

**BEFORE THE TASMAN DISTRICT COUNCIL
(COMMISSIONER HEARING)**

In the matter of	Applications for resource consents to establish a Motorsport and Recreation Park (Land Use Consent RM100848; Land Use Consent RM100872; Land Use Stream Bed RM100873; Land Use Consent RM100874; Land Use Consent RM100875; Water Permit RM100876; Water Permit RM100877; Discharge Permit RM100878; and Discharge Permit RM100879)
Applicant	Adcock and Donaldson Properties Limited

**STATEMENT OF EVIDENCE OF JANE HILSON ON BEHALF OF NELSON
FORESTS LIMITED
8 March 2012**

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Introduction

1. My name is Jane Hilson, and I am a Planning and Resource Management Consultant and a Director of Planscapes (NZ) Ltd, a surveying and resource management consultancy based in Nelson.
2. I have a Bachelor of Regional Planning (1st Class Honours) degree from Massey University, and I am a Member of the New Zealand Planning Institute (full membership since 1995) and the Resource Management Law Association.
3. I have 21 years experience in resource management and planning practice, in both the public and private sectors, and most of that in the top of the South Island. I was until 2006 employed by Staig and Smith Ltd as a Resource Management Consultant for some 13 years, and prior to that by the Tasman District Council and by Davie Lovell-Smith and Partners in Christchurch.
4. My work experience has included preparation and processing of resource consent applications, submissions to applications and District Plans, policy analysis, Private Plan Change Requests for development options, and property development advice. I have appeared both for private clients and local authorities as an expert witness at Council and Environment Court hearings, and I have prepared expert evidence for both High Court and Land Valuation Tribunal proceedings.
5. A significant portion of my work involves resource management in the rural area. I am familiar with productive forestry management and harvesting practices. I am also well aware that while certain non-rural land use activities may due to their land area needs or operational characteristics favour a rural location, fundamental to that is site selection and effective mitigation measures in managing adverse reverse sensitivity effects between non-rural and productive land use activities.
6. I have a detailed working knowledge of the Tasman Resource Management Plan ('TRMP') and its objectives, policies and rules relevant to this application.
7. I have been called by Nelson Forests Ltd ('the Submitter') to give planning evidence in relation to a suite of resource consent applications (RM100848 and RM100872 - RM1008792) by Adcock Donaldson Properties Ltd ('the Applicant') to establish and operate a Motorsport and recreation park in an area known locally as Rabbit Gully, Stanley Brook.

8. I was not involved in preparing the submission of Nelson Forests Ltd ('NFL') but I have been provided with a copy of this. NFL opposes the applications and seeks that consent be declined. I summarise their concerns as:
- legal and operational encumbrances associated with the right of way access to the site;
 - fire risk;
 - risks to NFL property and the safety of its staff and contractors; and
 - the incompatibility and adverse effects of the proposed use.
9. I undertook a site visit on 16 February 2012, in the presence of Heather Arnold (NFL), Judith Rowe and Camilla Owen. We approached the application site from the Motueka Valley Highway, Olivers Road and Rabbit Gully right of way. Having forded the Stanley Brook Stream, we turned right onto the existing farm and forestry access along the eastern boundary of the application site. We followed this to the top or southern end of the property where it borders NFL's forest and then proceeded down the valley before exiting over the private road through the NFL and Rowe properties to Stanley Brook Road. This afforded a good view of the application site, to which I was able to relate the various motor sport and recreational activity areas, parking and internal access shown on the application plans. I observed the condition of road and right of way access to the application site, physical features of the application site itself, the topography of land and the location of forestry and skid sites surrounding the access and application site, and its relationship to the Rowe farm.
10. In the course of preparing my evidence I have read the Council's Section 42A report, the expert evidence pre-circulated by the Applicant, and other evidence for the Submitters. In the context of the Submitters' concerns, my evidence responds primarily to the planning evidence of Mr Andrews, Mr Mackiggan, and Mr Quickfall.
11. I have read the Environment Court's Consolidated Practice Note and Code of Conduct and have complied with it in the preparation of my evidence, and I agree to comply with it in any oral evidence that I may give before this hearing. I have not knowingly omitted to consider material facts and I consider myself to be suitably qualified to make comment on those areas covered in my Statement of Evidence. In other instances I have made summary comments drawing on the evidence of the other Expert Witnesses.
12. The statements of Ms Arnold and Mr Karalus provide detailed information on the operational forestry practices of NFL.

13. I intend to structure my evidence according to matters in Part 2 and section 104 of the Resource Management Act 1991, as follows:

- the concepts of reverse sensitivity and cross-boundary effects;
- physical features of the site and the mitigation of adverse effects;
- consistency with objectives and policies in the Tasman Resource Management Plan;
- precedent;
- recommended conditions of consent in the Section 42A report, with an emphasis on the land use consent RM100848;
- consideration of Part 2 of the Resource Management Act;
- conclusions.

Reverse Sensitivity and Cross Boundary Effects

14. For the Submitters I believe that this application is primarily about reverse sensitivity, the concept that the proposed motor sport and recreation park will adversely affect lawfully established existing activities already occurring in the area. Forestry is an existing effects-intensive activity in its operational characteristics, particularly in and around access roads, and is susceptible to natural events or disasters such as high winds and fire. NFL is concerned that it will need to alter its operational patterns and access arrangements, at significant cost to itself, to ensure the safety of Motorsport park patrons. The Rowe's farming operation may be affected by a reduction in water supply and water quality, or fire risk. In avoiding the potential for unacceptable conflict between activities, the consent authority needs to consider existing activities in assessing the effects of introducing new and potentially conflicting activity into an environment. If the Applicant cannot reasonably internalise the adverse effects of its activities, including through mechanisms such as buffer zones, then this is an inappropriate location for the proposal.

15. There is the added issue that, in order to ensure the safety of its forests, NFL has the right to close off access to what is intended to be a regional Motorsport and recreation facility with associated events such as concerts and the potential accommodation of significant numbers of patrons. This has the ability to frustrate any consent that may be granted to the Applicant, a cross-boundary effect of forestry activities on the proposal and one that is likely of its own to result in on-going litigation in order to maintain full-time vehicular access to the application site.

16. The Council Officers' report barely considers the reverse sensitivity effects between the proposal and legitimate existing activities in the area. Mr Quickfall does accept that it is an issue, and that the activities of NFL are "*a key consideration*" (paragraph 97). Mr Quickfall and I however hold a difference of opinion as to whether these adverse effects can be adequately avoided or mitigated through the proposed set of conditions recommended in the application and in the Council's Section 42A report.

Physical Features of the Site and the Mitigation of Adverse Effects

17. To quote from the Council's Section 42A report (page 1):

"The applicant is proposing to establish a national standard Motorsports Park on rural property in Stanley Brook, near Tapawera. The proposal is to create and operate a Motorsport and Recreation Park comprising commercial events and conference centre, sale of liquor, airstrip and helipad, and a range of accommodation and buildings in excess of the Rural 2 zone building height, to be developed in general accordance with a site Master Plan and the activity and building schedules included in the resource consent application."

(underlining is my emphasis)

18. The application will result in a large commercial development within an area and on a site that presently contains open space rural character and natural landscape values. It will be a non-rural use that will profoundly change the rural character of the application site and its access.
19. In assessing the adverse effects of this proposal, I see little on the permitted baseline. Mr Quickfall has in paragraph 29 of his evidence listed activities permitted on the application site under the TRMP. Some of the effects he has identified, such as the additional traffic from forestry and 8 additional dwellings and homestays, are fanciful. They assume that the activities occur concurrently, a situation that is unlikely given the incompatibility of houses within and surrounded by plantation forestry, and the isolation of the site affecting the feasibility of homestay accommodation on this scale. They also rely on subdivision consent (for which there is no permitted activity under the TRMP) and the assumption that such application would pass the "practical access" hurdle of section 106 of the Resource Management Act. If the 203ha application site was used entirely for forestry, Mr Quickfall has surmised that the level of effects from traffic would be similar to a Motorsport event. This does not align with the evidence of Ms Arnold, who has estimated that harvesting of 1776 ha of NFL's forest would result in an average of just under 3000 logging truck and trailer movements on the Rabbit Gully

right of way and Olivers Road *per year*. A single larger Motorsport event would achieve this movement in *one day*. The effects are clearly not comparable.

20. There are a number of physical features of the application site and its access that present challenges in avoiding or mitigating the adverse effects of the proposed Motorsport and recreation park, to which I now turn.

Condition and Legal Status of Access to the Site

21. There is no public access road to Rabbit Gully. The application site is accessed from the Motueka Valley Highway via Olivers Road (a metalled legal road presently used primarily for forestry and which is not part of Council's road maintenance programme) and Rabbit Gully Road (a right of way over which the Applicant accesses its farm and forestry interests on the application site). These, in combination, provide the Applicant and its visitors with legal access to the site.
22. Rabbit Gully Road has been formed where practical, and because of this it does not and cannot fully align to unformed legal road reserve within the gully.
23. The application site is at least 5.0km from the main road, and over 4.5km from the road end. The site is isolated - a factor minimising its adverse effects on the resident populations of Tapawera and Stanley Brook, but with inferior access arrangements for a facility of this nature and size.
24. There is forestry on one or both sides of Olivers Road and Rabbit Gully right of way along its full length, most owned by NFL. In terms of fire risk and exposure to forestry activities, this alone equates to a boundary of between 9.50 – 10.0km with forestry on the access to the site.
25. There is forestry in close proximity to the access, both above and below the road, and there are a number of landings or skid sites along its length. In prohibiting ticketing booths on Olivers Road, Mr Ley has even suggested that these skid sites be used for ticketing booths! This would present a significant operational and safety issue for NFL.
26. The existing right of way is through land subject to a Crown Forest Licence, the conditions of which afford NFL the right to close the forest and access at any time for safety reasons. Ms Arnold has explained when such occasions may arise, and their potential duration.
27. Olivers Road and Rabbit Gully Road are a significant service access route to NFL's plantation forestry in the area. The access is, and with ongoing rotation of forestry will

continue to be, used by substantial numbers of logging trucks and other forestry vehicles. There are also several main forestry roads that intersect with this route.

28. The Applicant's traffic engineers predict that for large events the access route will need to accommodate up to 2000 vehicles in the two hours either side of the event. The existing right of way is substandard for the nature and potential volumes of traffic associated with the Motorsport and recreation park. It is currently typical of a forestry access road. It has a narrow and corrugated metal carriageway, the visibility along part of which is restricted by its windy formation and overgrown verges between the end of Olivers Road and the ridge top. Users must also negotiate obstacles such as rocks and potholes. There is no need for NFL to upgrade the road substantially for its own activities.
29. The application stated that: *"it is proposed that the access road be upgraded, ultimately to a two-lane sealed access road, from the Motueka Valley Highway to the subject site."* This statement was made in the context of the full 5.0km access. As this formed part of the application, I query why it is not reflected in the recommended conditions of consent. Mr Ley is also of the opinion that *"in the long-term the right of way should be sealed."*
30. There is no alternative legal access to the application site other than that discussed above. All traffic must go in and out via this route.
31. The legal impediments to use of this access have been discussed by Counsel for the Submitters. For my part, I am interested in the practicality and effectiveness of conditions of consent should that hurdle be overcome.
32. These features I have identified have resulted in the Applicant volunteering, and Council Officers recommending, a number of conditions to upgrade and manage the access into the site. The content of these conditions is a reflection of the existing physical and locational encumbrances inherent to this access.
33. Given the volume and type of traffic that will potentially use this right of way, NFL does not believe these conditions can satisfactorily avoid, remedy or mitigate the reverse sensitivity of and cross boundary effects on its forestry activities. The application also creates an interesting scenario whereby the conditions recommended by Council Officers to address certain effects of the proposal, are not acceptable to NFL within its rights as Crown Forest licensee. In other words, while meeting the requirements of Council, the conditions are accentuating the adverse effects to be borne by NFL.

34. There are certain fundamental qualities to conditions that govern their effectiveness:
- They must be able to be achieved or given effect by the Applicant – they should not fall to third party interests, such as the creation and maintenance of firebreaks either side of the right of way or, as suggested in the application, restricting use of the right of way by logging trucks during major events.
 - They must be legally able to be imposed, for example construction works on another party’s land or locked gates on private or forestry access.
 - They must be practical and enforceable – the one-way flow of traffic over the sole access to a site, and of this length, is impractical, and a 30km/hour speed limit where not on legal road is unenforceable.
 - They must be effective in avoiding, remedying or mitigating the adverse effects for which they have been imposed, for example the setbacks to forestry in managing the risks of fire (refer to the evidence of Mr Karalus), and to maintaining access and public safety as a result of the accidental or planned felling of pine trees (refer to the evidence of Ms Arnold).
35. The *Newbury* tests include the matter of reasonableness. NFL has indicated that it will not give its approval to those conditions being given effect by the Applicant. This differs from other instances where third party approval, or a particular action such as closure of a road, is known and/or would be acted upon by that party in a timely manner.
36. The fact that a “Grampian condition” is recommended by Council’s Solicitor, and provided for in the conditions put forward by Council Officers, confirms the inadequacy of this access. And yet, to protect NFL’s interests, in my opinion it is imperative that, if resource consent is granted to ADPL, the Grampian condition must form part of that.
37. There are a number of management plans inherent to this application, one being for traffic management. The adverse reverse sensitivity effects of this proposal on neighbouring land and activities are such that in my opinion drafts of these plans should have formed part of the application. It is inadequate to merely specify through conditions what key items these plans should contain. The Applicant is required to only “consult” with affected parties in their formulation (and even limited in that), and with no right for those parties to challenge or litigate their content and effectiveness in mitigating the off-site environmental and operational effects of the proposal.
38. While on the issue of management plans, it is timely to consider the number and scope of those proposed in the application. Other management plans to be prepared if

consent is granted, which will collectively form part of an overall “Operations Manual” for the site, include management plans for fire, hazardous substances, wastewater, stormwater, water, environmental management, event and noise, ecology, landscape, aircraft and construction. Council Officers have now recommended an additional layer of management plans for each new activity and for large events. The fact that so many management plans are required highlights the sensitivities of the application site. It also attempts to nullify the generalities and lack of detail in the application, which in my opinion should have been provided for a development of this size. This may accord with the Applicant’s desire for “flexibility”, however this absence of information compromises assessment of the application and should have been available to Council Officers, submitters and the Commissioners to enable them to fully understand the effects of the proposal.

39. I consider that access to the application site is a major consideration in determining the suitability of this site for the activities proposed and the ability to mitigate the adverse environmental effects and health and safety risks of the proposed Motorsport and Recreation Park. The adverse effects of the proposal in its traffic use of this access, and suggested mitigation penetrating NFL’s forest, cannot be adequately internalised within the 20m wide access easement.

Long and Narrow Shape of the Application Site within Rabbit Gully and in a Valley

40. The application site is approximately 4.5km long and between 250m and 500m wide, with an average width of 480 metres (Tony Quickfall evidence paragraph 3).
41. The site has an extensive boundary (at least 10km), most of which is shared with production forestry. This raises questions regarding the maintenance and monitoring of an effective fire break and the practicality of fencing for security purposes. It also places Motorsport and recreational activities close to forestry where ever they occur on the site. This exposes all of the site to the effects of operational forestry activities, and a substantial forestry interest to the fire and security risks that could be generated by the proposal. The reverse sensitivity and cross boundary effects of the Motorsport and recreation park exist not just on the access road but also at the body of the application site.
42. In conjunction with the access, the proposal presents a potential fire risk along a 21km boundary with forestry. For one activity, this boundary is substantial both in physical terms and in terms of the potential exposure to fire risk.

43. Mr Reade has stated that embers from a fire can be transported by wind to start a fire 500m from source. The narrow width of the valley means land on all sides is within this distance of the park. The Rows have confirmed the wind patterns up and down the valley, at times gusty.
44. The Motorsport and recreation park will be located on the valley floor. All forestry is uphill of the application site, a feature which I understand from Mr Karalus' evidence could reasonably assist in the spread of fire and in difficulties in containing it. Mr Reade has also noted that the forest surrounding the application site and its access contains a large amount of more flammable vegetation such as gorse and fern.
45. Adopting the "Wildfire Threat Analysis" Mr Reade has concluded that with the proposed change in land associated with the Motorsport Park, the valley and its surrounds will move from an unpopulated area with low transient population to a low density rural and urban population with high transient population, and with that the WTA score increases from 1 to 10. This is substantiated by the number of vegetation fires within the WRFD over the past 3+ years, with the rural coastal Tasman area experiencing 12 times that of the Golden Downs / Tapawera area.
46. Mr Hewitt has analysed rainfall data for the area and concludes:
- "While this record is taken from the lower valley, it is evident from other records that average rainfall does not vary significantly across the catchment. What is significant is that for all of the summer and autumn months, zero rainfall can be expected. In 1973 only 61mm of rain fell between 26 December (1972) and 20 April, including 49 consecutive days with no rain at all."*
47. The application site is 203ha in area, of which 60ha is to remain in forestry. The Motorsport and recreation park will eventually occupy the remaining 140+ha, and will be spread out over a distance of up to 4.5km. The custodial management of that, supervision of visitor behaviour, and response to fire etc will be considerably more difficult relative to a spatially contained site. Distance from access, either legal or emergency, may exacerbate the safety of visitors in the event of fire.
48. There is a direct relationship between the likelihood of fire and the amount of human activity in a given area. The application estimates that the site will be used for events on over 200 days annually. The highest visitor numbers will potentially coincide with the high risk fire season. The proposal will increase those fire risks within and adjoining Rabbit Gully by substantially increasing the number of people and cars, and the transient nature of the population, accessing and using this area (including in

comparison to the “permitted activities” noted in Mr Quickfall’s evidence), and the range of on-site activities proposed as a potential source of ignitions, including smoking, camping and motor vehicles.

49. The definition of “effect” under the Resource Management Act includes effects of low probability but high potential risk or consequence. The Submitters, as forest owners and managers, do not agree with the Council Planner that the fire risks to their forests, or the risk to people at the Motorsport sport facility, to be “*extremely low*” (page 29, Section 42A report).
50. A range of design and management features are specified in the application (and quoted on page 27 of the Section 42A report) to address the risk of fire, however there are a number of practical limitations with these, including:
- containing the public and users to “fire-safe” areas – the reality of the situation is that site management will not be able to prevent trespass into other areas of the site or neighbouring land;
 - establishing and maintaining fire breaks around the entire site and access – these are not even shown on the resource consent site and activity area plans in the application, with in some cases access roads, car parking and competition Motorsport tracks located along or in very close proximity to the legal boundaries of the site;
 - providing setbacks from forested areas – some off-road rally tracks are even shown through the Applicant’s own forest, which in turn borders NFL’s forest;
 - maintaining combustible vegetation within the site and along the access road – with at least 20km of boundary with forestry, is this practical?
 - providing adequate fire fighting supplies throughout the site – and yet Mr Hewitt has queried the recharge capabilities of the lakes or the capacity of on-site water storage in the event that a large event or summer season reduces that supply.
51. It concerns me that the Applicant has not even incorporated the recommendations of its own experts in designing the layout of the site, and without these being given adequate consideration through the recommended conditions of consent.
52. The Fire Risk Management Plan may lower, but cannot eliminate, the risk of fire and the effects of this both in terms of the potential loss of forest and/or the potential loss of

life. The number of visitors and vehicles, isolation of the application site, with access via a single legal entry and being surrounded by forestry, exacerbate those risks.

53. The fact that a Fire Risk Management Plan is even considered necessary, and has been given additional attention by the Applicant since notification of the application, is proof that the risk of fire associated with this proposal is of real concern.
54. Contrary to the opinions of the Council Planners, the evidence of the fire management experts for the Submitters is that there is an elevated risk of fire as a result of the creation of the Motorsport Park, and Nelson Forests Limited considers that the recommended fire management conditions will not adequately mitigate the risks of fire originating from the proposed Motorsport park and its access in this location, and will impose unreasonable obstruction and encumbrance on NFL. That is, the conditions and the Fire Management Plan will not protect NFL's and the region's forestry investment.
55. To an extent this accords with comments expressed to Mr Andrew by Doug Ashford, Deputy Principal Fire Officer for the WRFA, that: *"even with (the Fire Management Plan) in place, he still held reservations about locating the Motorsport park at the proposed location"* (bottom page 26, Section 42A report). This comment also supports my earlier concerns about the preparation of management plans. "Consultation" does not constitute "agreement", and with that there is potential that the mechanisms or responses incorporated in a plan will not avoid, remedy or mitigate the adverse effects they are intended to. The "approval" of those plans lies solely with Council, outside this formal consent process.
56. The Section 42A report notes that the instructions of the WRFA must be followed even if that means closing the Motorsport Park to the public as the fire risk increases in summer. Given the commercial scale of the project, and the fact that large events could be compromised, this is not an outcome which I assume the WRFA would wish to become involved in and which may divert resources from its core educational and fire fighting responsibilities.
57. Mr Quickfall notes that the presence of a fire fighting appliance located permanently on the site will be a positive effect of the proposal as it will be available to the wider community. If it is based "permanently" on-site, then surely it cannot and should not be used off-site. I think that it is taking the concept of "positive effect" a little far, particularly if the adverse on-site and cross-boundary effects of fire cannot be adequately mitigated in their own right.

58. Mr Quickfall claims that the rural amenity effects of the proposal will be internalised due to its location within the valley. This is not an opinion held by the Rowes, nor understandably by NFL given its forestry interests.
59. Amenity values are defined in the Resource Management Act as: *“those natural and physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”*
60. While noise and dust are tangible amenity effects for example on occupants of a residence, the quality of access to a site and its proposed use may also impact on existing rural property owners’ appreciation of the pleasantness and coherence of an area in which to engage in, and their use of land for, productive activities. The TRMP also acknowledges that the health and safety of people and property, including through exposure to fire, are a significant part of site amenity, within and between sites (see 70 below). NFL anticipates significant business disruption, and risk to the workplace safety of its employees and contractors, if this proposal proceeds.
61. The potential for reverse sensitivity effects of plantation forestry on the Motorsport Park means that at times NFL and/or the WRFA close off access to or use of the site, the visiting public’s ability to access the recreational attributes of the site will be compromised.

Stanley Brook Stream and Groundwater Recharge

62. Stanley Brook runs the full length of the application site, and into the Rowe property.
63. Stanley Brook is, according to Mr Hewitt’s evidence, intermittent rather than ephemeral and is often dry along parts of its water course in summer and autumn. The proposed Motorsport park development is dependent on water pumped from bores and roof water collected and stored in on-site tanks on the property, supplemented by man-made lakes fed by the diversion of Stanley Brook, and as initially proposed also by groundwater abstraction.
64. Mr Hewitt has stated that:

“I believe the groundwater and surface water flows are fully interconnected, and quantitatively, to take from one in low flow conditions would be effectively to take from the other. TRMP Policy 30.1.3.11 requires that the connection between ground and surface water be fully accounted for. I take this to mean information, including testing, is required to understand this relationship to enable the sustainability of any proposed takes to be assessed. To my

knowledge no such testing has been carried out in this catchment, and indeed there are no such records held by Tasman District Council”.

Objectives and Policies in the Tasman Resource Management Plan

65. From a professional planning perspective, I find Mr Mackiggan’s view of the activity status of the proposal and acceptability of activities in the Rural 2 Zone overly simplistic. Mr Quickfall agrees.

66. While matters in section 104 are subject to Part 2, the purpose and principles of the Resource Management Act are not the only matters that must be considered in reaching a decision on a discretionary activity.

67. The fact that the proposal is a discretionary activity under the Tasman Resource Management Plan (TRMP) means that it is not considered acceptable in all rural locations and on all occasions. The status calls for inquiry of the merits of the proposal and its compatibility within the rural environment of which it is to be part.

68. The consent authority is required to have regard to the objectives and policies of the TRMP under section 104(1)(b) of the Act. If the proposal is found to be inconsistent with these, the commissioners may under section 104(1)(c) of the Act consider “other matters” such as any impact on the integrity of the TRMP of a grant of consent.

69. Based on my assessment above, my discussion of the objectives and policies of the TRMP relates primarily to Chapters 5 (Site Amenity Effects) and 7 (Rural Environment Effects).

70. In relation to site amenity, the TRMP states:

“Land use frequently has effects which cross property boundaries. Those effects may add to or detract from the use and enjoyment of neighbouring properties...

The health and safety of people, communities and property is a significant part of site amenity both within the site and between sites. Contaminants, including noise, and fire are factors in maintaining or enhancing amenity values.”

71. In relation to this, Issue 5.1.1.1 in the TRMP is:

“Provision for appropriate protection, use and development of the District’s resources so that activities at one site do not adversely affect the use and enjoyment of another site or resource.”

72. I believe that the proposal is contrary to the following objectives and policies in the TRMP:

Objective 5.5.2: *Reduction in risks to public health and safety, property and the environment, arising from fire and hazardous substances.*

Due to the nature of activities and increased human presence, the proposal will increase rather than reduce the risk of fire and damage to legitimate productive land uses and property in this area, and the health and safety implications of that on what may potentially be a very large visitor population.

Policy 5.5.3.1: *To avoid, remedy or mitigate the likely adverse effects on land uses from fire, arising from the location of buildings or flammable vegetation.*

The proposed Motorsport and recreation park will, by virtue of its location within an area of flammable vegetation (plantation forestry), be exposed to and enhance the risk of forest fire.

73. In relation to rural environment effects, the TRMP states:

“Rural character, amenity values, and the productive use of rural land underpin the social, economic and cultural well-being of the people of the District... This chapter (Chapter 7) deals with the fragmentation of rural land, the availability of rural land for a range of purposes, and the protection of rural character and amenity.”

74. If fire risk along and the safety of users of the right of way requires the removal of plantation forestry so as to establish and maintain fire breaks along both sides of a 4.5km long access, the proposal will not achieve Policy 7.1.3.2: *To avoid, remedy or mitigate the effects of activities which reduce the area of land available for soil-based production purposes in rural areas.*

75. In relation to the site within Rabbit Gully, Mr Quickfall claims that a large part of the site will continue to remain in and be available for rural production, assuming that only 10ha of the land will be covered by buildings, tracks and facilities. This does not appear to take into account the offer of firebreaks around the 10km boundary of the application site, or the actual compatibility of productive activities within the Motorsport Park, recreational amenity area, accommodation and camping ground etc. In reality the proposal will remove a substantial area of land in Rabbit Gully from soil-based production purposes. This includes the flatter land along the base of the valley which would be a higher class of land due to its slope offering more options as to use.

76. 7.2 in the TRMP contains policies to allow for evaluation of non soil-based activities that are not otherwise provided for in rural zones.
77. It is perhaps this objective and its policies that lead Mr Quickfall to the conclusion that *“the TRMP policies err towards the laizes [sic] faire end of the spectrum”* (paragraph 121). I find this statement astounding in the context of the listed activities in Rule 17.6.2.1 that are not permitted in the Rural 2 Zone, and the proliferation of objectives and policies in the TRMP aimed at avoiding, remedying or mitigating the adverse effects of activities on the environment. To the contrary, these policies give the consent authority a clear mandate to carefully consider the appropriateness and adverse effects of activities not provided for in the rural area, and in particular any effects on productive rural activities such as NFL’s forest.
78. Objectives 7.2.2 and 7.4.2, and Policies 7.2.3.1 and 7.4.3.1 envisage opportunity and flexibility for a range of activities other than soil-based production to locate in rural areas “in restricted locations” and where avoiding land of high productive value and avoiding, remedying or mitigating adverse effects. However Policy 7.2.3.2 refers not to commercial and recreational activities but only to rural industry, tourist services and rural residential use where farming and other rural activities are ancillary, and with regard to the productive and versatile values of land (which are not confined only to the application site), natural hazards (which may include fire risk), cross boundary effects including any actual or potential effects of existing activities on future activities, transportation access and effects, and the cumulative effects of land fragmentation. Land fragmentation is not just the result of subdivision, but of non-rural activities constraining the practicality and viability of rural activities and creating pressure to limit the effects of rural activities. The TRMP states that rural areas are working and living environments, and if rural character is to be protected it is essential that productive rural activities are not overly constrained by other activities which, by virtue of the scale, intensity or other effect (including their conditions) have the potential to erode existing environmental qualities and rural character values.
79. The policy framework recognises that the protection of soil-based production and legitimate rural activities has a major role in achieving those objectives:

Policy 7.2.3.5: To ensure that activities which are not involved or associated with soil-based production do not locate where they may adversely affect or be adversely affected by such activities.

Policy 7.4.3.4: *To exclude from rural areas uses or activities (including rural residential) which would have adverse effects on rural activities, health or amenity values, where those effects cannot be avoided or mitigated.*

80. These policies deal with reverse sensitivity and cross-boundary effects in the rural environment. For reasons expressed by Ms Arnold and Mr Karalus, the proposed Motorsport and recreation park will be incompatible with forestry activities in the area and along its access route.

81. Policy 7.4.3.9: *To avoid, remedy or mitigate servicing effects of rural ... development, including road access, water availability and wastewater disposal.*

There are adverse effects of the proposed access arrangements to the proposed Motorsport and Recreation Park that cannot be reasonably avoided, remedied or mitigated through conditions of consent.

Precedent

82. Precedent is a matter that the consent authority may consider under section 104(1)(c) of the Act.

83. The concept of precedent assumes that a pattern of development may establish as a result of persons seeking consistency in resource consent decisions, which in turn could have potential adverse effect on the rural environment as an established pattern of development takes hold.

84. Mr Quickfall has discounted the impact of precedent because the facility is a regional “one-off”. I tend to agree that the likelihood of a similar range and mix of activities being replicated elsewhere in the district is unlikely.

85. However precedent in my opinion extends beyond this to the relationship of non-rural activities to production forestry. Consent to this application, where surrounded by production forestry and lacking in effective mitigation of fire risk or operational encumbrances, will undoubtedly give rise to an expectation of consistency in Council decision-making when faced with other rural activities near forestry. It is hard to imagine that the Council could reasonably impose rural emanations easements, or specify a 30m buffer between a residence and forestry, following a grant of consent to this application and subject to the recommended conditions.

Recommended Conditions of Consent in the Section 42A Report

86. Notwithstanding that there will be adverse effects of the proposed Motorsport and Recreation Park that are features of its location and access and which cannot be adequately avoided, remedied or mitigated by conditions of consent, I have considered the conditions recommended in the Council's Section 42A report. The emphasis of my assessment is in relation to RM100848, on pages 57-66 of that report.
87. Given the inconsistencies in the application, such as identified in paragraph 20 above in terms of the Applicant's own design and management features proposed to address fire risk and its site development plans, Condition 1 is inadequate.
88. I have extensive experience in resource consent applications in this district, and the Council's approach has consistently been to require a proposal to be developed "in accordance with" rather than "generally in accordance with" the plans and details in an application. This may be driven by the Applicant's desire for "adaptive management", however if flexibility is the ultimate outcome of the planning process then a Plan Change and not a resource consent application is the best avenue to pursue. There is too little certainty as to when an amendment to the master plan and its layout of activities, buildings, car parking, access and other services will invoke a formal variation under section 127 of the Act.
89. Where mitigation measures are imperative, I believe that they should be reflected as consent conditions. In that way, they are not lost for meaning or compliance within the "documentation submitted with the application." Examples of this would be the provision of fire breaks and construction standards for security fences or barriers totally surrounding the application site.
90. Schedule 1 lists the activities permitted on the application site, but "*in no particular order*". It would seem to me that the caretaker's house and its occupation during events should be required as soon as the first commercial activities are available on the site.
91. The plans and Condition 2 provide for rally road tracks within existing forested areas on the application site. I query whether this is appropriate unless those areas are accompanied by generous fire breaks to neighbouring land and forest.
92. I am concerned that given the scale, nature and potential effects of the proposed Motorsport park there are no specified limits in the conditions on the number and duration of events permitted on the site annually, including as that considers the relationship of the events season to those months with greatest risk of fire hazards.

93. The application (page 88) included recommended conditions on the number, nature and scale of Motorsport events, concerts and conferences in any calendar year. If the Council Officers' are validating this through Condition 1, I consider these numbers excessive given the concerns expressed by NFL. If this in fact truly represents the full development potential anticipated of the park (and I note it does not include use of the rest of the park and its non-motorised recreation facilities), then it heightens my concerns about the suitability of this site. This number of events would erode any potential to avoid conflict between forestry and Motorsport park vehicles on the right of way.
94. I note that there are no specified limits in the recommended conditions as to the hours during which events may occur and liquor may be sold for consumption on the site. Again, this should be clearly articulated in the conditions. This is necessary in influencing as far as practical the daylight use and safety of driving on the right of way through forestry and hill country.
95. While on the matter of the sale of liquor, the Council Staff's request under Condition 24 to breathalyse drivers of vehicles exiting the site confirms in my mind that the sale of liquor for Motorsport events is an inappropriate activity in the context of this proposal. I note that Eric Davy in his evidence regards this condition as inappropriate.
96. Conditions 4 and 5 are unclear as to the timing of road upgrading works as the application includes both Motorsport and other recreational activities on the site. These works should occur before the commencement of any of these activities.
97. Ms Arnold has provided detailed discussion of matters in Condition 8. I concur with her concerns. The conditions do not, and cannot, adequately avoid, remedy or mitigate the reverse sensitivity and cross boundary effects of large traffic volumes and private vehicle use of a major forestry right of way.
98. I refer the Commissioners to my earlier comments on the Grampian condition (Condition 9). If resource consent is granted, it is imperative that this condition remain.
99. Condition 19 requires that buildings are set back at least 30m from any exotic forest plantation and 30m from any internal property boundary. NFL's concerns extend to the location of other sources of fire and the management of flammable vegetation close to its forestry and boundary. The conditions do not address these concerns in any way.
100. In relation to the various Operations and Management Plans, and the New Activity and Large Events Management Plans, I have earlier expressed my concerns about these.

101. Mr Quickfall has stated that the advantages of management plans (paragraph 28) include the ability to fine tune mitigation, as a framework for compliance monitoring, and with the ability to update plans to incorporate “best practice”. Conditions 29-31 are lacking in the necessary detail to give me certainty that these outcomes will in fact be achieved.
102. Condition 29 requires that “at all times” the consent holder shall have an up to date site operations plan including both the 12 management plans in Schedule 1 and all new activity management plans. It should include all large event management plans to the extent these are relevant to events upcoming or held at that time.
103. When are these plans in Schedule 1 to be prepared? This must be specified in conditions, and to be effective they must be in place before any construction works commences on the site.
104. Schedule 1 lists who is to be consulted in the preparation of the management plans. NFL should also be included in events management and hazardous substances.
105. Conditions 30 and 31 do not require the input of any affected parties, other than those nominated for large events – NZTA, NZ Police, WRFA, and Council’s Transportation Manager, Co-ordinator of Regulatory Services and Compliance Monitoring Officer. Neighbours are excluded. This disregards the potential for disruption to an event due to harvesting activities and closure of the access road by NFL. It is these very large events that also have the greatest impact on neighbours and their rural activities.
106. Conditions 29-31 require that the management plans are “prepared”, and we have now been provided with a draft fire management plan by Mr Quickfall. The conditions do not require that they are implemented or complied with by the consent holder. This is a significant oversight. From the perspective of an affected party there must be provision for enforcement if the management plans are not implemented and complied with.
107. Given that affected parties can only have input to a few, and may not necessarily agree with, the content of the management plans, it is necessary that a professional and suitably qualified person or body provides a statement that the contents of the plan will achieve the environmental mitigation and outcomes intended of it, and that activities are able to be conducted in compliance with it (ie it is practical). That advice must be available prior to the plans being “approved” by Council. Those same person(s) must also provide written confirmation to Council on a regular basis (6 monthly at least, and more often where the potential risks or effects of non-compliance would be significant ie fire risk) that the management plans are being complied with.

108. One of the supposed merits of management plans is their ability to be updated to incorporate best practice. Review of the plans by Council should be provided for within the conditions.
109. Condition 32 refers to the lapsing of consent. I can find no reference in the application to extending the timeframes under section 125 of the Act, but for mention that Stage 1 should be completed in 5+ years and Stage 2 within 10 years. Application was not made to extend these. I do not know therefore that the consent authority's jurisdiction extends to a 20 year term.
110. I have provided the comments above to assist the Commissioners, but this in no way overrides my belief that there is no effective mitigation for the effects identified by the Submitters other than may be secured through a decline of consent.

Part 2 of the Resource Management Act

111. Section 104(1) matters are subject to Part 2 (purpose and principles) of the Resource Management Act 1991.
112. The sustainable management of natural and physical resources is the overarching purpose of the Act, and the desired outcome to be achieved through resource consent application processes. By necessity this requires a broad judgement as to whether a particular proposal will promote the sustainable management of, in this case, rural resources.
113. Sustainable management is about enabling people and communities to provide for their reasonably foreseeable needs, and for the social, economic and cultural well-being of present and future generations. The Applicant will no doubt stress the regional significance of the Motorsport Park and the wider community's use and access to that. The proposal may consolidate these on one site, however a number of the proposed activities are already occurring in the district.
114. Sustainable management also requires that people and communities provide for their health and safety. By virtue of its location surrounded by plantation forest, and limited in its access options, the proposal has the potential to place people, both motorsports visitors and the employees and contractors of NFL, at heightened fire and traffic safety risk.
115. On the evidence of Ms Arnold and Mr Karalus, the proposal will impact significantly on the operational requirements and business activities of NFL. The sustainable

management of forestry resources (land and trees) will not be promoted by the grant of consent to this application.

Conclusion

116. In conclusion, given the fire risks and reverse sensitivity effects between forestry and the proposed Motorsport Park, and the inability to effectively mitigate these through conditions of consent, I do not consider this to be an appropriate location for the proposal.

117. I consider that the access arrangements to the site are such that conditions requiring the upgrading of the right of way, while necessary (but of their own insufficient) in addressing adverse effects, are “unreasonable” to the extent that NFL’s prior approval is required before such works can be undertaken AND NFL has stated it would not give approval to their implementation as to do so would impact on its forestry activities. In those circumstances, the cross boundary effects of access and fire hazards cannot be adequately avoided, remedied and mitigated.

118. I do not support this application, and believe that consent should be declined.

Jane Hilson
Planscapes

8 March 2012