0 Assessment Method

This assessment of noise effects is based on predictions and calculations of potential noise levels received within residential sites from representative public and community events taking place on nominated Open Space and reserve sites across the district.

The assessment has considered both the physical attributes of each Open Space site together with the attributes of typical community and public events that involve the use of amplified sound. A consideration of cumulative noise [including sounds not associated with amplified sound] has been made to ensure cumulative noise effects are adequately assessed. It is noted the NRMP exempts sound from daytime events and spectators³ at Trafalgar Park, Rutherford Park, or Saxton Field where the sound does not involve electrically amplified music.

The analysis below shows that by ensuring the use of amplified sound is kept to within a scale matched to the physical qualities of the site [specifically, the site size and distance to noise-sensitive residential sites], potential noise effects associated with the controlled use of amplified sound on Open Space and Reserve sites can be managed to comply in all respects with the NRMP noise limits [including the 5 dB adjustment for music type sound] so as to avoid residential sites receiving excessive or unreasonable noise from this source.

3.1 Physical Qualities Of Open Space Reserve Sites

Appendix B sets out the range of Open Space and Reserve zoned sites at which events involving electrically amplified sound may take place and indicates which of these sites have existing activities taking place which require, at some stage, the use of amplified sound. **Appendix B** also sets out some basic qualities [in noise effects terms] for each reserve site for which events requiring amplified sound will or has taken place.

Table 1 below sets out the site name and description of representative range of daytime events taking place on Open Space and Reserve sites which involve some electrically amplified sound. This list of representative events has been put together for assessment purposes and is not an exhaustive list.

The Open Space Reserves have been analysed in terms of;

- a) Size of reserve / park [in square metres]
- b) Proximity to noise-sensitive residential sites [metres from site boundary]
- c) Distance from the centre of the site to the closest residential site [metres]

Generally, Open Space and reserve sites are found to be quite large. An analysis of the size of the sites for which existing foreseen activities and events take place reveals a size distribution as shown in **Figure 1**.

³ The exclusion of sounds from spectators is a practical necessity and is common within noise emission limits for sporting and cultural facilities in New Zealand. On this basis it is recommended to be excluded from assessment with the proposed conditions set out within Section 7 below.

Site	Example Daytime Activities
Saxton Field	Sporting & recreation events* Circus Masters games Private/club functions*
Fairfield	Sporting & recreation events Summer Outdoor movies
Victory Square	Sporting & recreation events Global soccer festival Community fairs and celebrations
Isel Park	Sporting & recreation events Summer Outdoor movies Teddy Bear's Picnic Isel in Bloom
Rutherford Park/ Trafalgar Centre	Ecofest Sporting & recreation events Concerts in Trafalgar Centre up to 10pm*
Founders Park QEII	Community fairs and celebrations* Private functions*
Broadgreen House	Broadgreen Rose Day
Wakefield Quay	Community fairs and celebrations
Botanicals Park	Community fairs and celebrations Sporting & recreation events
Botanicals Hill	Community fairs and celebrations
Anzac Park	Community fairs and celebrations
Neale Park	Community fairs and celebrations
Tahunanui Reserve	Events at BBQ space Sporting & recreation events Community fairs and celebrations
Trafalgar Park	Private functions Sporting & recreation events
Church Steps/1903/Upper Trafalgar St	Santa Parade Political protests and promotions

Table 1 Representative events involving electrically amplified sound proposed for a range of Open Space and Reserve sites [see Appendix B for a full list]. * Note; Some activities involve amplifications systems used indoors only.

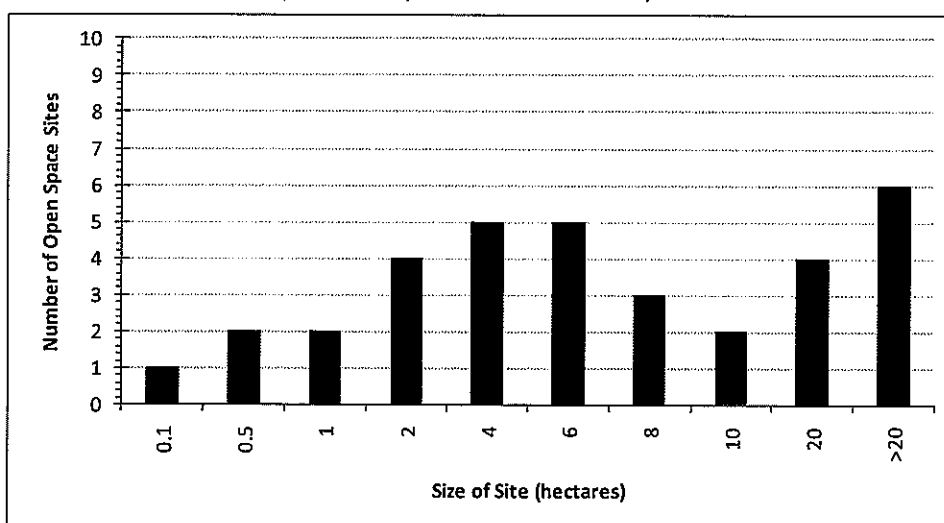


Figure 1 Histogram of the size distribution of Open Space and Reserve sites listed in Appendix B where existing and foreseen events take place incorporating the use of electrically amplified sound.

The large, open nature of the sites zoned Open Space and reserves enables activities incorporating electrically amplified sound to be located away from noise sensitive boundaries which is a significant factor in limiting levels of sound received at residential sites.

Site size and proximity to residentially zoned sites are key factors which determine basic "noise sensitivity" of an event site and is a key consideration of the assessment set out below.

3.2 Sound Levels from Typical Events

The method of assessment has been to determine the nature and scale of potential sound sources by undertaking predictions of representative noise levels likely to be received at residential receiver sites located in the vicinity of these typical sites. Noise impacts on the surrounding environment is a function of the type of event and amplification system used.

The assessment⁴ of the scale of sound emissions from electrically amplified sound systems commonly employed at the range of indoor and outdoor events are reliant on sound levels at source, which in turn are reliant upon size of the amplifier[s], the number and types of speakers and whether they are located indoors or outdoors. The sound system parameters used in the assessment of noise effects are described in the following sections;

3.3 Indoor Sound Systems & Levels

Outdoor environmental noise effects due to indoor sound systems requires a consideration of the building structure in addition to the factors set out below regarding sound propagation outdoors. The indoor music events considered by this assessment are those completed before 10pm at the following sites;

- Saxton Indoor Stadium
- Trafalgar Centre
- Founders Park

Typical indoor music concerts may involve sound systems of between 1,000 to 5,000 watts [or more] and result in an indoor noise level of around 100 dBA at the sound mixing desk. This sound would typically be measured outdoors, near the exterior of the venue at 50 to 60 dBA providing the doors and openings are kept shut, or there are suitable foyers or lobbies which we understand is the case.

As the indoor concert venue sites are all well separated from residential boundaries means concert sound escaping from the venue building is also reduced with distance to the closest residential site. This application does not apply to events involving electrically amplified sound that take place beyond 10pm in the evening.

Music sound from daytime indoor concerts measured within residential sites would attract a 5 dB penalty under NZS6802 for special audible characteristics. In that case measured levels would need to comply with a limit of L_{Aeq} 50 dB when measured and assessed using NZS6801 and NZS6802 within any residentially zoned site.

Given the distances involved, L_{A10} outdoor sound levels on residentially zoned sites from indoor events and concerts held within buildings on existing Open Space sites are reduced to L_{Aeq} 50 dB or less on any residentially zoned site. To this extent these sounds received on residentially sites will avoid the potential adverse noise effects set out below in **Section 4**.

3.4 Outdoor Sound Systems & Levels

Sound amplification systems used outdoors at the various parks and reserves vary in size and configuration depending upon the event type and purpose. Typically, the sound system are modest sized units suitable for voice only but sometimes also used for music, such as used at typical sports meetings for announcements, prize giving, etc.

For the purposes of estimating noise effects, three categories of sound systems have been assessed, with each category assigned to each representative site/activity.

⁴ Note, due to *di minimus* effects, this assessment of environmental noise has excluded consideration of sound associated with personal music players and any other device requiring the use of headphones.

The three types of typical outdoor sound systems are shown below in **Figure 2**. These systems have the assumed sound outputs set out below based on typical levels measured at the Cuba Street carnival and at other such outdoor events.

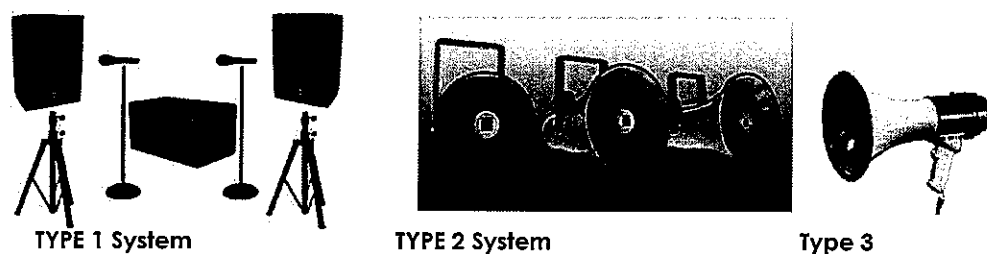


Figure 2: Example of outdoor sound amplification systems used for representative sporting, cultural and sporting events.

The sound system types and activity details have been researched with NCC staff and sound system suppliers to reflect as close as possible the nature and scale of these daytime activities. The assumed sound levels are:

- Type 1 = 92 dBA at 5 metres eg Compact amplifier speakers with the same effect as a system having up to 200 watt rating.
- Type 2 = 79 dBA at 5 metres eg. pole mounted PA with sound horns [speech mainly]
- Type 3 = 73 dBA at 5 metres eg. Small handheld loud hailer

Predicted outdoor sound levels at the closest residential sites are based on the above sound levels at source, and numbers of amplified noise sources operating simultaneously as set out in **Table 2**. The source locations are assumed to be centred on each site as typical of the layout of sporting, recreational and cultural events held on these sites.

Site	Activity [Up to 10pm ONLY].	Source TYPE*	No. Sources
Saxton Field	Sporting & recreation events Circus Masters games	Type 1	6
			3
			3
Fairfield	Sporting & recreation events Summer Outdoor movies	Type 2	2
			2
Victory Square	Sporting & recreation events Global soccer festival Community fairs and celebrations	Type 2 Type 2 Type 3	2
			2
			2
Isel Park	Sporting & recreation events Summer Outdoor movies Teddy Bear's Picnic Isel in Bloom	Type 2 Type 2 Type 3 Type 3	2
			2
			2
			4
Rutherford Park/ Trafalgar Centre	Ecofest Sporting & recreation events	Type 2 Type 2	6
			2
Broadgreen House	Broadgreen Rose Day	Type 2	2
Wakefield Quay	Community fairs and celebrations	Type 2	2
Botanicals Park	Community fairs and celebrations	Type 2	2
Botanicals Hill	Community fairs and celebrations	Type 2	2
Anzac Park	Community fairs and celebrations	Type 2	2
Neale Park	Community fairs and celebrations	Type 2	2
Tahunanui Reserve	Events at BBQ space Sporting & recreation events Community fairs and celebrations	Type 3 Type 2 Type 2	4
			3
			3
Trafalgar Park	Private functions Sporting & recreation events	Type 2	2
Church Steps/1903/Upper Trafalgar St	Santa Parade Political protests and promotions	Type 1	3
			2

Table 2: Number and type of electrically amplified sound sources for each representative location selected for daytime events on Open Space and Reserve sites.

Cumulative sound levels including an allowance for non-amplified sound sources⁵ are set out in **Table 3** below. The sound levels are predicted as L_{A10} levels, in decibels.

Typical levels of amplified sound received in the local area around each event site or venue have been calculated according to ISO 9613 *Acoustics -- Attenuation of sound during propagation outdoors -- Part 2: General method of calculation*.

The sound system sources adopted within the acoustic modelling assumes speakers are oriented away from the closest residential locations, and are controlled by the appointed site or event manager to reasonable levels of sound emission.

Noise predictions take into account distance from source, air absorption, terrain effects and sound propagation under worse case meteorological conditions with a light following wind [2 to 5 km/hr]. Such meteorological conditions re-distribute sound in a manner that causes the greatest effect at distant receiver sites [where sound levels are lowest] whereas receiver sites close to the venue will experience virtually no change in received sound levels as a result of enhanced propagation.

To ensure cumulative noise effects are adequately assessed calculations of sound levels for each representative event are an aggregate of cumulative amplified sound and sounds from other sources excluding crowd noise. For example, the use of multiple speaker locations means that the typical contribution from each speaker must be added together [as well as sound from other sources] when assessing the overall noise level of amplified sound systems.

⁵ Sounds from non-amplified sources such as people, small generators are assumed to be received at levels between 8 to 10 dB less than sounds from sound amplification systems.

Site	Activity [Up to 10pm ONLY]	Source TYPE*	No. Sources	Distance To Res. Boundary [m]	Predicted LA10 dB
Saxton Field	Sporting & recreation events Circus Masters games	Type 1	6	>240	43.2
		Type 1	3	>240	40.1
		Type 1	3	>240	40.1
Fairfield	Sporting & recreation events Summer Outdoor movies	Type 2	2	65	49.7
			2	65	49.7
Victory Square	Sporting & recreation events Global soccer festival Community fairs and celebrations	Type 3	2	55	49.2
		Type 3	2	55	49.2
		Type 3	2	55	49.2
Isel Park	Sporting & recreation events Summer Outdoor movies Teddy Bear's Picnic Isel In Bloom	Type 2	2	69	49.2
		Type 2	2	69	49.2
		Type 3	2	69	43.2
		Type 3	4	69	46.2
Rutherford Park/ Trafalgar Centre	Ecofest Sporting & recreation events	Type 2	6	185	45.4
		Type 2	2	185	40.6
Broadgreen House	Broadgreen Rose Day	Type 3	2	50	49.0
Wakefield Quay	Community fairs and celebrations	Type 2	2	85	47.4
Botanicals Park	Community fairs and celebrations	Type 2	2	80	47.9
Botanicals Hill	Community fairs and celebrations	Type 2	2	160	41.9
Anzac Park	Community fairs and celebrations	Type 2	2	130	43.7
Neale Park	Community fairs and celebrations	Type 2	2	120	44.4
Tahunanui Reserve	Events at BBQ space Sporting & recreation events Community fairs and celebrations	Type 3	4	100	43.0
		Type 2	3	100	47.8
		Type 2	3	100	47.8
Trafalgar Park	Private functions Sporting & recreation events	Type 2	2	100	46.0
Church Steps/1903/Upper Trafalgar St	Santa Parade Political protests and promotions	Type 1	2	128	44.8
		Type 1	2	128	44.8

Table 3: Predicted LA10 sound levels of electrically amplified sound and other sources associated with daytime events held at representative Open Space and Reserve sites.

Predicted L_{A10} sound levels in **Table 3** indicate a limit of 50 dB is generally met within the closest residential site when measured and assessed in accordance with NZS6801:1991 and NZS6802:1991 [as per the NRMP].

Amplified Sounds from music typically possess "special audible characteristics" such as low frequency beat components and tonal characteristics. These sounds [especially low frequency sound] can increase the annoyance reaction to these types of sounds. The effects of potentially additionally annoying characteristics of music sound received at the relevant receiver locations have been taken into account. Compliance with the NRMP daytime noise limits has taken into account NZ6802: 1991 "Assessment of Environmental Sound" which sets out procedures for the assessment of such sounds by lowering the compliance limits to 5 dB lower than the permitted NRMP noise limits [refer NZS6802 Clause 4.3 and 4.4].

Note, no account has been of the ability to average measured L_{A10} sound levels under NZS6802:1991 when determining compliance with daytime noise limits of the NRMP. This averaging allows for measured levels up to 5 dB in excess of the applicable limit to be offset against lower measured L_{A10} levels that may occur at less noisy times. The application of this averaging is uncertain within the assessment exercise being undertaken here and has not been exploited in assessing potential compliance with NRMP [even though, in practice, compliance assessment would need to be based on a series of L_{A10} readings and an average determined in accordance with NZS6802:1991 in order to assess compliance].

L_{max} sound levels represent the single highest sound level sampled during the monitoring period and are controlled by short-duration sound events such as bangs and crashes. Limits on L_{max} sound levels are typically applied during the night time period as a sleep protection measure and are not therefore applied to the daytime events assessed here.

It may however be worth noting that measurements of type music concerts and events has shown the L_{max} to be generally within 10 dBA of the measured L_{Aeq} or L_{A10} levels. Thus, the predicted L_{10} levels can be used as a guide to expected L_{max} levels. Generally, music and sporting events do not generate high levels of L_{max} sound, with noise limits based on L_{10} being appropriate to control potential adverse noise effects.

4.0 Effects of Noise

Noise is defined within the Resource Management Act 1991 as "unwanted sound" and includes vibration. The literature indicates environmental noise, such as may be emitted by recreational and entertainment activities can cause a range of noise effects for people in the local environment summarised as follows;

- Annoyance;
- Mental health effects [including noise-induced stress-related effects];
- Sleep disturbance – if the event occurs after 10pm;
- Speech interference - high levels of noise can make normal speech difficult to hear;
- Performance – can interfere with tasks requiring concentration

Typical noise levels commonly experienced include:

- 40 to 50 dBA in a general office situation or outdoors in residential areas during daytime.
- 60 dBA when talking normally to someone 1 to 2 m away.
- 65 to 75 dBA when riding in a car at highway speeds.
- 85 to 95 dBA while cutting the grass with motor mower.

A graphical example of the decibel level of some common sound sources is shown in **Figure 3**.

The capacity of noise to induce annoyance depends upon its physical characteristics, including its sound pressure level and spectral characteristics [frequency content], as well as the variations of these properties over time. However, annoyance reactions are also determined by many non-acoustical factors of a social, psychological or economic nature. While there are considerable differences in an individual's reaction to the same noise, the guidance set out within district plan noise rules and within New Zealand acoustic standards are based on social survey research on community response to noise. As such, published noise criteria are based on the typical response of the "average person" who is not overly sensitive or insensitive to sound in the environment.

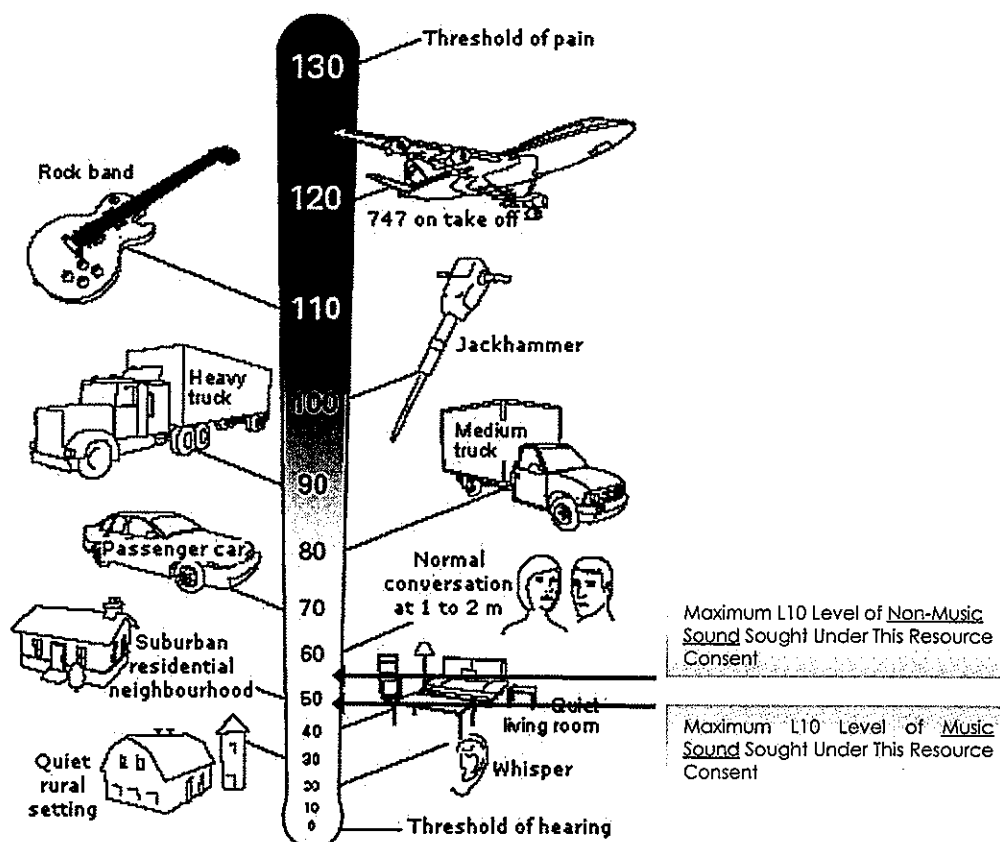


Figure 3: Decibel levels associated with typical everyday noise sources.

Figure 3 shows the maximum levels of noise [LA₁₀, dB] sought under this resource consent which is below many common sounds experienced in residential areas. The limits shown reflect the maximum allowable NRMP limit of 55 dB applying at any residentially zoned site, with NRMP assessment procedures applying a 5 dB "penalty" to music sound as per the recommendations of NZS6802:1991 to offset potential for added annoyance to sounds with special audible characteristics.

This assessment of potential noise effects has been carried out based on a "reasonable" level of noise given the permitted activity noise standards of the NRMP and expected levels of noise associated with the occurrence of proposed events once various mitigation measures have been employed. Mitigation measures are further discussed below.

Overall, proposed activities will result in noise effects no greater than already provided for with the NRMP. Compliance with existing noise provisions of the NRMP is therefore considered adequate to control potential adverse effects of noise associated with the category of activities⁶. Noise mitigation measures are based on an amended NCC "Code of Practice" which is adequate to control noise effects to a reasonable level, consistent with RMA s.16.

⁶ This includes the use of 1991 New Zealand acoustic standards NZS6801 and NZS6802 which have been superseded by 2008 versions however NRMP noise rules are considered to function appropriately in controlling noise effects even though they refer to the 1991 standards and adopt noise limits specified as LA₁₀ in place of LA_{eq}.

5.0 Assessment Criteria

5.1 Resource Management Act

Section 17 of the RMA places a general duty to avoid, remedy or mitigate adverse environmental effects of activities. Section 16 of the RMA places a duty on all occupiers to adopt the *best practicable option* to ensure noise emitted from any site does not exceed a reasonable level. What constitutes a "reasonable level" is not defined by the Act. The noise limits set out in the NRMP represent a reasonable level for activities taking place on a daily basis, however higher noise levels can be justified where the activities are limited in duration, infrequent and adopt practical methods to ensure the emission of noise is no louder than necessary.

The over-riding requirement of the RMA is for the noise-maker[s] to recognise the general duty to avoid unreasonable noise. Usually this entails both physical precautions [e.g. for a sound system this means taking into account sound volumes and orientation of speakers] and management based methods [particularly the management of music sound levels, duration and the ability to act upon complaints received during the event].

5.2 Nelson Resource Management Plan

Use of land in the Open Space Recreation zoned sites for the range of identified activities involving sound amplification systems may fall within one of three activity categories:

- If listed as a *permitted activity* in the schedule, and complying with the permitted conditions for the Zone [see discussion below], the use or event is a permitted activity;
- If listed as a permitted activity in the schedule, but *not complying* with any of the permitted conditions for the Zone, the use or event is a discretionary activity;
- Any use or event not permitted under the schedule lists is a non-complying activity.

Relevant permitted activity a condition is set out as follows:

Noise Rules - Open Space Zone

Rule OSr 37 applies to activities on Open Space sites and applies noise limits at any residential zone boundary [not the Open Space boundary]. Specific sites listed in the rule are exempt from the rule.

- a) *Noise levels measured at, or within the boundary of any site in the Residential Zone must not exceed:*
Day Time
 L 10: [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.]
- b) *All measurements and assessment in accordance with NZS6801:1991 and NZS6802:1991.*
- c) *Sound from events and spectators at Trafalgar Park, Rutherford Park, or Saxton Field shall be exempt from the application of the limits in [a] above, provided that*
 - i) *the events do not occur outside the hours of 7am to 10pm, and*
 - ii) *the sound does not involve electrically amplified music.*

Rule OSr.37.2 sets out that activities involving amplified sound on any site zoned Open Space are a controlled activity, as follows;

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.*

Rule OSr.37.2 is a key consideration given that it requires events involving electrically amplified sound on any site zoned Open Space to obtain resource consent as a controlled activity. It is noted that the use of electrically amplified sound systems is not controlled in other zones in the city.

As a controlled activity consent must be granted, although the consent authority may set conditions in relation to;

- noise levels, and
- mitigation of noise, and
- hours of the activity, and
- monitoring of noise levels, and
- the frequency of events on a site.

The effect of this rule is that regardless of the significance of their noise levels any event involving electrically amplified sound on the city's reserves, which includes most organised community or public events for which these public spaces have been made available and are managed, must obtain resource consent. This includes a small sound PA used for announcements at organised sporting events such as the Weetbix Marathon or at Saturday netball.

The approach of the NRMP does not acknowledge that;

- [a] noise effects due to sounds from unamplified instruments [such as drums] generated on Open Space sites and reserves have the potential to cause adverse noise effects too, however the rule does not restrict these types of uses. And;
- [b] some electrical amplification systems [such as a small transistor radio used by patrons attending a rugby match] would not be likely to produce any adverse noise effects.

Thus, Rule OSr.37.2, if considered in isolation from Rule OSr.37.1, is in our opinion poorly construed and inconsistent with the effects-based approach of the RMA.

There is an exception within Rule OSr.37.2 for events involving electrically amplified sound where an event "complies with OSr.37.1 [c]". Rule OSr.37.1[c] does not permit sound involving electrically amplified music, and therefore the exemption under Rule OSr.37.2 for Trafalgar Park, Rutherford Park and Saxton Field only applies to other sources of amplified sound. Use of amplified music at these venues is therefore a controlled activity.

Rule OSr.24.1 [Closing Times – Services to the Public]

- a) 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 Year's Eve: 7am - 1am the following day, and*

b] any activity located more than 50m from the Residential Zone boundary, which involves the sale of liquor for consumption on the premises, may be open for the sale of liquor only during the following hours:

Daily: 7am - 3am the following day, and

With the current consent limiting the use of amplified sound to daytime only regardless of proximity to the Residential Zone boundary, it can be concluded that the activities subject of this application will comply with Rule OSr.24.

Residential Zone

Residential Zone noise rules come into play as an assessment guide [only] for noise effects of activities involving amplified sound carried out on Open Space / Recreation sites. The permitted noise standards are as under Rule OSr.37.1.

- a] Noise levels generated by any non-residential activity or home occupation, measured at, or within the boundary of any site in the Residential Zone must not exceed:
- Day Time**
L 10: [55 dBA]
- Other Times**
L10: 45 dBA
Lmax: 75 dBA
- b] 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.

5.3 NCC Consents Already Held

Nelson City Council holds a number of current Resource Consents relating to a range of events held on Open Space / Reserve sites and in public places involving amplified sound. Some consents involve permission to exceed the normally applying NRMP noise limits, however these consents are NOT relevant to the assessment of noise effects of the current consent application.

A relevant existing consent held by NCC covering noise effects from public performances and outdoor events [involving the use of amplification systems] which must be controlled to existing NRMP limits is Consent RM105091 granted in April 2010. This consent allows the use of amplified sound at Founders Park up to but not exceeding NRMP noise limits, subject to a Noise Management Plan prepared for the site covering;

- Orientating speakers away from residential areas [section 3.31],
- Window and door closing policy [section 3.5],
- Direct management control of electric amplified sound sources [section 3.7],
- Management and staff responsibility [section 3.8],
- Third party users and suppliers of amplified equipment [section 3.9],
- Auxiliary plant and equipment [section 3.10],
- Calibration of electric amplified sound sources [page 19],
- Sound level sampling and measurements [section 4.0],
- Management assessment of electric amplified sound events [section 5.0],
- Further noise monitoring procedures [section 6.0],
- Community consultation and liaison [section 7.0],
- Handling noise complaints [section 8.0],
- Reporting of measurements [section 9.0], and
- Review of Noise Management Plan [section 10.0].

The Council's existing "Code of Practice – Noise Control for Events in Parks and Reserves, NCC Planning and Consents Division" is relied upon within the Consent granted for the use of amplified sound at Founders Park, however this Code is proposed to be amended to improve its effectiveness and transparency in Council's roles as [sometimes] event organiser and the role of Council in monitoring and enforcing noise limits.

6.0 Assessment

6.1 Overview

This application is intended to provide for sporting, recreation and community events and activities involving the use of electrically amplified sound taking place on any Open Space /Recreation sites operating during daytime only, with the levels of noise emission complying with NRMP permitted activity standards.

This consent is required sought due to the wording of NRMP Rule OSr.37.2, which deems the emission any sound from the use of electrically amplified sound system on any Open Space /Recreation zoned site to be a *controlled activity* requiring any activities involving the use of such systems to obtain a resource consent for a controlled activity.

Potential effects of noise associated with this application have been assessed based on amplified sound comprising either music or non-music [speech] with the levels of sound emitted being up to but not exceeding the NRMP permitted daytime noise limits applying to Open Space /Recreation sites.

Where the amplified sound contains special audible characteristics [such as music] the NRMP assessment procedures require the addition of a 5 dB "penalty" to ensure the potential for added annoyance is taken into account. This assessment has taken this correction into account.

Guidance on assessing noise effects [and recommendations for possible consent conditions] are based on:

- A. The relevant provisions of the NRMP;
- B. Guidance from New Zealand Standards "NZS6801:1991 *Measurement of Sound* and NZS6802:1991 *Assessment of Environmental Noise*, as referred to within the NRMP as well as their 2008 updates.
- C. Existing resource consents held by Council for similar events, including NCC 'Code of Practice – Noise Control for Events in Parks and Reserves' referred to below in **Section 3**.

Using the methods set out above, L_{A10} sound levels⁷ have been predicted for the closest NRMP "compliance assessment" locations which translates to the closest residentially zoned site boundaries. **Table 3** sets out the expected L_{A10} sound levels at the closest compliance assessment locations for representative events.

With all mitigation measures in place, noise effects these events are assessed as generating sound not exceeding the NRMP permitted activity noise limits. The assessment of compliance has included a 5 dB penalty for amplified sounds which possess special audible characteristics [such as music sounds] which is applied under NZS6802:1991, a Standard referred to within Rule OSr 37.1 [b].

Predicted noise levels are based on "typical" locations for amplified sound systems on each site [usually centrally located allowing for a crowd area and circulation routes around the site] which implies a reasonable setback distance [in metres] In addition, it is assumed the sound system speakers would be directed away from the closest residential sites which is considered the "best practicable option" to avoid unreasonable noise when the sound system is located near to residential sites.

⁷ " L_{A10} dB" has the same meaning as "L10 dBA" which is the method for prescribing this noise performance standard in the NRMP [See Appendix A].

6.2 Mitigation

The assessment of effects needs to take into consideration in-house NCC noise management guidelines designed to ensure activities permitted by the consent sought are properly planned and carried out, and controlled to ensure the overall level of noise effects are no greater than effects contemplated by the current limits on noise for Open Space sites set out in NRMP.

As owners of the sites, the Council are able to secure the agreement of event organisers to adhere to a code of practice noise control for events in parks and reserves. The Council protocol in this regard is referred to as "Event Noise Control Information and Agreement", a copy of which is contained in **Appendix C** [attached] which sets out;

- Duties of Event Managers regarding the use of sound systems.
- Duties of event managers to provide Council with information on the sound system prior to the event.
- Hours of operation
- Requirement to face speakers away from residential sites as far as practical
- A calibration check is required for all sound systems generating sound levels at a level greater than background sound levels at a distance of 10m from source. Monitoring of sound levels during the event is also required for these sound systems. These readings are to be provided to Council by the event organiser.
- Noise minimisation advice
- Noise control agreement [requiring the payment of a bond to Council].

Although methods involving the Reserves Act 1977 are outside the scope of this application, the controls over the use of amplified sound systems to manage noise effects from Open Space sites and Reserves can be controlled via a site-specific Management Plan required for each site under this Act.

A management plan is a working document which sets out the objectives and policies for managing an area and how these will be achieved. It is a reference point for consistent everyday management and future planning by the administering body. It is also a public statement that explains the governing principles and reasons for decisions to interested parties. The management plan is an ideal method for specifying an outline of management steps to be taken when, for example, authorising temporary events on the site to ensure the effects of noise are adequately identified beforehand and addressed in the layout and equipment used.

The overall finding is that provided the specified noise management and mitigation measures are implemented, allowing the use of amplified sound in the manner proposed would result in only minor, temporary effects on the environment which are no more than minor.

Where sound from the electrically amplified source[s] are able to be measured beyond the site boundary, the potential additional annoyance caused by sound possessing special audible characteristics is to be taken into account when assessing compliance with the NRMP noise limits. Thus, noise effects of amplified sound received at noise sensitive residential sites at fully compliant noise levels would not be any greater than the noise effects already anticipated by the NRMP for permitted activities complying with the stated noise limits for Open Space and Reserve sites [Rule OSr 37].

The following are noise mitigation measures associated with events on Open Space and Reserve sites involving amplified sound which can only take place with the approval of Council as landowner;

- a) The "daytime only" nature of the sporting, recreational and cultural activities to be controlled via Council's approval.
- b) The size of the amplification typically employed at outdoor events is quite modest with usually no more than about 200 watts except for indoor events or events at Saxton Field which may utilise larger outdoor sound systems as they are typically installed at least 350 metres from any residential site.
- c) The duration of amplified sound emitted from such events is controlled via Council's approval process [none are expected to emit amplified sound for periods exceeding about 5 hours in duration]

There is no limit proposed in terms of numbers events on each site. This because, even though these activities do not take place regularly or frequently on each site, the noise emitted from these daytime events will comply with the NRMP permitted activity noise standards. It would be *ultra vires* to set a higher standard of protection compared to the permitted activity standard simply because the activity involved a low level of sound [which in many cases could not be detected beyond the site boundary].

7.0 Recommended Noise Conditions

Recommended conditions to ensure noise effects associated with indoor and outdoor events involving amplified sound on Open Space and Reserve sites are set out as follows;

Sporting, recreation and cultural activities involving the use of amplified sound systems shall be permitted on any site within the Open Space Recreation zones subject to the following;

- A. *The activities involving the use of amplified sound shall only take place on any day between 9am and 10pm.*
- B. *The use of the amplified sound system shall be controlled so that ensuing noise emissions, when considered cumulatively with sound from non-amplified sound sources associated with the activity [excluding sounds from spectators], comply with noise limits set out within NRMP OSr.37.1[a] when measured and assessed in accordance with NRMP OSr.37.1[b].*
- C. *Speakers associated with any sound amplification systems shall be oriented to emit sound in directions as far as practical facing away from the closest residentially zoned sites.*

8.0 Summary

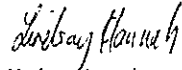
A review and assessment of potential noise effects has been undertaken on behalf of Nelson City Council in relation to the use of Open Space and Reserve sites for a range of sporting, recreation and cultural events involving electrically amplified sound.

In order to assess potential noise effects, typical levels of amplified sound received in the local area around each site or venue has been predicted based on the expected range of sound levels at source and expected sound attenuation with distance from source. The noise predictions take into account system size, speaker orientation, distance from source, and sound propagation under worst case meteorological conditions. The results show that the sites are generally large with only modest amplified sound sources used for typical events. This translates to only reasonable levels of noise received at residential sites [if any].

Guidance on assessing noise effects and recommendations for proposed consent conditions are based on the provisions of the NRMP, the relevant NZ acoustic Standards and existing consent held by NCC for the use of amplified sound on an existing Open Space / Reserve site.

On this basis potential noise effects set out in **Section 4** will be suitably avoided, remedied, or mitigated the resultant effects on any residentially zoned site will be no more than minor providing the consent holder adheres to the proposed conditions. On this basis, there appear no noise-related reasons why consent cannot be granted.

Malcolm Hunt Associates



Lindsay Hannah
Senior Consultant
BBSc. PGDipSci (Acoustics (dist))



Malcolm Hunt
Principal
B.Sc. M.E.(*mech*), Dip Pub. Health. RSH Dip. Noise Control.

Approved for Issue by - Malcolm Hunt

APPENDIX A

Nelson Resource Management Plan – Definitions

Chapter 2 of the NRMP sets out meanings of words. In terms of acoustics and the Resource Consent Application applied for the following definitions are noted:

dB(A)	means the A-frequency-weighted sound pressure level in decibels relative to a reference sound pressure of 20 micropascals. See NZS 6801:1991 clause 2.1 definition of frequency, sound pressure, reference sound pressure, sound pressure level, decibel, weighting, and sound level.
L10	means the L10 exceedance level, in A-frequency-weighted decibels, which is equalled or exceeded, ten percent of the total measurement time. See NZS 6801:1991 clause 2.2 definition of exceedance level.
Lmax	means the maximum A-frequency-weighted sound level (dB(A) L max) as described in NZS 6801:1991, clause 2.1. The Lmax units referred to in this Plan relate solely to night-time (10 pm to 7 am Monday to Friday, and 10 pm to 9 am Saturdays, Sundays and public holidays).
Noise*	means unwanted sound and includes vibration. The sound of warning devices being used by emergency services or in an emergency situation is not included in the definition of noise for the purpose of this Plan.

APPENDIX B

OPEN SPACE RESERVE SITES AND TYPICAL EVENTS & ACTIVITIES

Note:

1. This Appendix lists Open Space and Reserve zoned sites at which known events involving electrically amplified sound take place.
2. Where these sites host existing activities involving electrically amplified sound, details are provided in terms of a description of the event, approx site size, and approx distance to residential zone [from closest boundary].
3. These details cannot be provided for sites where no known activities involving electrically amplified sound currently take place (as the location of the sound source[s] are not known]. The lack of an activity description or other detail for any specific does not imply activities involving electrically amplified sound will not take place on that site.

APPENDIX C

NELSON CITY COUNCIL - EVENT NOISE CONTROL INFORMATION AND AGREEMENT

Event Noise Control Information and Agreement

1. Introduction

Noise at events on Council sites is subject to the conditions of the Nelson Resource Management Plan. Electrically amplified sound is only permitted in the Open Space and Recreation Zone with a Resource Consent.

Most events will be covered under Resource Consent XXX, which provides for use of amplified sound at public events within specific parameters.

The Resource Consent has been prepared to manage amplified sound at a range of events, which may include but are not limited to sporting fixtures, tournaments, markets, fairs, community celebrations, festivals, concerts, parades, and other performances. The nature of the event, the context of the event, and the expected impact of the amplified sound will define the necessary actions required to ensure that the Resource Consent conditions are met.

Three categories have been defined to ensure appropriate actions for different events to ensure compliance:

- A: Events finishing before 10pm which use loudhailers, PA systems or music, and are able to meet the Standard noise limits for the Open Space and Recreation Zone. Detailed description of the parameters and requirements for these events are included in Section A.
- B: Events on specified sites, finishing before 10pm which use loudhailers, PA systems or music, and are likely to exceed the Standard noise limits for the Open Space and Recreation Zone, but will meet the noise levels set in Resource Consent XXX. Detailed description of the parameters and requirements for these events are included in Section B.
- C: Events on specified sites, finishing after 10pm which use loudhailers, PA systems or music, and are likely to exceed the Standard noise limits for the Open Space and Recreation Zone, but will meet the noise levels set in Resource Consent XXX. Detailed description of the parameters and requirements for these events are included in Section C.

All events which have amplified sound are required to achieve compliance with the Nelson Resource Management Plan. Should Council not be satisfied that the required noise level limits can be met, or the nature of the event is such that they are unlikely to be met, the event organiser will be required to obtain a separate resource consent for their event.

Standard Noise limits for the Open Space and Recreation Zone

The permitted noise limits in Nelson Resource Management Plan for the Open Space and Recreation Zone are:

Noise levels measured at, or within the boundary of any site in the Residential Zone must not exceed:

<i>Day Time:</i>	<i>L 10: 55 dBA</i>
<i>Other Times:</i>	<i>L 10: 45 dBA Lmax: 75 dBA</i>

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.'

If the sound possesses "special audible characteristics", these levels are each reduced by 5dBA.

2. Duties of Event Managers

There are a number of requirements of this Resource Consent which must be met by event organisers:

- 1) To contact the Nelson City Council no later than 10 working days prior to any Event which may be subject to Resource Consent XXX.
- 2) To promptly provide all information as is required by the Nelson City Council or any of its officers to ensure compliance with this Agreement.
- 3) To comply with all requirements of the Nelson City Council or any of its officers to achieve compliance with the Resource Consent, and/or the requirements of this Agreement.
- 4) To render all reasonable assistance and co-operation to Nelson City Council or any of its officers in regard to any monitoring and/or enforcement action which may be required to assess and/or control noise at the Event.
- 5) A bond will be required
- 6) All event managers and their staff are expected to be aware of, and comply with, the resource consent requirements. The Council reserves the right to take direct control over the source of amplified sound to ensure compliance with the resource consent, including turning the amplified sound off.
- 7) Event managers accept liability should there be any breach of the resource consent conditions.

3. Specific Requirements

- i. Event organisers must provide details about the planned amplified sound to Council prior to this contract. The specific information required is listed on **Attachment One**. Should Council not be satisfied that the required noise level limits can be met, or the nature of the event is such that they are unlikely to be met, the event organiser will be required to obtain a separate resource consent for their event.
- ii. As far as practicable all stages and speakers should be oriented to face away from residential areas. Consideration should be given to the placement of speakers relative to natural barriers which may assist in absorbing sound.

- iii. *Amplified sounds are only permitted within the hours referred to in the tables*
- iv. All amplified sound devices which produce sounds higher than background sound levels at a distance of 10m from source shall be calibrated prior to the event. Calibration shall be carried out prior to the event, and last no longer than 30 minutes. Please contact Environmental Inspections [phone 546 0433] to discuss and arrange this.
- v. Noise monitoring will be carried out for any event where the electrical amplified sound will be played at a level greater than background sound levels at a distance of 10m from source. *Accurate readings are to be provided by the organizer*
- vi. Noise monitoring will also be carried out for any event for which a complaint is received.
- vii. Council may require the event organiser to carry out noise monitoring of any event if deemed necessary to comply with the resource consent.

4. Noise Minimisation Advice

If you have any doubts about noise control requirements discuss the matter as soon as possible with Council's Environmental Health Section [Direct Dial 03 546 0201].

- 1) Make sure that you allow plenty of time for planning the Event and making any necessary changes that may be required by Council.
- 2) Keep sound shells and speaker systems as far away as possible from residential properties and have such sound shells and speaker systems pointing away from residential properties. Minimum distances from residential boundaries for various sites will be advised by Council upon receipt of the event details.
- 3) Have speakers kept low to the ground.
- 4) Keeping the base level volume low will reduce the travel of this high energy, and often disturbing sound.
- 5) Make sure residents in the area know the details of the Event [hand-drop a leaflet or advertise in the local paper], and in particular the start and finish times of the Event. Make sure you keep to these times.
- 6) Ensure sound checks are carried out with the approval and/or under the supervision of Council staff.
- 7) Have someone responsible and reliable on the sound system.
- 8) If appropriate employ security personnel to assist in the control of excessive noise from the Event.
- 9) Ensure that you keep noisy activities within the prescribed limits and prescribed times [you can obtain details of these and limits from the Council]
- 10) If you receive a complaint directly from any member of the public, ascertain the cause for the complaint and what remedial action you may take to satisfy the complainant. If there is a continuing dispute, write down details of the complaint and immediately refer the matter to the Council's Noise Control Officer [contact phone 03 546 0200]. Also advise the complainant of their right to complain to the Council.
- 11) In the event of an approach by the Council's Noise Control Staff to control excessive noise and/or breach of conditions of Resource Consent XXX, or Noise Rules in the Nelson Resource Management Plan, make sure you follow their instructions as failure to do so may result in the loss of any bond and make you

liable for seizure of any sound producing equipment or device and any other legal action taken under the Resource Management Act.

- 12) Any buildings in which there is amplified sound after 10.00pm shall have the doors and windows closed and they shall remain closed until 7.00am except for the speedy entry and exit of persons.

5. Application for Electric Amplified Sound at Event

Note: Failure to provide accurate information on this application may lead to any approval from the Nelson City Council being withdrawn.

All organisers running events which have electrically amplified sound on Council Parks and Reserves are required to provide the following information to Council to satisfy the requirements of achieving compliance with the Nelson Resource Management Plan permitted noise levels and Resource Consent XXX.

Event:

Event Organiser:

Phone number:

Site:

Date:

Time and duration:

[start and finish times including any pre-event sound checks or rehearsals]

Type of Event:

[briefly describe event including general description e.g. music festival, gala, sports event, etc. – anticipated number of participants/spectators]

Event Sound:

Will the Event involve any of the following:

- a) Amplified sound system including public address and megaphones?
Yes/No
- b) Use of motor vehicles, aircraft, generators or stationary engines?
Yes/No
- c) Use of explosive devices such as starting pistols, fireworks, etc.?
Yes/No
- d) Use of any alarm system, siren or other similar devices?
Yes/No

If you answered Yes to any of the questions in 5] you will need to complete the attached Noise Control Agreement in regard to Council and Resource Consent requirements.

Sound Tech: Contact Person / Company

Phone number:

Initial of sound tech agreeing that details provided below are correct:

Proposed use of sound during the event

e.g. background music over dinner, intermittent public address announcements, constant high level for concert, etc.

Overall design of amplified sound devices, and the operation of these devices on site
Please include a sketch of the site layout

Details of set-up – location, orientation, height, number of devices and speakers, distance from the nearest residential boundary, etc.
Please include a sketch of the set-up

Describe all electrically amplified sound sources, including stereos, and audio/visual appliances
Please list devices and their specifications

Rated output of sounds
The maximum wattage and number of speakers and the frequency range characteristics of each speaker [i.e. deep base, base, mid-range, treble]; if available please provide as sound power levels.

Who will operate the amplified sound equipment?
Please provide a name and contact phone number

Who will be contactable during the event if complaints are received?
Please provide a name and contact phone number

How will amplified sound be managed and what noise control measures will be carried out to reduce the impact

For example:

- positioning of speakers close to the ground, especially bass speakers
- orientation of speakers away from residential boundaries
- orientation and positioning of stages to minimize on-stage noise
- control and calibration of sound levels and spectral characteristics

Details of any other sound amplification or sound generation system and/or devices such as vehicles, aircraft, generators, stationary engines, public address systems, megaphones, alarms and sirens, explosive devices [such as fireworks and other pyrotechnics, starting pistols, etc.]

Date of Application _____

Name of Event Applicant _____

Phone Contact[s] _____

Postal Contact _____

Signature of Event Applicant _____

6. Noise Control Agreement

I _____ [name of Event Applicant], on behalf of

_____ [name of organisation if applicable]

organiser of _____ [Event name and date]

hereby agree that I will abide by the conditions of the Nelson City Council's Resource Consent XXX and this Agreement for Noise Control for Events held within its Parks or Reserves and also agree to the following:

- 1) Payment with this application of a bond of \$ _____ to cover all costs associated with monitoring and enforcing the provisions of the Resource Management Act 1991 in regard to Excessive Noise and the Conditions of the Resource Consent.
- 2) In the event of any breach of the previously stated noise control provisions I acknowledge that I will be liable for the full forfeiture of the bond and that I will prejudice any future application that I or this organisation may make for any other Events held in Nelson City Parks or Reserves.
- 3) I agree to be bound by the requirements of the Nelson City Council or any of its officers, and in particular the requirements relating to the avoidance, remedying and/or mitigation of noise regarding this Event.

Signed _____

Status in Organisation [if applicable] _____

Date _____

Application Approved	
Nelson City Council Parks and Facilities Department.	
_____	Name and Position
Date of Approval _____	
Date copy passed to Executive Manager Regulatory _____	

ANNEXURE D
Existing Resource Consents



RESOURCE CONSENT DECISION

Resource Consent number: RM105091

Pursuant to section 104 A of the Resource Management Act 1991 ("the Act"), the Nelson City Council ("the Council") hereby **grants** resource consent to:

Nelson City Council (Cultural Social & Recreation Services)

The activity to which this decision relates:

To allow electric amplification of sound at Founders Park

Location details:

Address of property: 87 Atawhai Dr
Legal description: Lot 1 DP10735
Certificate of title: 5D/1144

CONDITIONS

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

1. The activity shall be carried out in accordance with the application (dated 30 March 2010) for resource consent lodged with Council on 30 March 2010, and the following conditions of consent.
2. The events subject of this consent, involving electric amplification sounds, shall commence no earlier than 7.00 am and cease no later than 12.30 am on Saturdays, Sundays, New Years Day and Christmas Day. On all other days the activities involving electric amplification sounds shall commence no earlier than 7.00 am and cease no later than 11pm.

Advice Note: This condition relates to the performance of events and associated electric amplification of music. It does not relate to crowd control or dispersal following from that, although the Noise Management Plan (2.0 Noise Sources under this NMP) submitted with the application requires that Facility Management are responsible for making sure that people and vehicle noise does not become unreasonable at any time. The set up and dismantling aspects of electric amplification equipment shall fully comply with the NMP provisions (section 3.5).

3. Electric amplified sounds shall only be generated from activities located on the site as follows:

Indoors:

- The Granary Building
- The Energy Centre Building
- The Jaycee Room and;
- The Church Building.

Outdoors:

- The Bristol Freighter Green

- The Village Green
- The Pond Green; and
- The Church Green.

Advice Notes:

- (a) The precise location of the buildings is marked on Figure 2 of Annexure C of the application (i.e. in the AEE). The location of the outdoor spaces listed above is shown in Figure 4 of Annexure C (i.e. the Noise Management Plan).
- (b) The day time noise from domestic scale radios and stereos used by tenants of the site is exempted from the above location restrictions.
4. Activities associated with the electric amplification of sound are to be managed and operated so that the noise emitted from the activity carried out under the auspices of the Founders Park Heritage Park Site Management when measured at or within the boundary of any residentially zoned site does not exceed:
- L_{10} 55dBA during the daytime, which applies between 7.00am and 10.00pm Monday to Friday and 9.00am to 10.00pm Saturday and Sundays (including public holidays).
 - At all other times (subject to the restriction on hours in Condition 2 above) L_{10} 45dBA and L_{max} 75 dBA applies.

Notes:

- (a) If the sound possesses 'special audible characteristics' the applicable levels are L_{10} 50 dBA during the daytime and L_{10} 40dBA during other times.
- (b) Sound levels shall be measured and assessed in accordance with the provisions of NZS6801:1991: Measurement of Sound and NZS6802:1991: Assessment of Environmental Noise. The duration of any measurement shall not exceed 15 minutes, excluding any pauses or data erasure.
5. In all other respects the consent holder shall undertake the activities authorised by this consent in accordance with the Noise Management Plan prepared and submitted with the application (*Noise Management Plan Founders Heritage Park Nelson – Malcolm Hunt Associates, 30 March 2010*). This includes such matters as:
- Orientating speakers away from residential areas (3.31),
 - Window and door closing policy (3.5),
 - Direct management control of electric amplified sound sources (3.7),
 - Management and staff responsibility (3.8),
 - Third party users and suppliers of amplified equipment (3.9),
 - Auxiliary plant and equipment (3.10),
 - Calibration of electric amplified sound sources (page 19),
 - Sound level sampling and measurements (section 4.0),
 - Management assessment of electric amplified sound events (section 5.0),

- Further noise monitoring procedures (section 6.0),
- Community consultation and liaison (section 7.0) (*see note (b) below*),
- Handling noise complaints (section 8.0),
- Reporting of measurements (section 9.0), and
- Review of Noise Management Plan (section 10.0).

Advice Notes:

- (a) Implementation of the Noise Management Plan for Founders Park is a volunteered condition of consent.
- (b) In terms of Section 7.0, community consultation and liaison, in the event that the Facility Manager determines consultation prior to such events shall be carried out for any particular event that is to use amplified sound, such consultation should in all cases include the management of Whakatu Marae, and the occupants of the residential cottages located at the Marae. As part of that process all of the people contacted should also receive a written notice which specifies the date and time of the proposed event, the expected times and duration of sound checks, and the name and telephone contact details of the person responsible for receiving any complaints regarding excessive or unreasonable noise associated with the event.

6. The consent holder shall advise the Council's Monitoring Officer in writing, at least 2 working days prior to works commencing on site, so that monitoring of the conditions of this consent can be undertaken. Please advise the consent number, RM105091.

Advice Note: Failure to notify the Council as stated in the above condition may result in enforcement action.

7. In terms of Section 128 of the Resource Management Act, Conditions 2, 3, 4 and 5 above may be reviewed 6 months after the date of the grant of consent, and thereafter yearly on the anniversary of the grant of consent, to address any noise impacts arising from the use of electric amplified sound at Founders Park and to review the effectiveness of the Noise Management Plan in achieving acceptable noise emissions.

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. This resource consent authorises only the activity described above. Any matters or activities not referred to in this consent or covered by the conditions above must either:
 - (a) comply with all the criteria of a relevant permitted activity in the Nelson Resource Management Plan (NRMP); or
 - (b) be allowed by the Resource Management Act 1991; or
 - (c) be authorised by a separate resource consent.
3. This consent is granted to the abovementioned Consent Holder, but Section 134 of the Act states that such land use consent "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 new conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.

4. The Consent Holder should note that this resource consent does not override any registered interest on the property title.
5. **Monitoring:** A monitoring charge of \$100 has been included in your invoice, as conditions of consent requiring monitoring have been imposed. This charge covers the costs involved in the first hour of monitoring compliance with the consent conditions. Where additional monitoring costs are required to determine that conditions have been met, these will be charged as per the Council's Fees and Charges policy in force at the time. Please contact the Council's Monitoring Officer, phone (03) 546 0381, when work commences on this consent, so that monitoring can be carried out. Please quote the consent number, RM105091.

REASONS FOR THE DECISION

Description of the Proposed Activity

The application is to allow electric amplification of sound at Founders Heritage Park, subject to compliance with the following:

- The permitted activity noise levels under Rule OSr.37.1(a) in the Nelson Resource Management Plan – L10 55dBA for daytime (7am-10pm Monday to Friday and 9am-10pm Saturday, Sunday and public holidays) and L10 45dBA and Lmax 75dBA at all other times; and
- For public or private events using amplified sound systems, the *Noise Management Plan – Founders Heritage Park* prepared by Malcolm Hunt associates, Noise and Environmental Consultants.

Whilst previous resource consent for Founders Park specifically allowed for amplified sound from public address systems and music on the site, those consents have since been surrendered. The applicable Plan rules now require resource consent for a Controlled Activity for any electric amplification of sound from the site.

The application reflects that the applicant does not wish to be limited by the type or number of public events that may occur at Founders Park. The need for the resource consent is related to the extent, duration and management of noise that may occur with individual events, and this is to be controlled through the Noise Management Plan. The site will otherwise operate in accordance with the permitted standards in Chapter 11 of the Open Space and recreation Zone.

The Noise Management Plan submitted as part of the application has assessed the noise levels from activities using amplified sound equipment, and has stated that the levels will not exceed the permitted activity noise levels in the Nelson Resource Management Plan at those residentially zoned properties.

The Noise Management Plan also incorporates a range of physical and management-based noise control methods such as limitations on the location of activities generating noise emissions from amplified equipment in specified buildings and in outdoor areas on the site, orientation of speakers, event control and monitoring of sound levels and the spectral characteristics of sound, limited hours and duration of the events, community liaison in advance of the event, and complaints handling procedures.

Plan Rules Affected

According to the Nelson Resource Management Plan, the following apply to the subject property:

Zoning: Open Space Recreation Zone

Schedules: OSs.3 City Reserve - CR11 Founders QEII etc.

Overlays: Coastal Environment Overlay

Rules: OSs.3.1 – permitted activities in the City Reserves include ‘festivals, ceremonies and outdoor performances’.

OSr.37.1 – maximum noise levels for permitted activities on the site.

OSr.37.2 – electric amplification of sound.

Status: Controlled Activity.

The proposal is a controlled activity by virtue of Rule OSr.37.2 in the Nelson Resource Management Plan as the activity involves electric amplification of sound.

Under Rule OSr.37.2 the Council has reserved its control over: noise levels; mitigation of noise; hours of the activity; monitoring of noise levels; and the frequency of events.

The overlays applying to this site are for advisory purposes only.

Assessment of Environmental Effects

The principal issue associated with the proposed activity, and the matter giving rise to this application, is the actual and potential effects of electric amplified noise on the local environment. The basis of the application is that the activities will be managed in such a way that maximum noise levels specified in the NRMP measured at the boundaries with residential zoned sites will not be exceeded.

The Council is limited in its assessment of effects (and imposition of conditions) to those matters over which it has reserved control under Rule OSr.37.2:

- (a) Noise limits
- (b) Mitigation of noise
- (c) Hours of the activity
- (d) Monitoring of noise levels
- (e) The frequency of events on the site.

As a guide for assessing the adverse effects of the activity on the environment, the explanation to Rule OSr.37 states that *“the rule is to prevent unreasonable levels of noise affecting neighbouring properties. What is reasonable needs to take into account the nature of the neighbourhood, the time of day or night, and whether it is a week day or weekend. What is reasonable may also relate to the duration or frequency of the event. Habitual noise may be more annoying than one off louder events. Temporary noise may also be tolerated more (within reason) than ongoing disturbance e.g. noise associated with construction. Noise from public events in parks and reserves requires a more flexible method of control. The main source of complaint is amplified PA and sound systems, or when noise levels will be particularly high (e.g. a rock concert)...”*

Against a test of what is “reasonable”, the Applicant’s Noise Consultants (Malcolm Hunt Associates) have concluded that the noise effects of the proposed event will be managed in such a way that noise levels at adjacent residential zoned properties will not exceed the prescribed levels in the NRMP. The noise management plan includes such mitigating factors as limitations on the location and hours of operation of activities generating electric amplified sound, orientation of speakers, events management and complaint handling procedures. On this basis they have concluded that cumulative noise effects arising from the proposed activities including the electric amplification of sound will be able to comply with the permitted activity noise limits of the NRMP providing operating procedures and management methods set out in the Noise Management Plan are put in place, and that noise from the event will be less than minor.

This assessment is accepted by Council, including its Environmental Inspections Officer, subject to the Noise Management Plan being imposed and implemented as conditions of consent.

The Noise Management Plan submitted with the application is comprehensive and encompasses all of those matters over which the Council has reserved its discretion under Rule OSr.37.2 of the NRMP. It represents the best practical option in ensuring that the emission of noise from the site does not exceed a reasonable level.

It also requires that a Facility Manager assess each individual application for an event, and may require persons carrying out events to consult with residents living in the local area for the purpose of advising residents of the event so that they are aware of the event type, hours of operation and protocol for any complaints that may arise.

It is acknowledged that the control of amplified noise from Founders Park is a feature not just of operation of the event itself, but also how equipment is set up and orientated, how and when sound checks occur, and effective monitoring and complaints procedures. A range of conditions have been imposed that will ensure that noise from the event, arising both from its set-up, operation and dismantling, can be appropriately mitigated so that any effects on the local environment are less than minor. Some of these have been volunteered by the Applicant, and others reflect key outcomes anticipated from the Noise Management Plan.

The Council considers that the adverse effects of the activity on the environment will be no more than minor for those reasons.

RELEVANT STATUTORY PROVISIONS

Policy Statements and Plan Provisions

In considering this application, the Council has had regard to the matters outlined in section 104 of the Act. In particular, the Council has had regard to the relevant provisions of the following planning documents:

1. the Nelson Regional Policy Statement;
2. the Nelson Resource Management Plan.

The activity is considered to be consistent with the relevant objectives and policies contained in Chapter 11 of the NRMP. Objective OS1 seeks to maintain the social well-being of the community by recognising and enhancing opportunities for use of open space and recreation land, providing the amenity of such areas are protected (Policy OS1.1) and activities are compatible with the amenity values of surrounding areas (Policy OS1.3). These values, specifically in relation to the noise environment, have been addressed in the application. Objective OS2 recognises the need to retain opportunity to provide for changing community needs and aspirations. The application seeks one-off flexibility to use the Founders Park for events that produce electric amplification of sound, to complement the side range of community and heritage events that currently take place at the Park.

Any other relevant matters

The Council has had regard to the following matters which it considers are relevant to determining this application:

- (a) The Founders Heritage Park Strategic Plan 2007 - 2012:

This recognises that the Park is let out for major events, private functions, meetings, courses, weddings and other short-term purposes. The Vision from that Plan includes an Events Goal, which is *"to establish Founders as the first-choice regional location for an increasing number and range of events"*.

As noted in the Description section above, previous resource consent for Founders Park specifically allowed for amplified sound from public address systems and music

on the site, but those consents were surrendered. This application is to correct that situation and to allow the flexibility for a wide range of events to take place unhindered by the restriction on amplified sound, but subject to appropriate operating procedures.

The proposal is not therefore in conflict with the Strategic Plan.

- (b) Code of Practice – Noise Control for Events in Parks and Reserves, NCC Planning and Consents Division:

The Code of Practice has effectively been replaced by the Noise Management Plan which accompanies this application and is reflected in Condition 5 of the consent.

- (c) Precedent and Cumulative Effects:

The consent relates specifically to Founders Heritage Park, a unique venue in the Nelson context. The application is for a controlled activity, for which consent must be granted subject only to any conditions that may be appropriate, and therefore there will be no precedent effect from granting of this consent.

The cumulative effects of amplified sound have been assessed and are addressed through the Noise Management Plan so that permitted levels of noise are maintained in the adjacent residential areas. This will be the case irrespective of whether more than one music performance for instance takes place during the same event, as a result of the measures provided in the Noise Management Plan. There will therefore be no adverse cumulative effects from the granting of this consent.

Part 2 Matters

The Council has taken into account the relevant principles outlines in sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as presented in section 5.

It will provide for the social and cultural well-being of the Nelson community, but with noise effects managed so that they are less than minor and do not impact on the health and well-being of nearby residents.

Notification and Affected Parties

The Council has decided under Section 95D of the Act, that the adverse environmental effects of the proposed activity are no more than minor and there are no persons adversely affected by the proposal. The application has therefore been processed without notification. A separate report on this is contained on Council files.

Overall Evaluation

This application relates specifically to the electric amplification of sound during some events at Founders Heritage Park. The application includes, by way of a set of mitigation measures, a Noise Management Plan prepared by a qualified and experienced Acoustic consultant. The key aspects of that Plan have been included as conditions of consent, and a further condition requires observance of the management and mitigation measures specified in that Plan, which are designed to ensure the permitted activity standards for noise in the adjacent Residential Zone are not exceeded. With that, noise levels from the events will not be unreasonable and any adverse effects on the nearby residential neighbourhood will be less than minor. The proposal accords with the objectives and policies in the NRMP for the Open Space Recreation Zone, and is not inconsistent with the Founders Heritage Park Strategic Plan. Subject to the conditions imposed on the consent, the granting of resource consent will achieve the purpose (sustainable management of natural and physical resources) of the Resource Management Act.

This resource consent is **granted** on 15th April 2010 under delegated authority from Nelson City Council by:

Mandy Bishop
Manager Resource Consents

APPLICATION FOR RESOURCE CONSENT UNDER S88 OF THE RESOURCE MANAGEMENT ACT 1991 ("RMA")

- NELSON CITY COUNCIL (DEPARTMENT OF RECREATION AND COMMUNITY SERVICES) : APPLICATION FOR LAND USE CONSENT FOR OUTDOOR EVENTS

1. This application by the Recreation and Community Services division of the Council is for a land use consent for a limited number of occasions to use Saxton Field, Tahunanui Reserve, Trafalgar Park and the Church Steps/1903 site for public performances and/or outdoor events where on those occasions, the permitted noise limits in the Transitional and Proposed District Plans will be exceeded.
2. This application is not a general consent as to the use of public venues, and in particular noise controls at those venues. Noise control is covered both by the RMA and by rules within the district plan. This application also only relates to activities which are under Council control.
3. Provisions of the RMA, in particular sections 326, 327 and 328, deal with the matter of excessive noise and give power to an enforcement officer to have noise reduced to a reasonable level where there is excessive noise.
4. Under the Proposed Nelson Resource Management Plan, the noise limits for the Open Space and Recreation Zone (in which the nominated sites are located) are 55 dBA L10 between the hours of 7.00am to 10.00pm Monday to Friday and 9.00am to 10.00pm Saturday, Sunday and public holidays. Outside these hours the noise limit is 45 dBA L10. At any time noise shall not exceed 75 dBA Lmax, or the background sound level plus 30 dBA, whichever is the lower.
5. It is, however, important to note that the Nelson City Council proposed plan has a new rule (which will be effective with the release of Council's decision) which will provide that spectator noise and public performances will be exempt from the application of noise performance standards, where such performances are not outside the hours of 7.00am to 10.00pm.

These decisions are to be released shortly, and with codes of practice yet to be prepared for each site it would appear that the exercise of any consent will fall after this date. As such I believe to avoid confusion, that any consent issued to this application should take into account this new rule.

6. What the Council wish to do at the nominated sites referred to is have a limited number of events where these noise levels are exceeded to a specified extent. That requires resource consent and this hearing results from that requirement.
7. The application was for:

"Land use consent to hold infrequent public performances and/or outdoor events at four locations throughout the city where these may exceed the noise standard stipulated under the Proposed Nelson Resource Management Plan:

- *At Saxton Field (up to three events per year)*
 - *At Tahunanui Reserve (three events per year)*
 - *At Trafalgar Park (three)*
 - *On the Church Steps/1903 site (six)''.*
8. As a result of prehearing meetings, there has been some modification to the original application which is dealt with in the conditions.
 9. The Planner's report dealt with the application sites, the submissions and prehearing meetings, outlines the activities and their status in relation to the plan, evaluates the proposal with regard to the rules under the plan, considers relevant planning documents and considers the relevant provisions of the RMA.
 10. As Commissioner, I adopt the comments of that report in referring to the statutory considerations, relevant planning documents and application of the provisions of the Act.
 11. There were submissions presented by Ms Brinkman (resident Nile Street), Mr D S Braithwaite (Tahuna resident), Messrs Ford and McGuire (Nelson Residents Association) and Mr E Boswick (Trafalgar Street businessman).
 12. As well as council staff there was present at the hearing Mr Steven Lawrence, environmental officer. Submissions in a written form were also received from the National Environment Noise Service who had recommendations on the conditions and whose recommendations I have largely incorporated in this decision.
 13. The submission from Ms Brinkman (resident Nile Street) was generally accepting of the proposals, but expressed concern about three particular events, a gospel group a couple of years ago who played at a noise level well beyond an acceptable standard, the noise generated by the Victorian Rose Beer Festival, and the noise from the 1996 "outdoor cinema". Ms Brinkman acknowledged that noise control was a complex issue involving location of the speakers and other factors such as the weather. Ms Brinkman supported the measuring point being any point within the residential area pointing to problems where she did not think the measurement on the boundary of their property gave a fair indication of the noise level.
 14. Mr Boswick was also concerned about the intensity of noise where at times the cups vibrated in his coffee shop. This was clearly unacceptable, and although he was pleased that there were functions which gathered people together, he was concerned about the general wellbeing of people in an environment where they were almost frightened by the noise.
 15. The Nelson Residents Association made submissions which included concern about the proposed timeframe of seven months, asking for consideration of a period of between November and March. Ms Rachel Allen from the Council commented on this subsequently to say that if it was limited to the period proposed by the Association, it would not permit outdoor events during the period of the Nelson Winter Festival, which is

now a significant local event. The Association was also concerned about specification of the type of performance, but I observe that as a land use consent is largely concerned with effects, so long as the effects are controlled, then the type of event is not restricted. The Association also expressed concern about the addition of the new rule under OSR 36.1, but that is a matter governed by the procedure for the introduction of the new plan and cannot be altered by this hearing, other than to have it recorded that when spectator noise and public performances are exempt through Rule OSR 36.1, the applicant has stated that it is its intention to use noise limits imposed through this consent as guidelines for events occurring prior to 10.00pm.

Mr Braithwaite suggested that there be specific definition of monitoring and proposed certain monitoring points.

There was general discussion concerning the matter of review of this consent and a timeframe for the consent.

16. By way of written submission, the National Environment Noise Service made a submission on behalf of the Public Health Unit of Nelson Marlborough Health Services Limited. The submission essentially suggested that as well as an L10 limit there was an "Lmax" limit, that "noise limits" should be substituted for "maximum noise levels" and a recommendation that assessment take place at any point within the Residential Zone rather than at the Residential Zone boundary.
17. There appeared to be a general consensus on the conditions. An exemption for fireworks displays was requested by the Council, given that the fireworks would exceed the maximum levels proposed, but the nature of fireworks events were such that they were going to be the exception and their value outweighed, or at least justified, the exemption.
18. As Commissioner acting under delegated authority, the application is granted subject to the following conditions:
 - a.
 - i. This consent shall come into effect only when Rule OSR 36.1 comes into effect, and when the Divisional Manager's approval has been obtained under condition e. below;
 - ii. The proposed activities are carried out strictly in accordance with the details and plans submitted with the application, with the exception of the changes imposed in these conditions of consent;
 - b. Subject to condition (d) the following noise limits, measured at any point within any Residential Zone, shall apply to each site:
 - i. Saxton Field:

New Years Eve	
10pm – 1am (day following)	70 dBA L10, 85 dBA Lmax
1am – 7am (day following)	45 dBA L10

Two Special Event Days per Year

10pm – 11pm	70 dBA L10, 85 dBA Lmax
11pm – 7am (day following)	45 dBA L10

ii. Tahunanui Reserve:

New Years Eve

10pm – 12.30am (day following)	65 dBA, L10, 80 dBA Lmax
12.30am – 7am (day following)	45 dBA L10

iii. Trafalgar Park:

New Years Eve

10pm – 1am (day following)	70 dBA L10, 85 dBA Lmax
1am – 7am (day following)	45 dBA L10

Two Special Event Days per Year

10pm – 11pm	70 dBA L10, 85 dBA Lmax
11pm – 7am (day following)	45 dBA L10

iv. Church Steps/1903 Site:

New Years Eve

10pm – 1am (day following)	60 dBA L10, 75 dBA Lmax
1am – 7am (day following)	45 dBA L10

Two Special Event Days per Year

10pm – 12.30am (day following)	60 dBA L10, 75 dBA Lmax
12.30am – 7am (day following)	45 dBA L10

Three Special Event Days per Year

10pm – 11pm	60 dBA L10, 75 dBA Lmax
11pm – 7am (day following)	45 dBA L10

- c. Sound levels shall be measured and assessed in accordance with the provisions of NZS 6801:1991 Measurement of Sound and NZS 6802:1991 Assessment of Environmental Sound. The duration of any measurement shall not exceed 15 minutes, excluding any pauses or data erasure;
- d. The noise limits referred to in b. above shall not apply to fireworks.;

- e. The applicant shall submit for the approval of the Divisional Manager, Planning and Consents, a Code of Practice for each of the application sites. The Codes of Practice shall demonstrate steps which will be taken to prevent excessive noise from events, shall state the obligations of event organisers in meeting the conditions of this consent, and shall contain a monitoring programme for each site;
- f. For concerts held at the Tahunanui Reserve, the Code of Practice shall ensure that any speakers are orientated away from residential areas (including the Tahunanui Hills) and may include a condition that an appropriate sound shell is put in place in the vicinity of any stage or performance area. Any event occurring under this consent must be operated in accordance with the Code of Practice for its venue;
- g. Ten (10) working days prior to any event which will occur after 10.00pm in accordance with this consent, the applicant shall contact the Council's Divisional Manager, Planning and Consents, for the purpose of organising monitoring of the event as required under the Code of Practice. In the case of the Tahunanui area, it is recommended monitoring include:
 - i. The corner of Beach Road and Waikare Street;
 - ii. The cul-de-sac in Champion Terrace;
 - iii. The platform at Paddy's Knob; and
 - iv. The deck of the property at 156 Moana Avenue;

The first event at each venue shall be monitored and from that point on at every third event. The cost of monitoring the event shall be at the applicant's expense;

- h. The Council's Planning and Consent Division, in accordance with section 129 of the Resource Management Act 1991, may serve a notice at any time on the consent holder (the Council's Recreation and Community Services Division) of its intention to review conditions b. and d. The reason is to deal with any excessive noise emissions which become evident as a result of the exercise of this consent.
19. I have been advised and I record that the applicant has indicated that for the purposes of assessing excessive noise between 7am and 10pm, the applicant will have regard to the extended noise limits referred to in this decision and further will regard the 45 dBA L10 limit as applying from 7am to 9am on Saturdays, Sundays and Public Holidays.

Graham Allan

3 December 1998

RESOURCE CONSENT DECISION

Resource Consent number: RM095310

Pursuant to section 104A of the Resource Management Act 1991 ("the Act"), the Nelson City Council ("the Council") hereby **grants** resource consent to:

Nelson City Council (Festivals Office)

The activity to which this decision relates:

To hold Opera in the Park on 13 February 2010, for which the permitted noise levels in the Nelson Resource Management Plan will be exceeded.

Location details:

Address of property: Tahunanui Playing Fields, Beach Road, Tahunanui
Legal description: Lot 1 DP 7075 and Lot 6 DP 7075

CONDITIONS

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

1. The activity shall be carried out in accordance with the application (dated 12 November 2009) for resource consent lodged with Council on 16 November 2009, and the following conditions of consent.

2. This consent relates to an event to be held on 13 February 2010.

Advice Note: This condition has been volunteered by the Applicant

3. The event subject of this consent shall finish no later than 10.00pm.

Advice Note: This condition relates to the performance of opera and associated amplification of music. It does not relate to crowd control or dispersal following from that, although the Noise Management Plan (7.2 Event Control) submitted with the application requires that event management are responsible for making sure that people do not linger after the event finishes. The set up and dismantling aspects of the activity should fully comply with the NRMP noise provisions.

4. Any sound checks shall occur between 12.00 pm and 5.00pm on the day of the event. Sound level readings at the closest residentially zoned sites should take place during the sound checks.

5. Noise from the event shall be laid out and managed so as to not exceed the following limits within any residentially zoned site:

65dBA (L10) 7.00am to 10.00pm

45dBA (L10) and 75 dBA(Lmax) 10.00pm to 7.00am (the following day)

Sound levels shall be measured and assessed in accordance with the provisions of NZS6801:1991: Measurement of Sound and NZS6802:1991: Assessment of Environmental Noise. The duration of any measurement shall not exceed 15 minutes, excluding any pauses or data erasure.

6. A minimum of 1 month prior to the commencement of the event, the consent holder shall submit to the Nelson City Council's Manager Environmental Inspections a Noise Management Plan, prepared by a suitably qualified and experienced acoustic consultant. The Noise Management Plan shall set out the practices and procedures that are to be adopted in order that compliance with the noise limits in Condition 4 can be achieved. The Plan shall, as a minimum, address the following:
 - (i) Identify noise sources and potential impacts, including noise level contours and potential impact on residential sites;
 - (ii) Identify those residential sites in nearest proximity to the stage (and estimated noise levels);
 - (iii) Methods to be used for noise control, including reduction measures, and identifying the best practicable option in noise mitigation;
 - (iv) Contingency plans (in the event that noise limits are exceeded);
 - (v) Location of any monitoring sites representative of the most affected residential locations;
 - (vi) Complaint handling and reporting features.

Advice Note: The application was accompanied by a *Noise Management Plan – Tahunanui Reserve – Opera Event February 2010 – Nelson City* (November 2009 Ref 88474(V5) Final) prepared by Malcolm Hunt Associates and appended to the decision as Attachment A. This covers not just operation of the event itself, but times for its set up, sound checks and dismantling of the event. Mr Hunt has advised that this NMP should be completely adequate in meeting the condition, however the condition does provide flexibility for any new noise management initiatives or measures to be included prior to submitting the final version.

7. The consent holder shall undertake the activities authorised by this consent in accordance with the Noise Management Plan prepared and submitted in accordance with Condition 6 above.
8. The consent holder shall nominate a noise contact person whose specific duty it shall be to ensure that the Noise Management Plan is observed in accordance with Condition 7. That person shall be nominated at least 5 weeks in advance of the event, and their name and contact details made available to the Nelson City Council's Resource Consent Monitoring Officer and After Hour's Noise Control Service at least 2 weeks in advance of the event.

Advice Note: The early nomination of the noise contact person will enable them to be involved in finalising the Noise Management Plan, and organise the letterbox drop to local residents advising of the event as required under Condition 9 below.

9. Not less than 2 weeks prior to the event the consent holder shall deliver a written notice to the occupants of each dwelling on each residentially zoned site identified within the Noise Management Plan as likely to receive noise from the event at levels exceeding the permitted noise standards of the Noise Resource Management Plan. The noise shall specify the date and time of the proposed event, the expected times and duration of sound checks, and the name and telephone contact details of that person responsible for receiving any complaints regarding excessive or unreasonable noise associated with the event.
10. The event shall be set up in such a way as to locate equipment such as generators and speakers as far as practical away from noise sensitive locations (i.e. residential areas) and

close to the ground. The stage and speakers (especially bass speakers) shall also be orientated away from residential areas.

11. The operators of the sound system employed for the event shall be fully trained and experienced audio/mix engineers. They shall be familiar with the Noise Management Plan and their obligations under that in ensuring the sound is operated in a way that noise emissions from the events do not become unreasonable.
12. The consent holder shall be responsible to monitor noise from the activities associated with the event, in accordance with the requirements of the Noise Management Plan. In liaison with the Nelson City Council's Manager Environmental Inspections, a meeting shall be held between the consent holder and appropriate Nelson City Council staff at least 1 week prior to the event to confirm and agree on how any noise complaints will be properly received, recorded and acted upon.
13. Dismantling of the event shall finish no later than midnight if undertaken on the same day as the event. Dismantling of scaffolding and any other equipment that may result in metal on metal noise impacts shall only take place during daylight hours i.e. between 7am and 10pm.

ADVICE NOTE(S)

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. This resource consent authorises only the activity described above. Any matters or activities not referred to in this consent or covered by the conditions above must either:
 - (a) comply with all the criteria of a relevant permitted activity in the Nelson Resource Management Plan (NRMP); or
 - (b) be allowed by the Resource Management Act 1991; or
 - (c) be authorised by a separate resource consent.
3. This consent is granted to the abovementioned Consent Holder, but Section 134 of the Act states that such land use consent "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 new conditions shall mean the current owners and occupiers of the subject land. Any new owners or occupiers should therefore familiarise themselves with the conditions of this consent, as there may be conditions that are required to be complied with on an ongoing basis.
4. The Consent Holder should note that this resource consent does not override any registered interest on the property title.
5. Monitoring: A monitoring charge of \$100 will be included in your invoice, as conditions of consent requiring monitoring have been imposed. This charge covers the costs involved in the first hour of monitoring compliance with the consent conditions. Where additional monitoring costs are required to determine that conditions have been met, these will be charged as per the Council's Fees and Charges policy in force at the time. Please contact the Council's Monitoring Officer, phone (03) 546 0381, when work commences on this consent, so that monitoring can be carried out. Please quote the consent number, RM095310.

REASONS FOR THE DECISION

Description of the Proposed Activity

Consent is sought to hold Opera in the Park at the Tahunanui Playing Fields on 13 February 2010, for which the permitted noise levels in the Nelson Resource Management Plan (NRMP) will be exceeded.

The event will involve outdoor performance of classical music and opera. It will be a one-off public event at this venue. Opera in the Park has in recent times been held at Trafalgar Park which is on this occasion unavailable for use due to its upgrading works. The event, which will commence at 5.30pm, will involve amplified music-based sound to a permitted maximum of L10 65dBA at the Residential Zone boundary up until 10.00pm at night.

The application is accompanied by a Noise Management Plan (NMP) prepared by Malcom Hunt Associates, Noise and Environmental Consultants. That report has assessed the noise levels from the event, and has identified those residentially zoned properties likely to receive sound levels above the permitted activity standard in the Nelson Resource Management Plan. The Noise Management Plan also incorporates a range of physical and management-based noise control methods such as the location and orientation of generators, speakers and the stage, event control and monitoring of sound levels and the spectral characteristics of sound, limited hours and duration of the event, community liaison in advance of the event, and complaints handling procedures.

The NMP identifies 7 residentially zoned properties in Beach Road/Waikare Street for which the permitted noise levels in the NRMP will be exceeded. Those properties are all used for residential purposes, and two contain more than one unit (one with 2 units and another with 6), most of which are rental properties.

Plan Rules Affected

According to the Nelson Resource Management Plan, the following apply to the subject property:

Zoning: Open Space Recreation Zone

Schedules: Scheduled Site SF6 (Tahunanui Sports Fields)

Overlays: Coastal Environment Overlay, Airport Effects Advisory Overlay

Rules: OSs2.i – permitted activities on Scheduled Site SF6 include the activity of, and facilities and buildings associated with, outdoor performance, subject to compliance with the rule table

OSr.37 - Noise

Status: Controlled activities

The proposal is a controlled activity by virtue of Rule OSr.37.2 in the Nelson Resource Management Plan as the activity involves electric amplification of sound that will exceed the permitted noise limit of L10 55dBA at some nearby residential sites closest to the proposed stage sited opposite the Waikare Street and Beach Road intersection, up until 10.00pm on the night of the event.

Under Rule OSr.37.2 the Council has reserved its control over: noise levels; mitigation of noise; hours of the activity; monitoring of noise levels; and the frequency of events.

The overlays applying to this site are for advisory purposes only.

Assessment of Environmental Effects

The principal issue associated with the proposed activity, and the matter giving rise to this application, is the actual and potential effects of noise on the local environment. The Council is limited in its assessment of effects (and imposition of conditions) to those matters over which it has reserved control under Rule OSr.37.2:

- (a) Noise limits
- (b) Mitigation of noise
- (c) Hours of the activity
- (d) Monitoring of noise levels
- (e) The frequency of events on the site.

As a guide for assessing the adverse effects of the activity on the environment, the explanation to Rule OSr.37 states that *“the rule is to prevent unreasonable levels of noise affecting neighbouring properties. What is reasonable needs to take into account the nature of the neighbourhood, the time of day or night, and whether it is a week day or weekend. What is reasonable may also relate to the duration or frequency of the event. Habitual noise may be more annoying than one off louder events. Temporary noise may also be tolerated more (within reason) than ongoing disturbance e.g. noise associated with construction. Noise from public events in parks and reserves requires a more flexible method of control. The main source of complaint is amplified PA and sound systems, or when noise levels will be particularly high (e.g. a rock concert)...”*

Against a test of what is “reasonable”, the Applicant’s Noise Consultants (Malcolm Hunt Associates) have concluded that the noise effects of the proposed event will be mitigated by the one-off nature of Opera in the Park at this venue and that fact that the exceedence will not occur after 10pm (at night-time by definition under the NRMP) which is important as a sleep protection measure. Other mitigating factors are the expected noise levels and the fact they are breached over a very confined area, noise mitigation measures applied at source, and prior notification of the event to the affected community. The event is also to be held on the weekend. On this basis they have concluded that noise from the event will not be unreasonable, and subject to the imposition of the conditions recommended in their report, any detectable noise effects on the environment and persons resident in the area will be less than minor. This assessment is accepted by Council, including its Environmental Inspections Officer, subject to a Noise Management Plan being imposed and implemented as conditions of consent.

The Noise Management Plan submitted with the application, while not the final version (it may be amended to include any new noise management initiatives or measures prior to submitting the final version to Council), is comprehensive and encompasses all of those matters over which the Council has reserved its discretion under Rule OSr.37.2 of the NRMP. It represents the best practical option in ensuring that the emission of noise from the site does not exceed a reasonable level. It also requires that a noise contact person be designated by event organisers to ensure the Noise Management Plan is fully observed. The consent conditions also recognise the need for this person to be made known to and liaise with Council monitoring officers and after hours noise service in the event of noise complaints being received.

It is acknowledged that the control of noise from Opera in the Park at this venue is a feature not just of operation of the public event itself, but also how equipment is set up and orientated, how and when sound checks occur, and effective monitoring and complaints procedures. A range of conditions have been imposed that will ensure that noise from the event, arising both from its set-up, operation and dismantling, can be appropriately mitigated so that any effects on the local

environment are less than minor. Some of these have been volunteered by the Applicant, and others reflect key outcomes anticipated of the Noise Management Plan.

For all of these reasons, it is considered that the adverse effects of the activity on the environment will be no more than minor.

RELEVANT STATUTORY PROVISIONS

Policy Statements and Plan Provisions

In considering this application, the Council has had regard to the matters outlined in section 104 of the Act. In particular, the Council has had regard to the relevant provisions of the following planning documents:

1. the Nelson Regional Policy Statement;
2. the Nelson Resource Management Plan.

The activity is considered to be consistent with the relevant objectives and policies contained in Chapter 11 of the NRMP. Objective OS1 seeks to maintain the social well-being of the community by recognising and enhancing opportunities for use of open space and recreation land, providing the amenity of such areas are protected (Policy OS1.1) and activities are compatible with the amenity values of surrounding areas (Policy OS1.3). These values, specifically in relation to the noise environment, have been addressed in the application. Objective OS2 recognises the need to retain opportunity to provide for changing community needs and aspirations. The application seeks one-off flexibility to use the Tahunanui Playing Fields for Opera in the Park, a change brought about by upgrading works at its preferred venue.

Any other relevant matters

The Council has had regard to the following matters which it considers are relevant to determining this application:

- (a) The Tahunanui Reserve Management Plan (TRMP):

This recognises that the southern edge of the playing fields is occasionally used as a venue for festivals and outdoor events. As part of the urban environment, the TRMP has as one of its aims the use of the reserve with a community focus. Within the Inland Management Area of the reserve, relevant objectives and policies for outdoor performance recognise the need for an area or facilities suitable for community concerts and performance, providing they are sited and orientated to minimise any potential adverse effects of entertainment activities such as sound. The proposal is not in conflict with the TRMP. The Nelson City Council's Manager Parks and Facilities has viewed the application and has not raised any concerns with the proposal.

- (b) Code of Practice – Noise Control for Events in Parks and Reserves, NCC Planning and Consents Division:

The Code of Practice has effectively been replaced by the Noise Management Plan which accompanies this application and is reflected in Condition 7 of the consent.

- (c) Precedent and Cumulative Effects:

The consent provides for only one event of Opera in the Park to be held at this venue. The Tahunanui Sports Fields are the subject of an existing consent (RM985339) allowing a public performance and/or outdoor event which may exceed the permitted noise levels to be held on one occasion (New Years Eve) annually. The Applicant has advised that there is no public event planned for this site for New Years Eve 2009/2010. There will

therefore be no adverse cumulative effects, nor for that matter any precedent effect, from the granting of this consent.

Part 2 Matters

The Council has taken into account the relevant principles outlines in sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as presented in section 5. It will provide for the social and cultural well-being of the Nelson community, but with noise effects managed so that they are less than minor and do not impact on the health and well-being of nearby residents.

Notification and Affected Parties

The Council has decided that the adverse environmental effects of the proposed activity are no less than minor and, accordingly, that the provisions of section 95 of the Act have been met. The application has therefore been processed without notification. A separate report on this is contained on Council files.

Overall Evaluation

This application relates to noise levels associated with a one-off event of Opera in the Park to be held at the Tahunanui Playing Fields on 13 February 2010. The application includes, by way of a set of mitigation measures, a Noise Management Plan prepared by a qualified and experienced Acoustic consultant. Submission of and compliance with a final version of that Noise Management Plan has been imposed as a condition of consent. With that, and control over the frequency of the event and the duration of noise in excess of permitted standards in the NRMP, noise levels from the event will not be unreasonable and any adverse effects on the nearby residential neighbourhood will be less than minor. The proposal accords with the objectives and policies in the NRMP for the Open Space Recreation Zone, and is not inconsistent with the Tahunanui Reserve Management Plan. Subject to the conditions imposed on the consent, the granting of resource consent will achieve the purpose (sustainable management of natural and physical resources) of the Resource Management Act.

This resource consent is **granted** on 2 December 2009 under delegated authority from Nelson City Council by:

Gary Rae
Independent Commissioner

ANNEXURE E
Existing NCC Code of Practice
– Noise Control for Events in Parks and Reserves



NELSON CITY COUNCIL
Code Of Practice
Noise Control for Events in Parks and Reserves

*Bob Askew, Environmental Outcomes,
Environmental Health & Resource Management Consultancy
Date: 22 December 1998*

General

1. This Code of Practice has been prepared in accordance with conditions made pursuant to the granting of Resource Consent No. 985339 on 12 November 1998 for Saxton Field, Tahunanui Reserve, Trafalgar Park, Church Steps / 1903 Site.
2. Where there is any conflict between this Code of Practice and the Consent, the provisions of the Consent and its conditions shall predominate, otherwise the provisions of the Nelson Resource Management Plan and the Resource Management Act shall apply.
3. For the purpose of this Code of Practice an 'Event' means a public performance such as a concert, gala or other similar organised event to which the general public have access whether by payment or not but excludes all private uses, formal civic ceremonies and any public use where the approval of the Nelson City Council has not been required or obtained.
4. 'Excessive Noise' has the same meaning as in Section 326 of the Resource Management Act 1991.
5. All measurements and assessments of noise other than excessive noise shall be in accordance with NZS6SO1: 1991 and NZSS8O2: 1991.
6. This Code of Practice may be reviewed at any time with the approval, or by the direction of the Divisional Manager Planning and Consents.

Duties of Nelson City Council Recreation and Community Services Division

1. To comply with all the requirements of this Code of Practice and Resource Consent No. 985339.
2. To advise in writing all Event Applicants that wish to engage in any activities that occur after 10.00pm of the requirements of Resource Consent No. 985339 and this Code of Practice.
3. To advise in writing all Event Applicants that wish to engage in any activities, other than as described in 2) above, which in the opinion of the Recreation and Community Services Division is likely to create significant noise on any of the Nelson City Councils Parks, and Reserves of the requirements of this Code of Practice.
4. Where any Event Applicant, as referred to in 2) or 3) above does not provide a written Noise Control Agreement to comply with this Code of Practice, the Nelson City Council (as landowner) may refuse permission for the proposed activity to take place.
5. The Recreation and Community Services Division shall, without delay, provide copies to the Divisional Manager, Planning and Consents, of all applications for events that include Noise Control Agreements.
6. The Recreation and Community Services Division shall be liable for the payment of all monitoring and enforcement action and the Event Applicant may be required to pay an appropriate monetary bond to the Councils Recreation & Community Services Division to cover actual and reasonable costs of monitoring and enforcement action.
7. Note that this does not preclude the Council from requiring such other bonds to cover costs of other matters such as security, litter control, reinstatement of any damage to Council property etc.
8. Where an Event is not considered to be covered by paragraphs 2) & 3) above, but that there may be some noise from activities, the Event Applicant shall be provided with a copy of the Guidelines to Control Excessive Noise which are part of this Code of Practice.

Duties of Nelson City Council Planning and Consents Division

1. To monitor the noise levels at events occurring after 10.00 pm in accordance with the Consent and at every other event where in the opinion of the Manager, Policy and Consents Division there is likely to be excessive noise levels generated.
2. The Manager, Policy and Consents Division will notify the Recreation and Community Services Division if it is intended to monitor any event.
3. The Manager, Policy and Consents Division may use the following noise levels as guidelines in assessing noise for events within Councils Parks and Reserves at times that do not have prescribed noise performance standards under the Nelson Resource Management Plan or under Resource Consent No. 985339:
 - a. for events at parks referred to in Resource Consent No. 985339, which are held between 7.00 am and 10.00 pm: noise levels used as guidelines shall be those that are prescribed in that Consent for each relative site, and
 - b. for events at any other parks and reserves site within Nelson City, which are held between 9.00am and 10.00pm: noise levels used as guidelines shall be 70dBA L10, S5dBA Lmax at any point within any residential zone;
 - c. at any other time the noise levels shall be as provided in the Nelson Resource Management- Plan and if no prescribed level is given the noise level used as a guideline shall be 4SdBA Li 0 or 75dBA Lmax.

Note: Nothing shall prevent any action being taken for any excessive noise as defined in Section 326 of the Resource Management Act 1991, notwithstanding that any Event may be in compliance with Noise Rules in the Nelson Resource Management Plan and/or conditions of Resource Consent.

4. To respond to any complaints regarding excessive noise and/or perceived breach of the conditions of the Resource Consent and or Rules in the Nelson Resource Management Plan.
5. To take any enforcement action that is deemed appropriate to abate any excessive noise and/or noise level exceeding the noise performance standards in the Resource Consent, and/or any other condition of the Consent or Noise Rule in the Nelson Resource Management Plan.
6. To make a written report within 5 working days to the Divisional Manager, Planning and Consents, of the results of monitoring any Event under 1) above, and
7. To make a written report within 2 working days of the results of any enforcement action resulting from any excessive noise and/or breach of conditions of the Resource Consent.

Duties of Event Applicants

1. To contact the Nelson City Councils Divisional Manager, Planning & Consents, no later than 10 working days prior to any Event subject to the Resource Consent taking place, and no later than 5 working days for any other Event, subject to a noise control agreement made pursuant to this code of practice, taking place, detailing the following:
 - a) The date and time of the Event and maximum duration (including sound checks);
 - b) Provide a site plan showing the location and orientation and height from the ground of any sound shell or speaker system and the approximate distance of the Sound shell/speaker system from the nearest residential zoned boundaries surrounding the site.
 - c) The maximum wattage and number of speakers and the frequency range characteristics of each speaker (i.e deep base, base, mid-range, treble);
 - d) Details of any other sound amplification or sound generation system and/or devices such as vehicles, aircraft, generators, stationary engines, public address systems, megaphones, alarms and sirens, explosive devices (such as fireworks and other pyrotechnics, starting pistols, etc.)
1. To promptly provide such other information as is required by the Nelson City Council or any of its officers to ensure compliance with this Code of Practice.
2. To comply with all requirements of the Nelson City Council or any of its officers to achieve compliance with the Resource Consent, and for the requirements of this Code of Practice.
3. To render all reasonable assistance and co-operation to Nelson City Council or any of its officers in regard to any monitoring and/or enforcement action which may be required to assess and/or control noise at the Event.



Nelson City Council

te kaunihera o whakatū

**Application to Hold an Event at
Nelson City Council Parks and Reserves**

Note: Failure to provide accurate information on this application may lead to any approval from the Nelson city council being withdrawn.

1) Name of Event Applicant (include details of contact person(s))

2) Place Event to be Held

3) Dates and Times (start and finish times including any pre-Event sound checks or rehearsals)

4) Briefly Describe the Type of Event (include general description e.g. music festival, gala, sports event etc. - anticipated numbers of participants/spectators - whether food and/or alcohol will be available)

5) Will the Event involve any of the following:

			NCC Department
Amplified sound system including public address and megaphones	Yes / No	⇒	Planning & Consents
Use of motor vehicles, aircraft, generators or stationary engines	Yes / No	⇒	Planning & Consents
Use of explosive devices such as starting pistols, fireworks etc	Yes / No	⇒	Planning & Consents
Use of any alarm system, siren or other similar devices.	Yes / No	⇒	Planning & Consents
Sale or consumption of alcohol.	Yes / No	⇒	Customer Service Centre
Marquees, tents and structures larger than 10m2	Yes / No	⇒	Planning & Consents
Access to electrical power or keys to a park or facility.	Yes / No	⇒	Customer Service Centre
Road closure and/or management of traffic on site or the surrounding area.	Yes / No	⇒	Customer Service Centre

6) If you answered yes to any of the questions in 5) you will need to contact the relevant Council department to seek advice about meeting council requirements for events. This could include submitting Building and Resource Consent applications.

Date of Application

.....

Signature of Event Applicant

.....

Phone Contact(s)

.....

Postal Contact

.....

NCC USE		
Date Received	Approved / Not Approved	Approved By

Noise Control Agreement

I (name of Event Applicant), on behalf of

..... (name of organisation if applicable)

hereby agree that I will abide by the conditions of the Nelson City Council's Resource Consent No. 985339 and which includes this Code of Practice for Noise Control for Events held within its Parks or Reserves and also agree to the following:

1. Payment with this application of a bond of \$ to cover all costs associated with monitoring and enforcing the provisions of the Resource Management Act 1991 in regard to Excessive Noise and the Conditions of the Resource Consent.
2. In the event of any breach of the previously stated noise control provisions I acknowledge that I will be liable for the full forfeiture of the bond and that I will prejudice any future application that I or this organisation may make for any other Events held in Nelson City Parks or Reserves.
3. I agree to be bound by the requirements of the Nelson City Council or any of its officers, and in particular the requirements relating to the avoidance, remedying and/or mitigation of noise regarding this Event,

Signed

Status in Organisation (if applicable)

Date

Attachments:

1) Copy of Resource Consent 985339

2) Copy of this Code of Practice

Application Approved
Nelson city council, Recreation and community Services Dept
Name & Position
Date of Approval
Date copy Passed to Divisional Manager, Planning and Consents

Guidelines to Control Excessive Noise

1. If you have any doubt about noise control requirements discuss the matter as soon as possible with Council's Environmental Health Section (Direct Dial (03) 5460201)
2. Make sure that you allow plenty of time for planning the Event and making any necessary changes that may be required by Council.
3. Keep sound shells and speaker systems as far away as possible from residential proper-ties and have such sound shells and speaker systems pointing away from residential properties;
4. Have speakers kept low to the ground;
5. Keeping the base level volume low will reduce the travel of this high energy, and often disturbing sound.
6. Make sure residents in the area know the details of the Event (hand-drop a leaflet or advertise in the local paper), and in particular the start and finish times of the Event. Make sure you keep to these times.
7. Ensure sound checks are can-led out with the approval and/or under the supervision of Council staff;
8. Have someone responsible and reliable on the sound system;
9. If appropriate employ security personnel to assist in the control excessive noise from the Event;
10. Ensure that you keep noisy activities within the prescribed limits and prescribed times (you can obtain details of these times and limits from the Councils Manager, Policy and Consents Division);
11. If you receive a complaint directly from any member of the public, ascertain the cause for the complaint and what remedial action you may take to satisfy the complainant. If there is a continuing dispute, write down details of the complaint and immediately refer the matter to the Councils Noise Control Officer (Contact Phone: 035460200). Also advise the complainant of their right to complain to the Council.
12. In the event of an approach by the Councils Noise control Staff to control excessive noise and/or breach of conditions of Resource Consent No. 985339, or Noise Rules in the Nelson Resource Management Plan, make sure you follow their instructions as failure to do so may result in the loss of any bond and make you liable for seizure of any sound producing equipment or device and any other legal action taken under the Resource Management Act.

MalcolmHuntAssociates



First floor, Arco House, 47 Cuba Street, PO Box 11-294, Wellington

Telephone 04 472 5689 Fax 04 473 0456

mha@noise.co.nz www.noise.co.nz

19 March 2012
Ref;0344/212_C

Nelson City Council
Community Development
C/- Jane Hilson
Planscapes (NZ) Ltd
PO Box 99
Nelson

RESPONSE TO REQUEST FOR FURTHER INFORMATION: RESOURCE CONSENT RM115245 TO ENABLE AMPLIFIED SOUND AT COMPLIANT LEVELS ON SITES ZONED OPEN SPACE

Thank you for forwarding the request for further information received from Mark Batchelor on behalf of the Nelson City Council Planning Department regarding the noise AEE report my firm prepared in support of resource consent RM115245.

I set out our response as follows (adopting the question numbers as per the request);

1. I have been advised by the applicant that, in exercising any consent that may be granted under this application, the applicant agrees to comply with any restrictions or interests on the Certificate(s) of Title for the respective events venue.
2. Lmax and L10 adopted within the NRMP are two metrics used to describe environmental sound as recommended within NZS6801:1991, a New Zealand Standard referred to within the Plan. The Lmax is used as means of measuring and controlling single event night time sound and is not relevant to resource consent application RM115245 as no night time events are included in the application.

L10 is used to control potential nuisance sound for both daytime and night time in the NRMP. The L10 level is the level of sound that is statistically found to be present for 10% of the measurement period. This is sometimes referred to as the average maximum sound level.

There is presently a general trend for the adoption of the Leq descriptor for the assessment and measurement of environmental noise levels and for the specification of noise limits in resource consents and district plans. Leq is the energy average of noise during a specified period. It is commonly known as the average noise level. The use of Leq is recommended within the more recent version of NZS6802 (New Zealand Standard NZS 6801:2008 *Acoustics – Measurement of Environmental Sound*) and within other New Zealand Standards. The L10 descriptor was demonstrated to have a reasonably good correlation with the degree of annoyance caused by noise to receivers, and L10 noise levels could be determined from analogue sound level meters by manual means.

More recent international research has shown that the Leq descriptor has a greater degree of correlation to noise annoyance than L10, and for this reason

is widely accepted as being the preferred noise descriptor for use in environmental noise standards and noise limits.

In this regard, it is observed that a Leq level contains the whole of the sound energy during the measurement period, whereas L10, effectively measures only that sound which occurs for 10% of the measurement period. This can result in brief high noise level events not being captured by an L10 measurement. This issue can be of significance in situations such as, for example, where there are a small number of noisy heavy vehicle pass-bys, which may be potentially disturbing, but not measured by L10, as cumulatively they constitute less than 10% of the measurement time. As noted above, Leq resolves this issue by containing the entire sound energy during the measurement period.

The relationship between L10 and Leq for is that L10 will typically differ from Leq by between zero to -3 dB, depending upon the variability of the sound. Measurements of L10 due to amplified sound are typically lower than Leq by 1 to 3 dB. Where the sound is continuous, unvarying (e.g. fan, generator, pump, transformer sound) then L10 = Leq.

For the purposes of this assessment the Leq can be considered more or less equivalent to the L10, certainly within a few dB. Critical sound levels (such as the calculated sound levels in Table 3) are provided in the report in terms of L10 which avoids the need for any conversion. Note these predicted L10 levels are likely to be an under estimate as these predicted L10 sound levels do not include an allowance available under NZS6802:1991 when averaging measured L10 sound levels to determine compliance with daytime noise limits of the NRMP. Averaging daytime sound levels under NZS6802:1991 allows for measured levels to exceed the applicable limit by up to 5 dB when these levels can be offset against lower measured L10 levels that may occur at less noisy times

We do not consider the differences between Leq and L10 to make any material difference within this assessment as the proposed conditions refer to compliance with L10 limits measured and assessed in accordance with NRMP rule OSr.37.1[b].

3. Specific noise source types listed in Table 3 of the report refers to the design and size of the sound system which are linked back to example activities for each site indicated in Table 1.

It would be common ground to suggest that activities involving Type 3 encompass and surpass the levels of noise effects due to either Type 1 or Type 2 sound systems. Venues where Type 1 systems are proposed would generally (but not necessarily) rule out the increased sound levels associated with a type 2 or 3 sound system. Similarly, sites where Type 2 systems are employed would generally (but not necessarily) rule out the use of Type 3 sound systems.

While the Noise AEE has attempted to 'right size' the activity to the site in noise effects terms based on the range of activities taking place on each site, there is no need to be concerned about the appropriateness of sound source types or where sources are located on each site as overall control of noise effects is to be determined via compliance with noise limits set out within NRMP OSr.37.1[a] when measured and assessed in accordance with NRMP OSr.37.1[b].

4. Crowd noise is not included in consideration of noise effects as it is excluded from control within the noise standards of the Nelson Resource Management Plan. Our enquiries reveal crowd noise has not been the subject of complaints from events involving amplified sound held within the district to date. The reason is that crowd sounds generally do not possess sufficient sound power to affect noise levels over wide areas. Loud outdoor sound systems do possess high sound levels and have caused complaints in some instances (at levels exceeding typical NRMP noise limits) because they significantly affect sound levels experienced within adjacent noise sensitive sites.

Given the modest sound power at source of voices, hand clapping, etc. and its distributed nature around the grounds, we do not consider this source likely to result in adverse noise effects within adjacent receiving environments. The assumption that there will be high noise levels from the crowds and other externalities such as traffic would lead to significant noise effects is not supported by experience to date with typical events incorporating amplified sound at compliant sound levels approved to date. However, regarding traffic effects we are unable to respond to this issue as it falls outside our area of expertise.

The basis of Question 3 was that by approving the consent as sought this would lead to possibly unacceptable levels of noise effects due to crowd movement through localities sensitive to noise. We consider the reviewer has over estimated the nature and scale of typical events involving amplified sound complying with the noise limits set out in the NRMP. In our experience, no events occurring as a result of granting consent as sought would be likely to create crowds of a sufficient size to cause the potential noise effects raised in Question 3. Our enquiries reveal this is supported by the collective experience of the noise officers at Council. Further evidence on these matters can be provided at the hearing if required.


5. This question refers to additive or cumulative sound associated with the contributions from each speaker and sounds from other sources. As stated on Page 9, calculated sound levels represent cumulative amplified sound as well as sounds from other associated sources excluding crowd noise. As per NZS6802:1991, the effects of existing ambient sound sources (not related to the event) are not relevant to the assessment of compliance with Rule OSr.37.1.
6. We confirm unamplified sound sources are controlled by Rule OSr.37.1. The effects of sound from unamplified and amplified sound sources associated with an event are to be considered cumulatively when assessing compliance with Rule OSr.37.1. As set out on page 9 of the report "*cumulative amplified sound and sounds from other sources excluding crowd noise*" are the basis of the calculated noise levels set out in Table 3 and have been included in the overall assessment of effects.
7. Council's Code of Practice relating to Noise Control for events in parks and reserves is mentioned on Page 16 of the report. The version attached is the amended version of this code. This code is relied upon only in respect of Council being able to manage the use of the sites for events that may (or may not) involve amplified sounds. This existing mechanism, although helpful from Council's perspective, is not considered essential for the management of noise effects. In our view, whether council amends this code from time to

time or will be unlikely to have any significant bearing on the effects of noise or the mitigation of noise from amplified sounds.

8. "Typical" locations for amplified sound systems mentioned on Page 16 refer to amplified sound sources being located centrally (in general) on each site which allows for a crowd area and circulation routes around the site. The distances used for noise modelling provided in table 3 on page 10 are indicative only. As set out above under item 2 (above), sound source types and their location on the site will ultimately be controlled via compliance with noise limits set out within NRMP OSr.37.1[a] when measured and assessed in accordance with NRMP OSr.37.1[b].
9. The advice set out in clause b) on page 18 of the noise report regarding the size of amplification equipment being generally no more than about 200 watts (other than for Saxton Field) is an example of general noise mitigation advice to Council as landowner, to be used when exercising their rights to determine whether or not a planned event involving amplified sound may occur on Council land. This advice is not specific enough to be used as a specific guide to limiting noise effects on adjacent sites as the sites are of varying size (see Figure 1) and sound systems of various sizes (e.g. Types 1, 2 or 3) can be operated at differing levels regardless of the sound power level of the system. For example, Table 3 shows some of the higher levels for Victory Square using a Type 3 sound system, the system with the lowest sound output. It is for this reason that recommendations as to sound system specifications is not continued into the recommended conditions provided in Section 7.0.

The words '*The following are noise mitigations.....*' on Page 19 should be interpreted as not implying clauses a) to and including c) are existing controls utilised elsewhere. These items simply represent general noise mitigation advice to Council as landowner, to be used when exercising their rights to determine whether or not a planned event involving amplified sound may occur on Council land.

Please do not hesitate to contact the writer should you require any further information.



Malcolm Hunt

B.Sc. M.E.[mech], Dip Pub. Health. RSH Dip. Noise Control

RM115245 – NELSON CITY COUNCIL

The following document has been prepared by Marshall Day Acoustics (dated 22 November 2011).

The document is a peer review of the Noise Assessment and Management Recommendations report prepared by Malcolm Hunt Associates (dated 22 August 2011) which forms part of the application.

RECEIVED

28 NOV 2011

NELSON CITY COUNCIL
Records

22 November 2011

Nelson City Council - Community Development
PO Box 645
Nelson

Attention: Carl Jenkins

Dear Carl,

RM115245 - USE OF ELECTRICALLY AMPLIFIED SOUND FOR THE OPEN SPACE ZONE

Marshall Day Acoustics has reviewed this application and its annexures. This letter is intended to be read in conjunction with the application for resource consent and specifically the Malcolm Hunt Associates report within.

Our review has considered the following:

1. Can noise from the events proposed generally comply with the District Plan Open Space zone limits?; and
2. Are the noise limits in the Open Space zone sufficient to ensure noise is not unreasonable in accordance with the relevant sections of the Resource Management Act?

SUMMARY OF REVIEW

The following is a summary of the main findings of our review of this application:

S3.4 Calculation of Sound Pressure Levels

MHA has gone to some effort to show that the activities proposed will comply with the Open Space noise rules. Marshall Day Acoustics considers that this is a reasonable approach, however it is our position that it is only necessary to show that compliance *could* be achieved; the obligation to achieve the District Plan noise limits will rest on the organisation holding the event. The application is to permit amplified sound systems that will meet the noise limits, not to allow sound systems to be used indiscriminately in the Open Space Zone. Thus the organiser of the event can ensure noise limits are achieved by selecting appropriate sites, limiting noise outputs, screening and judicious orientation of loudspeakers.

In addition, the application is for a controlled activity and must be granted subject to controls on noise. Thus, the question of whether compliance will generally be achieved is somewhat of a moot point: it can be assumed that Council through a requirement for relevant provisions in the noise

management plan, will ensure *all* amplified sound systems in Open Space Zones will comply with the limits or they will not be permitted to be used.

Notwithstanding the above, we have the following comments on the MHA predicted noise levels:

The rationale behind the calculation results contained in Table 3 is not immediately apparent. A PA speaker located outdoors generating a noise level of 92 dB L_{A10} at 5 metres would result in noise levels around 16 dB louder than those predicted in Table 3. The calculations may contain some correction for directivity or screening. If this is the case then this information should be provided; ideally this information would contain directivity plot(s) assumed for the type of sound amplification system¹ and any other corrections that have been assumed. Page 11 of the report indicates that no correction has been made for duration, which is conservative but reasonable.

If a large correction for directivity has been included in the calculation then this assumes loudspeakers are pointed away from all residences. Whilst such a situation could be envisaged, this may not be achievable in all locations. Consideration should also be given to the noise level for receivers in the direction that the loudspeakers are facing. It is noted that the required setback distances may be in the order of 500 metres for PA systems directed at residences if a level of 92 dB L_{A10} is required at 5 metres.

S4.0 Effects of Noise and S5.0 Assessment Criteria

The MHA report provides detail of the relevant District Plan noise rules applying to the Open Space zones and Residential zones. The report considers that all amplified sounds will be subject to a “special audible character” adjustment of 5 decibels. This is potentially a conservative approach as some amplified sounds may not contain special audible character. However the presence of special audible character is often debatable and in the interests of reducing the complexity of assessment of these noise sources it is considered that the application of a special audible character adjustment to all amplified sound systems is a sensible approach in this case.

The MHA report does not provide a exhaustive review of Open Space noise limits (OSr.37.a) against recognised guidelines for the control of annoyance. The report states that *“the noise limits set out in the NRMP represent a reasonable level for activities taking place on a daily basis, however higher noise levels can be justified when the activities are limited in duration, infrequent and adopt practical methods to ensure the emission of noise is no louder than necessary”*.

We generally agree that a noise limit of 55 dB L_{A10} (reduced to 50 dB L_{A10} due to special audible character) represents an acceptable level throughout most of the day when it is considered that the envisaged amplified events will not generally occur on *every day*. However one situation which does not appear to have been addressed is the likelihood that amplified music could occur within an Open Space zone regularly or for a longer period of time during the late evening period.

An example of this would be noise from members of the public on reserves or camp grounds who are listening to amplified music through car stereos or portable sound systems. Another example is a regular informal meeting (such as informal sports training on Council grounds) that occurs until

¹ Or, at minimum, the front-to-back dBA level difference assumed

late in the evening involving loud hailers or music. Marshall Day Acoustics considers that such noise sources would generally be reasonable for the *majority* of the daytime (where compliance with the limit is achieved), however these sources may not be reasonable where they occur in the evening (between 7pm and 10pm) on a regular or ongoing basis.

The situation involving amplified noise from general public activities would currently be controlled through the Council noise control department as the noise could be considered unreasonable and the Resource Management Act may therefore make it unlawful. However the proposed consent application would effectively legitimise such a noise source and would potentially remove the ability for Noise Enforcement Officers to act.

Marshall Day Acoustics considers that the proposed Resource Consent is reasonable for organised events, as these can be controlled via the NCC noise management guidelines and compliance with the noise limits is expected to be achieved. These organised events are understood to be infrequent and would be unlikely to cause significant disturbance to residential areas. However where the Resource Consent allows for the general public to use electrically amplified sound as they see fit there is potential for noise to regularly occur at residential boundaries at a level of up to 50 dB L_{A10} during the late evening period.

This issue could be addressed through the following ways:

- Applying a shoulder period (7pm to 10pm) noise limit of 50 dB L_{A10} (corrected to 45 dB L_{A10} due to special audible character) to any activity that does not have a noise management plan and/or has not agreed to adhere to the Council Code of Practice;
- Reducing the permitted hours of any electrically amplified sound to 9am to 7pm;
- Consider this issue (amplified noise from the general public) and any complaints arising a matter for annual review (refer S7.3) of the Consent.

OTHER MATTERS

The following matter is noted but is not considered to materially affect the consent:

S3.3 Indoor Sound Systems and Levels

NZS6802:1991 is the standard referenced in the Open Space zone noise rules. This standard provides for a 5 decibel adjustment for special audible character; however the correct parameter is L_{A10} , not L_{Aeq} . The reason for the mix of use of parameters is not known. If MHA are referring to the 2008 version of the standard then it is the level that is reduced, not the limit. The final paragraph is unclear and clarification is required.

CONCLUSIONS

Overall it is considered that electrically amplified sound that meets the noise limit for the Open Space zone is likely to result in noise effects that are generally acceptable and reasonable where events are temporary, infrequent and are managed appropriately. However it is recommended

that the application consider the effects that may arise in the evening period (c. 7pm to 10pm) in situations where electrically amplified sound occurs (or could potentially occur) more regularly.

If you have any questions, please do not hesitate to contact us.

Yours faithfully

MARSHALL DAY ACOUSTICS LTD



Peter Ibbotson

Consultant

PUBLIC CONSULTATION CARRIED OUT BY APPLICANTS

PUBLIC CONSULTATION ON RM115245 AND RM125012 (NELSON CITY COUNCIL RESOURCE CONSENT APPLICATIONS FOR PUBLIC EVENTS)

Neighbouring residents and the general public were invited to attend any of four public information sessions organised by the Applicant for mid February 2012, the purpose of which was to explain the applications process, the expected noise characteristics of events, and the proposed mitigation procedures:

Monday 13 February 2012, Saxton Netball Pavilion, 7.00pm – focus on Saxton Field venues

Tuesday 14 February 2012, Nelson Council Chamber, 5.30pm – focus on Fairfield Park and Botanics Reserve

Tuesday 14 February 2012, Nelson Council Chamber, 7.30pm – focus on Trafalgar Park, Trafalgar Centre and Upper Trafalgar Street

Wednesday 15 February 2012, Tahunanui School Hall, 5.30pm – focus on Tahunanui Playing Fields

Although the meetings were held convenient to the resident populations of each of the Special Events venues, both applications were open for discussion.

The public meetings were advertised as follows:

- By article in Live Nelson, 21 January and 4 February 2012
- Public Information Sessions Notices placed in Nelson, Stoke and Tahunanui libraries, supermarkets and community centres
- Public Information Sessions Notice distributed to event organisers, and to Nelson Tasman Tourism to distribute through their event organisers database
- Media release 9 February 2012

The meetings were attended for the Applicant by Kath Inwood (Manager Community Development, NCC), Susan Coleman/Hugh Kettlewell (Executive Managers, NCC), Malcolm Hunt (Acoustic Engineer) and Jane Hilson (Resource Management Consultant).

No members of the public attended the meetings held 13 and 15 February, and 5.30pm 14 February.

The session of 7.30pm 14 February was attended by Gaile Noonan (a resident of Hathaway Terrace), Errol Miller and Dan McGuire.

Matters raised by and of particular interest to those members of the public in attendance were:

- the resource consent application process and its timing;
- comparison with current noise levels permitted under the NRMP and existing consents;
- the comfort level of noise for health reasons, and how this would be compromised at levels as high as L_{eq} 85dBA;
- in discussion of Trafalgar Park, the duration and close of events during the week (no later than 10pm), excessive noise levels and tonal characteristics from the Fresh FM Vineyard Concert that had just occurred at the Park, the need to be mindful of the cumulative effect of public events on Hathaway Court residents where these parties already endure a degree of anti-social night-time behaviour due to their inner city location, and the number of events proposed annually for Trafalgar Park;
- proposed mitigation measures, Council's booking system and monitoring of events as they occur.