

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

<b>In the matter of</b>	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)
<b>Applicant</b>	Adcock and Donaldson Properties Limited

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**STATEMENT OF EVIDENCE OF HEATHER ARNOLD ON BEHALF OF  
NELSON FORESTS LIMITED**

**8 March 2012**

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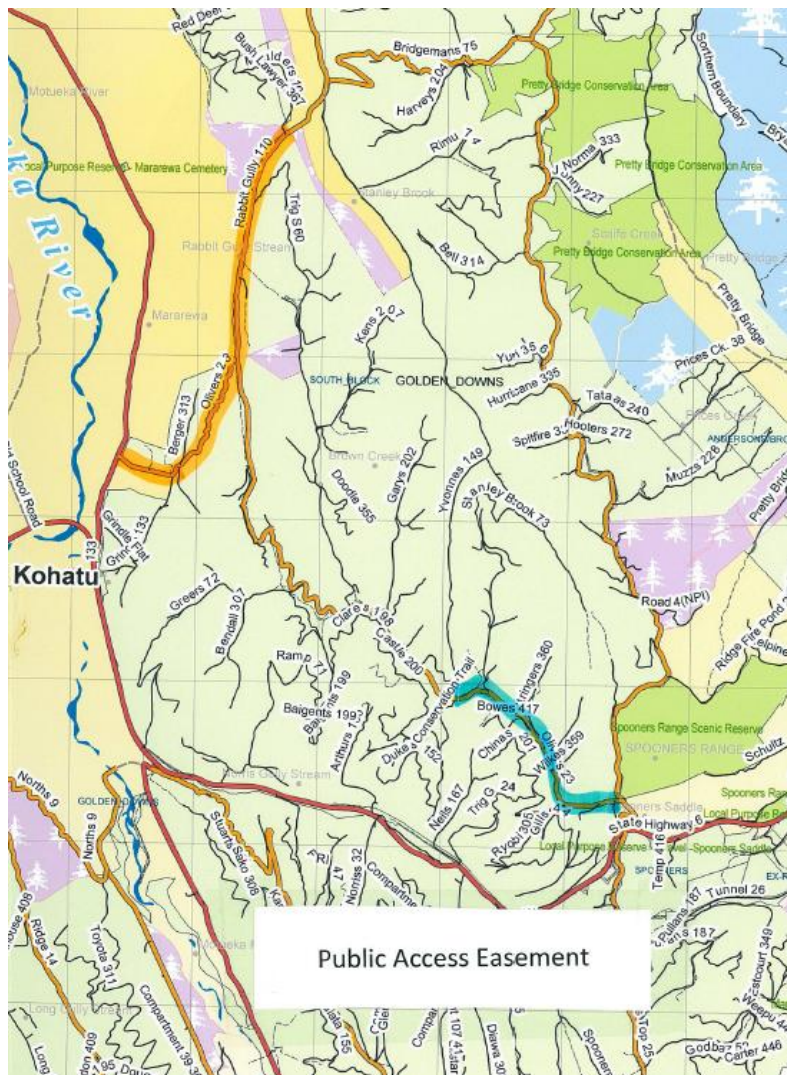
## Introduction

1. My full name is Heather Joy Arnold. I am employed by Nelson Management Limited, which is the management company for Nelson Forests Limited (NFL).
2. I am authorised to present evidence on behalf of Nelson Forests Limited.
3. I am a Planner and have held this position for almost seven years. Prior to this, for four years I was a Harvest Planner for Weyerhaeuser New Zealand Inc – the predecessor to Nelson Forests Limited. I was also employed for four years as an Environmental Planner for Carter Holt Harvey Forests, and have also worked in local government, principally as a Resource Management Planner and as an Environmental Consents Officer for five years.
4. I hold the degrees Bachelor of Science with Honours and Master of Science in Physical Geography. I am also a qualified Site Traffic Management Supervisor. This qualification allows me to apply for approval to undertake works on or affecting public roads in accordance with the Code of Temporary Traffic Management.
5. As a Planner for Nelson Management Limited (NML), I undertake the majority of the company's resource management requirements, and obtain the necessary authorisations and approvals to enable operations to commence and for the business to operate in a legally efficient and, as far as practicable, unencumbered manner. Examples of my responsibilities relevant to this hearing include:
  - 5.1 Applying for and obtaining: resource consents, affected parties approvals, Historic Places Trust authorities, traffic management plans, neighbour access agreements;
  - 5.2 Submitting on Government and council planning matters, and adjacent activities that will have a significant impact on our business - such as the proposed Stanley Brook Motorsport Park, for which I prepared the submission.
6. I confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses, as contained in the Environment Court's Consolidated Practice Note 2006. This evidence is within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

## **Nelson Forests Limited and the Crown Forest Licence**

7. Nelson Forests Limited owns and manages 78,000 hectares of plantation forest in the Nelson, Tasman and Marlborough regions. The planted production area consists of 63,000 hectares, with the balance consisting of reserves and infrastructure. The estate is long established, with some land areas in their third plantation cycle.
8. The plantation forest surrounding Rabbit Gully, the location of the proposed Stanley Brook Motorsport Park, is in its second plantation rotation, originally established in the 1960's and 1970's by the New Zealand Forest Service (NZFS). When the NZFS was disestablished in 1990, the forest and land became available as a Crown Forest Licence area (Golden Downs East) and has been leased by NFL (and its predecessors) since that date.
9. In general, a forest plantation cycle is measured in periods of 28-30 years. At any time in the NFL estate, there will be operations planned and undertaken every day. These range from land preparation (to enable the next crop to get well established), to thinning, spraying, roading, harvesting and trucking. These are the operations that are well known and readily recognised. However, within the forest, there are also little known operations occurring every day – some regularly (such as plotting/mensuration – measuring tree growth), road and culvert maintenance, tree health surveys, and environmental monitoring for example, while other activities are irregular (in both time and space), such as roadside mowing, indigenous vegetation survey, fish survey, field trips etc.
10. Under the Crown Forest Licence, members of the public may access the forest by foot or travel by vehicle over public easement access roads. There are **no** public easement access roads into Rabbit Gully. The only Public Access Easement in this part of Golden Downs East is from the top of Spooners Hill to the Conservation trail at the other end of Olivers Road 23 as marked in blue on the following map.

Diagram 1



11. Under the terms of the Crown Forest Licence, NFL retains the right to close the forest at all times for safety reasons. These safety reasons include: environmental factors, e.g. high winds, snow fall, high fire danger conditions; and operational factors, such as during roading, harvesting, earthworks and land preparation where there is a risk to public and/or work force safety.

**Adcock and Donaldson Right of Way**

12. Adcock and Donaldson Properties Limited has a legally established Right of Way (ROW) over the Crown Forest Licence (and Bryant) land. This enables the company to access Rabbit Gully. This ROW document was reproduced in the TDC Hearings Report as part of Appendix 4. The ROW has conditions of use – contained under clause 3 of the Deed. Of significance to the use of the ROW in the context of the proposed Stanley Brook Motorsport Park, are subclauses 3.1 (3.1.2 and 3.1.5(i) in particular), 3.5 and 3.7.

13. The relevant subparagraphs of clause 3.1 state:

*The Grantee and the Secondary Users shall when passing or repassing over the Grantor's land:*

*3.1.2 Not use or cause to be used any tracked or heavy vehicle which has been prohibited by the Grantor.*

*3.1.5 take all full and proper precautions for guarding against danger (including but without limitation, fire, physical damage or disease) either on the Grantor's Land, or any surrounding or adjoining land, forest or water, or to any forest produce on the Grantor's land, and in particular shall (but without limiting the general obligation to take full and proper precautions pursuant to this Clause 3.1.5):*

*(i) comply strictly with all conditions that may be imposed from time to time by the Grantor or other lawful authority; ...*

14. NFL is in a position to prohibit the use of tracked or heavy vehicles on the ROW and can require Adcock and Donaldson (and their Secondary Users) to cease using the ROW for indefinite periods of time.

15. Subclause 3.5 states (underlined emphasis added):

*The Grantee will, and will ensure that the Secondary Users will at all times in the exercise of the rights set out in this Deed not obstruct or hamper the Grantor or its agents, employees and contractors in its or their normal or reasonable use of the Grantor's land:*

16. Bear in mind the only legal access and a significant amount of mitigation for the proposed Stanley Brook Motorsport Park is over this ROW. There is no doubt subclause 3.5 does not allow for any obstruction or impediment to the normal and reasonable use by NFL of the land and NFL's ability to undertake its normal operations.

17. Subclause 3.7 states:

*The Grantee shall not, and shall ensure that the Secondary Users do not at any time, except with the prior written approval of the Grantor, carry out earthworks or cut down, pull out, dig up, use, burn, remove or otherwise dispose of any forest produce on the Grantor's Land nor shall the Grantee or the Secondary*

*Users authorise such cutting down, pulling out, digging up, use burning or removal or other disposal of any forest produce without the prior written approval of the Grantor:*

18. NFL is in the business of growing trees. We are not in the business of cutting down trees and having areas of productive land fallow to allow for an unwanted, high risk to our business, activity located in an area surrounded by our production forest.
19. The mitigation measures from the Applicant include (all references below to conditions are to RM100848):
  - 19.1 Gate and lock all “private side roads” - condition 8(a)(ii);
  - 19.2 In respect of the ROW establish setbacks from the forestry plantation (30 metres uphill, 20 metres downhill) – proposed condition 8(a)(ii);
  - 19.3 Manage a firebreak on either side of the ROW;
  - 19.4 Gate and lock the actual ROW;
  - 19.5 Close the ROW when the motorsport park is not in use;
  - 19.6 Manage traffic movements and event traffic through a Site Operations Plan which includes traffic as a subject to be addressed (condition 29 and Schedule 1) and, for large events, a Large Event Management Plan (conditions 30(g) and 31);
  - 19.7 Upgrade the ROW to provide a minimum vehicle operating speed of 30 kph (condition 8(a)(1));
  - 19.8 Restrict traffic to one way before and after events;
  - 19.9 Not allow forestry logging traffic to use the ROW during major events;
  - 19.10 Erect “No public access” signs at the entry to all side roads off the main access from the intersection of Motueka Valley Highway and Olivers Road to the subject site (condition 10);
  - 19.11 Erect directional signs at all access intersection places along the ROW (condition 12); and

- 19.12 Erect traffic safety and warning signs at any time and at any place along the ROW and Rabbit Gully Road to identify any natural, road repair work or other hazard including fire and forestry operations risks (condition 14).
20. With regard to the signage referenced above I point out that the Applicant requires Nelson Forests Limited consent before it can erect such signage, due to clause 3.4 of the Deed.
21. The provisions of the Deed, and in particular those quoted above, mean that the proposed mitigation volunteered by Adcock and Donaldson, as well as many of the proposed conditions put forward by TDC in the Hearing Report, cannot occur and therefore do not offer any mitigation to the adverse effects that will result from the Stanley Brook Motorsport Park.
22. Without this mitigation, the risk to the environment and the potential for an effect of low probability which has a high potential impact (i.e. fire) is more than minor. The evidence to be presented by Mr Andrew Karalus will address the inadequacy of the proposed fire mitigation, even were the Applicant permitted to undertake the desired works on NFL's land. However, consent will not be forthcoming to any of these proposed works.

#### **Maintenance of the access into Rabbit Gully**

23. The proposed access into Rabbit Gully is via Olivers Road and then on the ROW over Olivers Road 23 and Rabbit Gully Road 10. When NFL recommences harvesting activity within the catchment that will transport logs over this section of Olivers Road 23 and Rabbit Gully Road 10, the roads will be re-opened and made fit for purpose – that is, for the safe and efficient transport of harvested logs. The verges will be mown, the water tables re-established, the running surface graded and metal applied if required.
24. The current road surface is rough with corrugations and large surface rocks, potholes and wet areas, and the verges are overgrown, limiting sight distance in some places. This road specification is suitable for the low level of use it is getting today. There is no need to maintain the roads to a higher standard – there are no environmental risks from their current status. Vehicles accessing the Greep and Adcock and Donaldson properties to undertake their farming and forestry activities are able to travel safely over them and it would serve no purpose to maintain them to a higher level.
25. Should the proposed Motorsport Park be established, the roads (Olivers 23 and Rabbit Gully 10) will have to be maintained at a higher level all of the time. NFL is not prepared to pay for maintenance to this level when it serves no purpose for its operations, and clauses 3.2 and 3.3 of the Deed ensure it does not have to. Put simply, there is no

benefit to Nelson Forests Limited's operations by having an upgraded ROW to the standard proposed in condition 8(a)(1). Being required to maintain the road at a higher level than what is required for safe forestry and farming activity use comes at a cost, which NFL is not prepared to bear. I therefore disagree with Dr Wheeler's conclusion at paragraph 121 of his evidence, where he concludes there are gains in cost control to NFL through having significantly improved access and roading. As he has not set out the reasoning he uses to get to this conclusion I do not understand how he reaches that view.

26. Further to this, there are three established landings on Olivers Road 23 and one on Rabbit Gully Road 10, shown on Diagram 2 below.

**Diagram 2**



**Landings on Olivers and Rabbit Gully Roads**

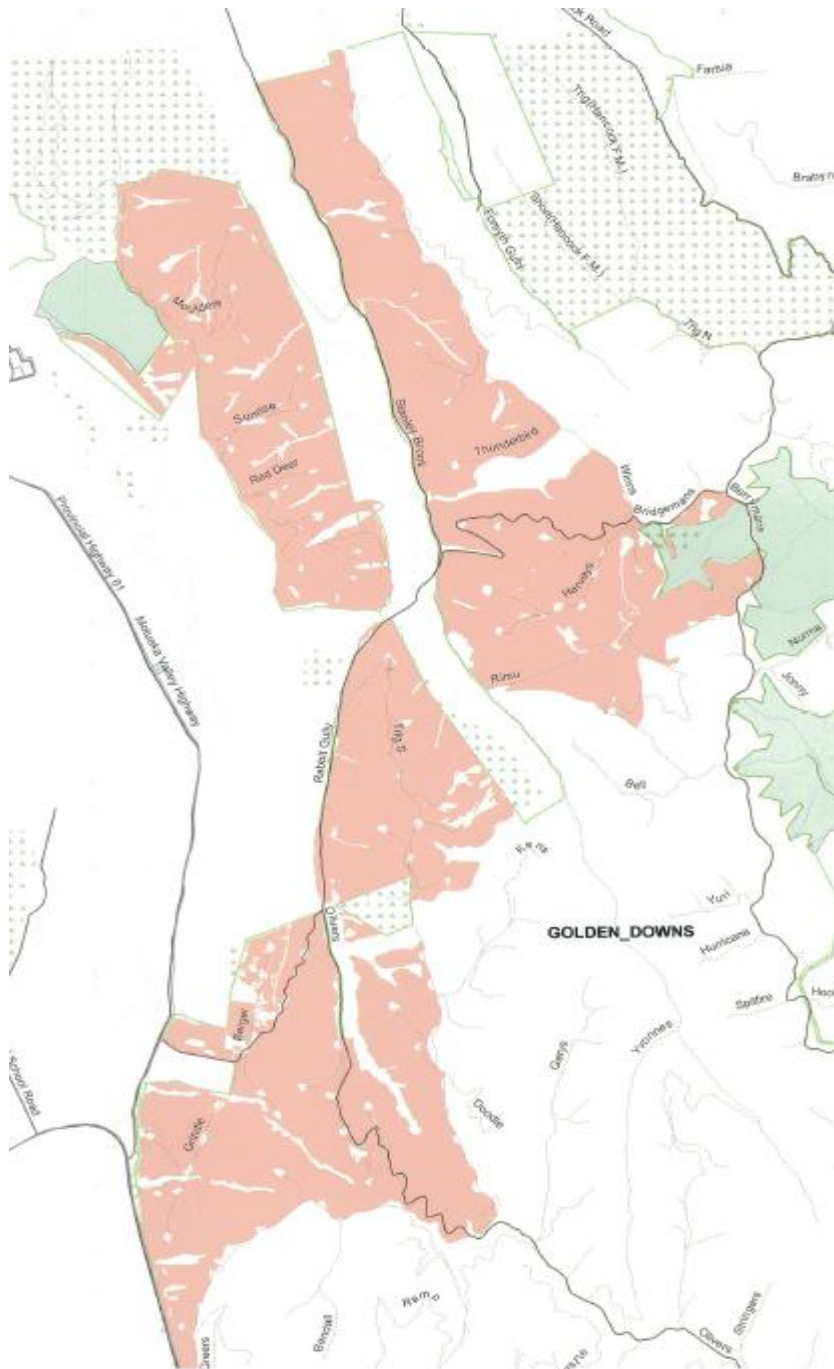


27. These will all be used for harvesting again, and in addition, the Greeps have historically used part of Rabbit Gully Road 10 as a landing for their harvesting operations. This means that off road machinery will use the road as a base for the processing of trees into logs, and logs will be stacked over the road. There will be damage to the road. With regards to the landings located over Olivers 23 and Rabbit Gully 10 Roads, as an indication, the volume of logs going to those landings equates to 58,500 tonnes, and the road is likely to be closed for 246 working days (plus weekends). The use of these landings is not likely to be concurrent.
28. I recognise that the ROW brings with it the right to pass and repass over the right of way at all times, but the use of the road as part of a landing has occurred as recently as 2006 (in the case of the Greeps) and both Adcock and Donaldson Properties and Nelson Forests Limited have consented to this use. I do not see that consent situation re-occurring if the road is to be used for access to a regional or national level sports venue. The uses are incompatible.

#### **Operations and Truck Volumes**

29. Whilst I stated in paragraph 7 that the forest plantation cycle is measured in periods of 28-30 years, please do not think that Olivers Road will be used once in that cycle. This is the assumption that both Dr Wheeler (see paragraph 120.11 of his evidence) and Mr Quickfall (see paragraph 29 on page 22) have erroneously reached. The opposite is the case, it will have constant use. Logging trucks are currently scheduled to recommence using Olivers Road 23 in 2012. Harvesting operations in the catchments around Olivers Road 23 are on-going (with the exception of up to seven years) for the next 28 years – and given the normal cycle of the plantation forest, for the next 28-30 years after that, and again, and again. The areas to be harvested which will have logs carted over Olivers Road 23 are shown on the following map.

Diagram 3



**Trucking and Operations affecting Olivers Road 23 – Rabbit Gully Road 10**

30. To a certain extent, NFL's business is based on sales volume, with the annual harvest level equating to around one million tonnes of wood per annum across the estate. An area of 1776 hectares is growing forest that will be transported out through Olivers Road 23. This equates to 1,114,178 tonnes of log in the next 28 years – 41,265 logging trucks. Annualised, this is 2,946 logging truck and trailer movements over Olivers Road 23. Basing this on 8 loads per day, this equals 184 days of use in a year.

31. However, this is too simplistic. The plantation forest that is within the Olivers Road 23 catchment is made up of differing age classes and species. Table 1 sets out the volumes and years of harvest for the next 28 years, for the 1776 hectares of plantation forest that will be transported via Rabbit Gully Road 10 and/or Olivers Road 23.

**Table 1**

Year	Hectares	TRV	Trucks	Crew days/year*
2012	5	2095	77	11
2013	24	10854	402	51
2014	37	17047	631	79
2015	7	2836	105	14
2016	30	24781	918	115
2017	4	1652	61	8
2018	207	117083	4336	542**
2019	0	124	5	1
2020	2	924	34	5
2021	235	134248	4972	622**
2022	0	0		
2023	0	112	5	1
2024	0	56	3	1
2025	79	62758	2324	291**
2026	26	22575	836	105
2027	32	25665	951	119
2028	149	83140	3080	385**
2029	90	49950	1850	232**
2030	131	78785	2918	365**
2031	51	33424	1238	155
2032	53	35550	1317	165
2033	162	108611	4023	503**
2034	139	93070	3447	431**
2035	0	0		
2036	30	20060	743	93
2037	141	94236	3490	438**
2038	42	28033	1038	130
2039	94	62759	2324	291**
2040	6	3752	139	18
<b>Total</b>	<b>1,776 ha</b>	<b>1,114,178</b>		

\* Based on uplift from 8 trucks / day

\*\* Likely to have more than one harvesting crew working = double the vehicle movements

TRV = Total Recoverable Volume

Trucks / year = TRV / 27m<sup>3</sup> (30 tonne average weight per truck)

Crew days / year = Trucks / 8 (8 trucks per crew per day)

32. Table 1 is only an indication of the likely harvest dates of the forest area around Rabbit Gully. NFL operates a 10 year horizon cut plan which optimises production. In general terms 18 months out are “fixed” with harvesting dates, but stands may come into that 18 month period or move out of it in response to markets, the maturity of the stand and its attributes, and natural events. There is an inherent amount of flexibility in what we harvest, where and when, but this is generally based on an optimised harvest at age 29. NFL therefore may close Olivers Road 23 or Rabbit Gully Road 10 with little or no warning to enable harvesting operations.
33. If the Motorsport venue were operational, we would as a good neighbour, wish to give the operator/s as much warning as possible of proposed harvesting operations – but in doing so we would lose the flexibility we currently have. This problem will become worse, not better, as the Motorsport Park is established; as it will increasingly look to host larger events (as well as more of them) which need more lead in time. Booking acts for concerts for example, or national race days, will require certainty of dates. This is incompatible with flexible harvesting dates.
34. As is illustrated, there will be some years where plantation forest trucking will require very little use of Olivers Road 23. However, for greater than 35% of the plantation forest cycle (28-30 years), there will be a significant amount of traffic generated from NFL harvesting and trucking operations. During this period, two or more crews will be operating in this catchment - this equates to a daily minimum of 16 log trucks, 5-10 crew vehicles, 1-3 service vehicles, 1-2 NFL vehicles. This is when there will be a significant conflict in road use between legitimate forestry use and Motorsport Park traffic. It will not be appropriate to impose traffic management plan provisions on the internal forest roads (as will be illustrated below). It is not acceptable to restrict traffic flows to one way only, as this will have a large impact on our ability to efficiently and safely run our business.
35. Safety on landings will be affected if trucks cannot freely access the forest to uplift logs. Landings are built to a specified size (depending on topography, the volume of logs to be processed on them and the amount of slash (waste material) to be generated) which allows them to be worked safely. The amount of “room” on a landing is directly related

to the amount of logs in storage and therefore uplift is a critical part of the supply chain. NFL upholds safety as a key measure in our business. We will not allow contractors to operate in situations where risks to their safety are not managed to a low/acceptable level. Any disruption in log uplift could have the flow on effect of closing an operation if the landing is congested with log stocks.

36. Conflict with logging truck traffic is only part of the operational impact that NFL will have to manage. Physical harvesting of trees above and below Olivers Road 23 and Rabbit Gully Road 10 will require the road to be closed to all non-forestry related traffic. It is not safe to have public vehicles in operational areas during tree felling and extraction. While the Adcock and Donaldson ROW provides access to their farm and forestry business, the small number of vehicle movements this generates can be accommodated. However, the proposal to have a significant number of vehicles per day pass through Olivers 23 and Rabbit Gully 10 Roads cannot be accommodated. This would be a clear hindrance to our legitimate operations. However, if the spectators are expected to “car pool” (Mr Quickfalls planning evidence paragraph 41) this may be minimised to some degree, although I am unaware of any evidential basis for Mr Quickfall’s conclusion that spectators will car pool.
37. How the traffic effects of the proposal can be assessed accurately must be questioned. There are references to 2000 (page 76) and 50,000 (page 80) spectators/people in attendance for some events per day, in the application. This is a really critical point.
38. The Applicant has proposed setbacks on the roads in an attempt to mitigate fire risk. These setbacks will also not mitigate harvesting risk to road users, unless the roads are closed. The mean tree height in the mature stands adjacent to Olivers Road 23 and Rabbit Gully Road 10 was 39 metres (at age 29) when they were harvested. Tree height alone will place them over the ROW when felled. Trees will sometimes slide when felled, which will also obviously place them over the ROW, and similarly during extraction, they can slide, be dislodged by other trees or come off the butt rigging/strops.
39. It is not possible for NFL to undertake its harvesting and some slash raking operations adjacent to or on the slopes above Olivers Road 23 and Rabbit Gully Road 10 without closing these roads. The roads will remain closed until all risk has been removed.
40. When harvesting above **public** roads (or undertaking operations that have the potential to impact on public roads – such as slash raking and earthworks), NFL obtains Traffic Management Plans from the relevant district council or the New Zealand Transport Agency for the operation. This road control applies either to the top of the ridge or the distance of two tree lengths from the road (using  $2 \times \text{mean top height} = 78 \text{ metres}$ ). This

two tree length rule is taken from the New Zealand Approved Code of Practice for Safety and Health in Forest Operations. Essentially, having a large number of public vehicles using the Olivers Road 23 and Rabbit Gully Road 10 ROW, could result in NFL having to treat the ROW as a public road with regards to road control. However, as this is a private forest road, and there is provision in the Deed of Easement for the ROW's closure, NFL will close the road rather than have managed road control, as this is the best way to minimise disruption to its operations and ensure the safety of its staff and contractors. I will again discuss traffic management plans in a later section of my evidence.

41. A condition, 8(a)(i), has been proposed in the Staff Report requiring *“adequate delineation(eg fencing) of the downside slope of the track”* – presumably this is Olivers Road 23 and Rabbit Gully Road 10. Any “fence” as suggested in this location will likely be damaged by harvesting operations and will be a hindrance to harvesting operations. If NFL was to avoid damaging the fence, considerable effort (and additional cost) would be required to back pull trees, and NFL is not prepared to do this in this case. NFL will take no responsibility for any repair or maintenance of a fence in this location.
42. Should there be windthrow in the plantation forest, which is not an uncommon event in the region as evidenced by recent events in the NFL estate alone in 2004, 2008 and 2010 (975 hectares in 2004, 1,500 hectares in 2008, 432 hectares in 2010), the roads will remain closed until there is no further risk of trees falling on the road. The windthrow will then be salvaged in accordance with sound business decisions. To put this in context, NFL will replant 2,400 hectares this year. Therefore a windthrow event, such as given in examples above, has a very significant impact on the business and obviously where and when resources are engaged.
43. Working in windthrow is a slower and more dangerous operation than working in standing trees, due to different tensions on the trees and unstable root plates/balls. Harvesting takes longer, by a factor of 1.2. The Olivers Road/Rabbit Gully area may not be an area of high priority for windthrow salvage if there is a widespread event. The roads could be re-opened to allow light 4x4 traffic through, such as required for general farming and forestry operations, but they would not be suitable for general public vehicles. While Adcock and Donaldson may suggest that they could reopen the road at their cost, the indiscriminate cutting of trees to clear a road can cause significant log value loss and involve very high health and safety risks. This offer, were it to be made, is not one that we would accept.
44. I have no doubt that should the proposed Stanley Brook Motorsport Park be approved, there will be significant pressure placed on NFL to:

- 44.1 upgrade the ROW;
- 44.2 establish setbacks;
- 44.3 minimise operational impacts on the Motorsport Park;
- 44.4 erect our own signage to warn of fire danger or safety hazards;
- 44.5 consider different (longer and more expensive) trucking routes;
- 44.6 re-establish full access to the site with urgency, in the event of a major storm event;
- 44.7 not close the road if a major event is planned;
- 44.8 not close the road in the event of increased fire danger;
- 44.9 defer the alteration of, or do not alter, harvesting dates so as to avoid conflict with events at the Motorsport Park; and
- 44.10 gate our operations.

None of these requirements are in NFL's interest.

#### **Traffic Management Plans**

45. It is stated in the resource consent application (pages 37 and 45 respectively) with regards to the access road that:

- 45.1 "Traffic movements and event traffic will be managed through a traffic management plan ..."
- 45.2 "A traffic management plan will also set out the day to day operation and management of traffic movements."

46. Page 5 of the Transportation Assessment Report states:

*"During major events generating more than 1000 vpd, it is recommended that specific Traffic Management Plans (TMP's) be implemented in order to safely manage the traffic using these forestry roads. It can be expected that they may be restricted to one-way operation only for a two hour period or more, before and after such events, and forestry traffic will not be able to use these roads during major events".*

47. Paragraphs 34, 35 and 41 of the evidence of Mr Petrie respectively state:
- 47.1 *“It is accepted that traffic management plans will need to be in place for major events. These will require separate council approval, as covered by the proposed conditions of consent.”*
- 47.2 *“It will also be required to have an approved Construction Traffic Management Plan before commencing construction of the intersection and road upgrading, as proposed.”*
- 47.3 *“The proposed traffic management plans that will be subject to Council approval will ensure that when there are higher traffic demands with high concentrations of vehicle movements before and after events, the traffic is managed appropriately on those occasions.”*
48. Paragraph 117 of Mr Quickfall’s planning evidence states:
- 48.1 *“The traffic evidence is that the proposal can be developed in a way that achieves the land transport objectives and policies. Consent conditions along with the Traffic Management Plan will ensure that this is achieved.”*
49. In accordance with the Code of Practice for Temporary Traffic Management (NZ Transport Agency, 4<sup>th</sup> edition February 2012 - CoPTTM), Road Controlling Authorities (RCA’s) have a statutory duty to ensure the safe and efficient operation of the roading network under their authority (my emphasis added).
50. To this end, where an activity takes place on the road or adjacent to the road that could affect the safe and efficient use of the road, approval (of a Temporary Traffic Management Plan) is required from the appropriate Road Controlling Authority. Temporary Traffic Management Plans cover a range of activities, such as:
- 50.1 Mobile operations (e.g. road side mowing and spraying);
- 50.2 Static operations (e.g. seal repair);
- 50.3 Large scale roading projects (e.g the Ruby Bay Bypass);
- 50.4 Surveying; and
- 50.5 New access ways (eg when connecting to an existing road).

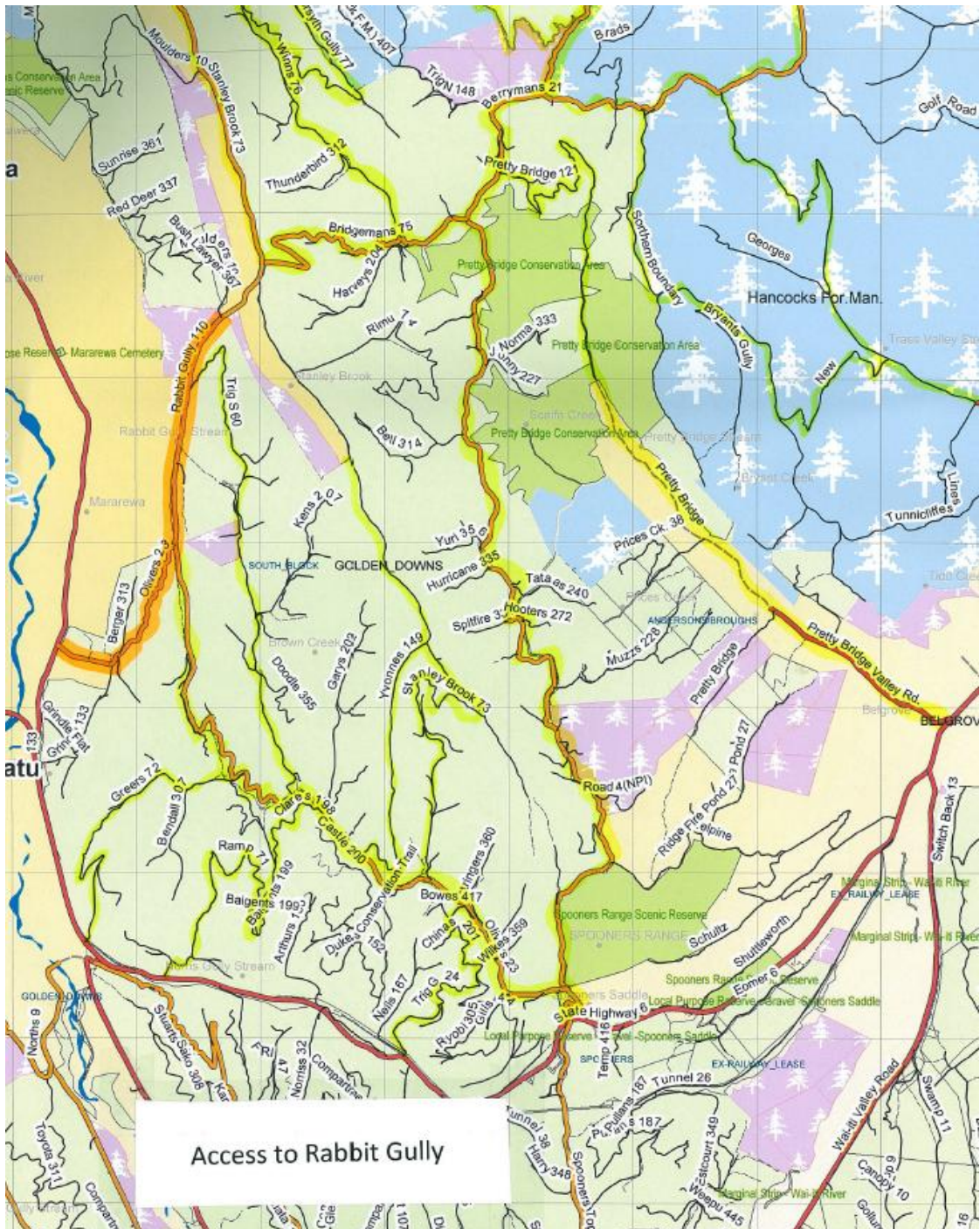


51. This code was written for roads under the control of the NZ Transport Agency and Local Authorities. It was not written to apply to private land. Stuart Fraser (Senior Traffic and Safety Engineer, NZ Transport Agency) advises that forestry owners are acknowledged as RCA's over their land pursuant to the Land Transport Act (pers. comm.: 6 March 2012).
52. NFL therefore has the ability and right to approve its own traffic management on its land, which it currently does through road control and closure. Local Authorities (ie Tasman District Council) do not have the ability to approve Traffic Management Plans on NFL land.
53. Any condition of consent that requires the approval of a traffic management plan taking effect on NFL land is therefore not legal, cannot be included as a condition of consent and therefore does not provide any mitigation.

#### **Access to Rabbit Gully**

54. Adcock and Donaldson can only legally access Rabbit Gully via Olivers Road 23 and Rabbit Gully Road 10. There is no other legally available access. I emphasise this point as there are numerous roads that provide access to Rabbit Gully. One would be naïve to believe that people will not try and access the Motorsport Park from other roads.
55. The alternate access routes into Rabbit Gully are highlighted on the "Access to Rabbit Gully" forest map (diagram 4 below). Not all of them stem from NFL land, but there is a series of non-public roads running through conjoined farms and forest plantations – such as Western Boundary Road which can be accessed at the top of the Dovedale Hill, and then runs through Tasman Bay Forests before joining with Berrymans Road 21 (NFL). These roads all provide a means for people to get to Rabbit Gully and to vantage points above it.

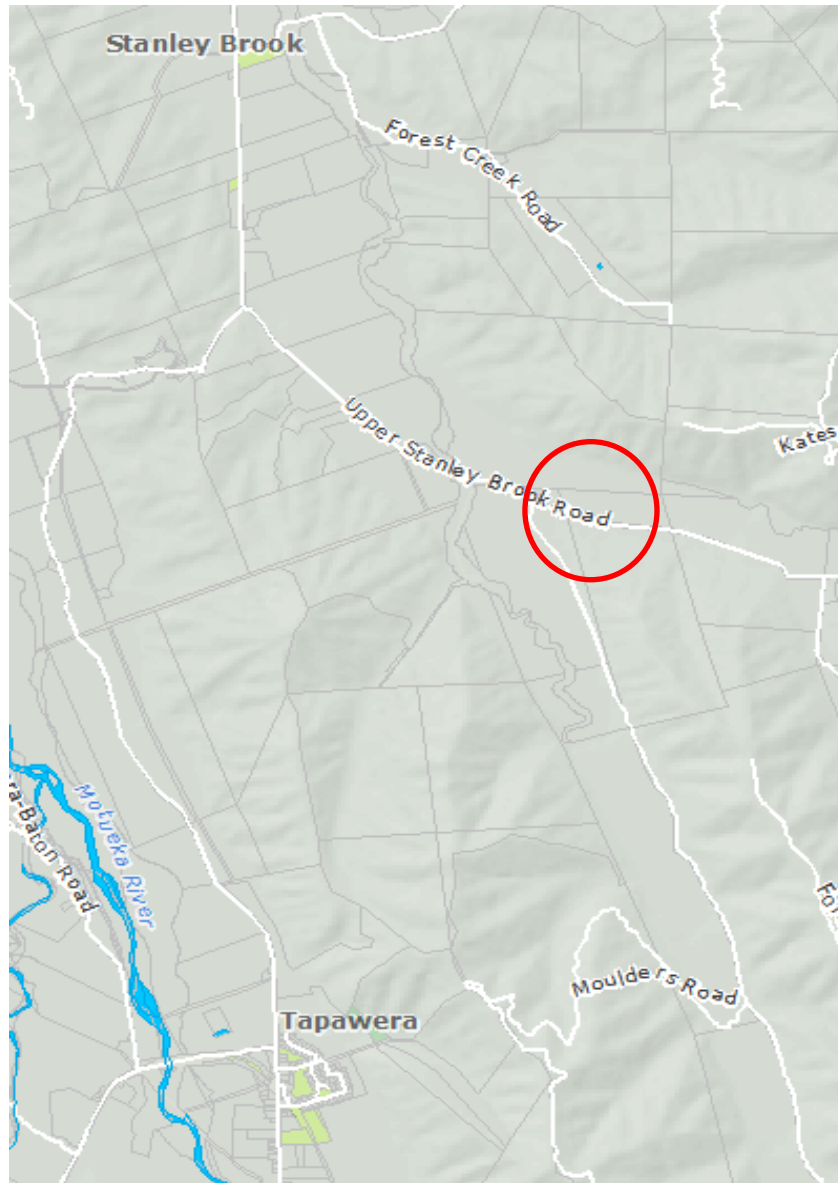
Diagram 4



56. The road which enters Rabbit Gully from Upper Stanley Brook Road is a private road (Stanley Brook 73). It is not a public road. It has been incorrectly recorded as a public road in the Hearing Report (page 25) and as a Public Access Easement in Mr Quickfall's evidence (paragraph 33). It is a private road that runs through two properties in different ownership (the Rowe and NFL properties) before reaching Rabbit Gully. As illustrated in Diagram 1, this is not a Public Access Easement.

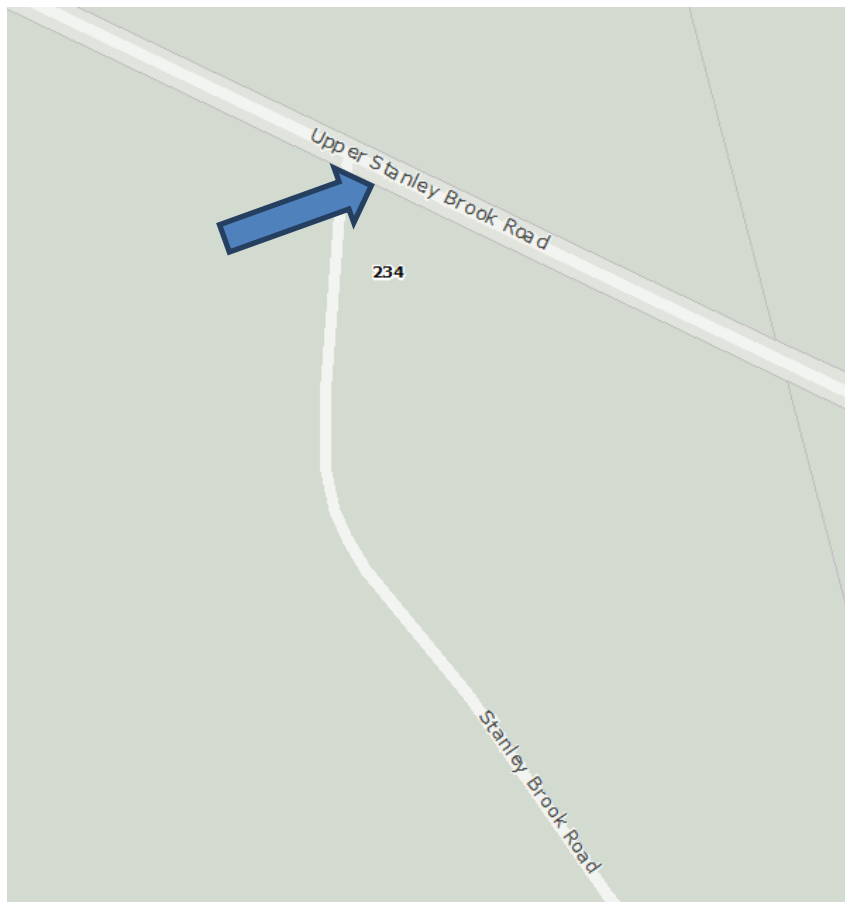
57. The following maps are copied from Tasman District Council's "Top of the South Maps". The first map (Diagram 5) indicates the position of Upper Stanley Brook Road (the public road) and the intersection with Stanley Brook Road 73.

**Diagram 5**



58. The following map (Diagram 6) is an enlarged section of the above map, where Upper Stanley Brook Road and Stanley Brook Road 73 intersect. It is immediately evident that there is no paper road underlying Stanley Brook Road 73, and Stanley Brook Road 73 is not joined to Upper Stanley Brook Road (the Public Road). This is clear evidence that Stanley Brook Road 73 is not a Public Road.

Diagram 6



59. Stanley Brook Road 73 has, however, been offered in the Hearings Report and in Mr Quickfall's Evidence, as an alternate access which in the event of a fire (and other emergency) would provide an alternative exit option. Mr Quickfall goes further and declares that this access is "physically and practically available" as an emergency access (paragraph 33). Not addressing the issue of a fire, which I shall deal with separately below, this private road cannot be relied upon for emergency access. Further to this, the Applicant has not requested or discussed its use for this purpose with NFL, or I understand with the Rowes, whose property it passes over in part.
60. If NFL is undertaking roading or harvesting operations on or above this road, emergency access will not be guaranteed. There is no right for anyone else to use this road, and as such NFL will use it for its normal operations or could choose to block the road to prevent unlawful access into the forest. An example of where we have opted for the more drastic option of road blockage is in the Whangamoas. Members of the public were accessing the forest to hold car races and burnouts – both of which pose significant risk to our estate and to the safety of staff and contractors. A locked steel

gate did not deter access, so large boulders have been placed across the road to prevent any motor vehicle access.

61. Adcock and Donaldson have no ROW agreement to use Stanley Brook Road 73. To date, use of Stanley Brook Road 73 (within NFL land) by Adcock and Donaldson to access their farm has not been an issue for NFL on the basis of good neighbour relations. However, NFL is not prepared for this use to continue if the activities undertaken in Rabbit Gully change. I understand the Rowes share the same view.
62. Paragraph 56 of Mr Quickfall's evidence states that forest managers do allow access (subject to prior permission) via an informal gentleman's agreement, and intimates that NFL does have some ability to control unlawful access. NFL runs an access permit system and issues on average 650 access permits per annum for entry into its forests. These permits cover a range of activities, from hunting and horse riding to firewood collection. To state that access is via a gentleman's agreement again highlights how little understanding the Applicant's agent has of our operations and the effects of the Applicant's proposal on them.
63. Mr Quickfall's evidence (paragraph 36) states that the Rabbit Gully site has an advantage over other established motorsport venues as there is:

*"...easy management of security and access because of the surrounding topography and limited access to the site."*

Diagram 4 clearly indicates that there is NOT limited access to the site. There is no access by other than the ROW. The proposed conditions with regards to access to the site, only focus on Olivers Road 23 and Rabbit Gully Road 10. This does not provide satisfactory mitigation nor limit the risks to our operations and business.

64. I noted above at paragraph 58 that locked steel gates did not deter access. How then can the conditions at 8(a)(ii) requiring locked gates, of an unspecified material, and security fences and/or barriers, again of an unspecified detail, be expected to stop access into the forest when Nelson Forests has had repeated examples of just how difficult it is to prevent unauthorised access by the public? With respect, our experience suggests that these conditions are unlikely to be effective in controlling public access into the forest.
65. Paragraph 32 of Mr Quickfall's evidence introduces a Tasman District Council resolution to provide a public access road through to the application site via Olivers Road and Rabbit Gully Road. Tasman District Council has never actioned this resolution and there

have been no discussions with Nelson Forests regarding the acquisition of this alternate access.

### **Business Impediments**

66. The proposed Stanley Brook Motorsport Park development and management are based on a series of Plans: Site Operations Plans, New Activity Management Plans and Large Event Management Plans. NFL has been identified as a party to be consulted with during the preparation of the following portions of the Site Operations Plan (page 67 of the Hearing Report, conditions 29-31 and Schedule 1):

66.1 Construction;

66.2 Fire; and

66.3 Traffic.

67. I note NFL is not listed as being consulted on the Hazardous Substances portion of the Plan, although those hazardous substances contribute to the site's potential fire risk. Nor are we to be consulted in the preparation of either the New Activity Management Plans or the Large Event Management Plans – refer proposed conditions 30 and 31.

68. There is a significant amount of uncertainty associated with the detail of the management plans and what involvement would be required from NFL. It is well documented and accepted that “consultation” does not mean “agreement”. For this reason, NFL does not believe that the management plans, in conjunction with the proposed conditions of consent, will adequately address risks to its business nor mitigate adverse effects arising from the Stanley Brook Motorsport Park, which are more than minor.

69. Even the structure of the plans has been poorly thought out. It is obvious to anyone reading NFL's submission that the risk of fire is a major concern, yet in the case of New Activity Management Plans, which are to contain a fire management plan within them, we are not going to be consulted. Traffic is another obvious issue for us, yet for the Large Event Management Plan where 1000 vehicles or more will be generated, and which require the management of the safe and efficient movement of traffic (although bizarrely not in respect of the Olivers Road/ROW portion of the route) and the addressing of emergency vehicle access, as well as a fire management plan for access to and within the site - we are not to be consulted.

70. Some form of enforced consultation with Adcock and Donaldson (and/or a Trust and Operations Company) will be necessary under the proposed conditions of consent. This is costly to our business, in terms of staff time, resources and loss of business flexibility. The consequences of not consulting with the above parties will lead to frustration on both sides, costs that could be avoided, and unacceptable safety risks for NFL staff and contractors, and to anyone else using the ROW to access the Stanley Brook Motorsport Park.
71. NFL does not have a lot of trust in the Applicant given its recent dealings with the Applicant, and this does not set the basis for a sound relationship moving ahead. NFL's view of the proposal was misrepresented in the application, and a threat to re-open an old public road was used if agreement on the use of the ROW could not be reached (meeting between Tony Quickfall, Gary Adcock, Dave McLeod on behalf of the Applicants and Lees Seymour and Heather Arnold on behalf of NFL, 17 February 2010). Comments such as that found at paragraph 56 of Mr Quickfall's evidence that NFL's "*submission is not consistent with verbal discussions during two meetings*" merely serve to reinforce NFL's mistrust of the Applicant – we made our position very clear to the Applicant. NFL's submission is very clear in its opposition to the proposed Stanley Brook Motorsport Park and reflects that no agreement could be reached between Adcock and Donaldson and NFL at any meetings. Further to this, the Applicant's proposed mitigation was not adequate to safeguard our business from risks or impediment associated with the proposal.
72. Dr Wheeler's economic impact evidence attempts to address possible impacts on forestry operations. It is evident that he has no comprehension of forestry management/operations, nor sought to obtain even any basic knowledge in this regard, let alone information of relevance to this site. Further to this, he is under the misconception that the forestry operations on private land surrounding the Stanley Brook Motorsport Park will be planned around the Motorsport Park's calendar of events.
73. To conclude as he does in paragraph 123 that there will be a negligible or slightly positive opportunity cost to NFL from the proposed Motorsport Park is unfounded and baseless.

#### **Proposed conditions / report recommendations**

74. The hearing report recommends that the suite of resource consents for the proposed Stanley Brook Motorsport Park be approved. NFL does not believe that the adverse effects of siting the proposal in Rabbit Gully are sufficiently addressed by the proposed conditions of consent, let alone mitigated, or that they can be mitigated even by an

improved suite of conditions. The draft conditions do not appear to reflect the resource consent conditions volunteered by the Applicant, nor do they fully cover the issues raised or mitigation discussed in the TDC Planners' assessment. For example, there is no requirement for the Management Company or the Motorsport Trust to hold fire insurance or public liability insurance, let alone specify the minimum amounts of each to be held.

75. The only conditions in the Hearings Report of any relevance to NFL, which attempt to mitigate the adverse effects of the Stanley Brook Motorsport Park, are conditions:

75.1 General (condition 1);

75.2 Roading – right of way and legal reserve upgrade from eastern end of Olivers Road to subject site (condition 8);

75.3 Grampian Condition (condition 9);

75.4 Signs (condition 10);

75.5 Directional Signage (conditions 11-14);

75.6 Location and Height of Buildings (setback of 30 m from the drip line of trees in an exotic forest plantation - condition 19);

75.7 Operations Plan (condition 29); and

75.8 (potentially but not definitely) Review (condition 33).

#### **General Condition**

76. Condition 1 states:

*The Motorsport Park shall be developed and operated in accordance with the documentation submitted in the application and in accordance with the attached plans RC02 to RC10 dated 22 November 2010.*

77. This condition is too general and will result in uncertainty. As an example, the application states (page 38):

*To effectively deal with the risk of fire the motorsport park proposal adopts a number of key design and management features. These include; ....*

- *Establishing and maintaining adequate fire breaks around the entire property and access road, effectively creating an island.*



The plans RC02 – RC10 do not indicate fire breaks around the entire property. Nowhere in the application is detail provided of this supposed mitigation. The idea of a “fire safe island” is an illusion – consider for a moment this ‘island’ is said to include the ROW access, yet the Applicant has no power to deliver any mitigation in respect of the ROW.

78. The application places an obligation on third parties to be involved with this proposal. As an example, the application states (page 93) that Nelson Forests Ltd will be consulted during the preparation of certain management plans. This approach of no upfront management plans does not sit comfortably with NFL as the owners and managers of a significant natural resource at threat from the operation of the Stanley Brook Motorsport Park, where there are no certain outcomes, consultation does not mean agreement, and the proposed mitigation does not lower significant adverse effects to a minor level. In saying this, I acknowledge that a draft Fire Management Plan was supplied late morning on the 8 March (NFL’s expert evidence was due on the 8<sup>th</sup> March), following requests from both myself and our lawyers to the Tasman District Council. The Plan had not been provided to the TDC as part of the Applicant’s expert evidence despite being referenced as Mr Quickfall’s Appendix 4.

### **Right of Way Condition**

79. Condition 8; Roading – right of way and legal road reserve upgrade from eastern end of Olivers Road to subject site, states (with emphasis added):

- (a) Prior to the commencement of any motorsport park activity the consent holder shall undertake improvements to the new right of way and legal road reserve from the eastern end of Olivers Road to the subject site to provide an access that meets the following standards:*
- (i) a minimum 6 metre wide gravel carriage way with -4% crossfall with a minimum operating speed of 30 kph.*
- Two x 1 metre feather edges;*
  - Purpose built side drains;*
  - Adequate delineation (eg fencing) of the downhill slope of the track;*
  - Constructed to comply with NZS:4404 (2010) road standard (volunteered by the Applicant and amended by Council’s Engineering Department).*
- (ii) - a gate shall be installed at the eastern boundary end of Olivers Road to restrict public access at the times the park is not open;*

- *The road shall be realigned to establish a 30 metre setback from the forest on the uphill side and 20 metre setback on the downhill side;*
- *Locked gates shall be installed on all private roads;*
- *Security fences and/or barriers shall be installed between the boundary of the site and Nelson Forests Ltd site to prevent unauthorised access to forestry areas. (volunteered by the Applicant)*

(b) *In dry conditions – the consent holder shall suppress dust from vehicles travelling to and from the motorsport park.*

80. Issues and questions of clarification with condition 8 are:

80.1 Is there to be a new ROW?

80.2 Why is the ROW to be 6 metres in width, and Olivers Road to be 5m (conditions 5 & 6), when the Applicant offered 8 metres (page 90 of the Resource Consent application)? TDC's Development Engineer, Mr Dugald Ley, supports the Applicant's volunteered 8 metre formed carriage way width (page 21 of the Hearing report). Condition 8 therefore contradicts condition 1.

80.3 Why has a minimum operating speed been posted at 30 kph? A minimum speed will not mitigate traffic safety issues.

80.4 In a rural working environment, the purpose of a fence is to keep livestock under control. A fence in this location will be a burden on NFL and provide another impediment to the use of its land.

80.5 The setbacks have been volunteered by the Applicant (pages 23 & 24 of the Resource Consent Application) to *help guard against access ever being blocked off by fire or windthrow* (page 21 of the Hearing report). I trust that I have established that windthrow (and harvesting activity) will block the access, and Mr Andrew Karalus will have demonstrated that fire will also block the access. These setbacks will not mitigate the risk to acceptable levels.

80.6 Locked gates on the ROW and to private roads are another impediment to the unhindered use of NFL land by NFL. A locked gate is not a sufficient deterrent against trespass. There is also no provision for maintenance.

- 80.7 What is a condition relating to the perimeter of the Motorsport Park doing under a heading in relation to the ROW? This effectively allows the Applicant to have no security fencing around the actual Motorsport Park. This is not acceptable and therefore does not provide any mitigation to the foreseeable adverse effects of trespass, including illegal access to the site. In any event the condition talks about ‘security fences and/or barriers’ and I think this is uncertain as to meaning. What is an acceptable barrier? I see Mrs Rowe has suggested that to be of any use the security fence/barrier will need to be a chain link fence topping out at 6 metres in height. Certainly in our experience anything less would just be counted as a minor inconvenience to a member of the public who wanted to go off into the forest. Nowhere in the application are you told how long the fence line shared with Nelson Forests is – but it is significant (approximately 10.5 kilometres of security fence around the actual site). Even with this fencing the access to and from the site leaves a hole for widespread access points.
- 80.8 Dust need only be suppressed along the access route in “dry conditions”. What are dry conditions? This condition is unenforceable as there is no measure and will be unachievable due to traffic congestion.

## **Risk**

81. The conditions proposed with regards to the ROW, security and safety do not mitigate risks to the point they will have a minor effect.
82. Risk is determined from the combination of probability (of an event), exposure to that event and the likely consequences. Using a well-known risk assessment tool – a Risk Score Calculator or Risk Analysis Chart (**attached as Appendix 1**); the use of the current ROW over Olivers 23 and Rabbit Gully 10 Roads by Adcock and Donaldson for their current farming and forestry operations gives a risk score of less than 10 – very low risk (probability = conceivable but very unlikely, exposure = frequent, consequences = important). The Risk Score Analysis is **attached as Appendix 2 and Appendix 3**.
83. When NFL is undertaking forestry operations in the catchment which uses Olivers Road 23 and Rabbit Gully Road 10, the risk analysis alters. Firstly, the probability or likelihood of loss remains unchanged (conceivable, but very unlikely). This is based on our incident history of use of these roads for our operations. No incidents have occurred to date. Secondly, frequency of the task or exposure to risk increases to continuous (from frequent), and thirdly the consequences or severity of an incident remains the same because of the controls that are employed by NFL when undertaking operations

affecting these roads. These controls include upgrading the road before harvest operations through resurfacing and vegetation control and signage, maximum speed 50 km/hr and/or ability to stop in half the sight distance of the road, driving to the left and driving with expectation of meeting on-coming traffic, controlling all vehicles through operational sites, or closing the road. The result is a score of 16 which indicates there is possible risk to users of the road. The Risk Score Analysis is **attached** as **Appendix 2** and **Appendix 3**. How this risk is managed downwards is what is important. This is achieved by ensuring:

83.1 All internal road rules are complied with;

83.2 The road is controlled; and

83.3 Traffic movements are communicated.

In relation to the third bullet point the importance of all movements being communicated is such that in certain circumstances the regular “other” users of the road may be given an RT for their vehicle for the duration of the active operations affecting the road.

84. Having the ROW used for the access to the Stanley Brook Motorsport Park, with the proposed mitigation in terms of the consent conditions in place, the risk score is significantly increased, to a range between substantial and high risk. This is an order of magnitude greater than its current use. For the best case scenario (which still results in substantial risk), this is based on remotely possible probability, continuous exposure to risk and a serious consequence. Using a conservative worst case scenario the probability or likelihood of loss is unusual but possible, the frequency remains continuous and the consequence remains unaltered (it could be argued that the consequences could increase to very serious/fatality). This results in a high risk. In other words there is substantial to high risk of a serious traffic incident (>\$100,000 cost), culminating from:

84.1 A winding and hilly gravel road;

84.2 No directional markings on the gravel road;

84.3 The road being unfamiliar (or after time too familiar);

84.4 Traffic congestion at certain times of the day;

84.5 Use of the road day and night;

84.6 Unfamiliarity for many drivers with driving on gravel roads;

- 84.7 Higher performance vehicles;
- 84.8 Improved road surface inviting faster driving;
- 84.9 Large forestry vehicles also using the road;
- 84.10 Dust; and
- 84.11 Potential forest hazards (e.g. wind throw) or operations.

The Risk Score Analysis is attached as Annexure 3 to my evidence

- 85. This analysis of risk demonstrates that the mitigation proposed as consent condition 8 is not adequate.

### ***Grampian Condition***

- 86. Condition 9, the *Grampian* condition, sums up this entire proposal. To implement that condition the Applicant MUST obtain the prior consent of Nelson Forest Limited, or of the Crown. Any request to the Crown for consent will involve NFL as the Crown Forest Licensee. Consent will not be granted because the result of granting such consent is an unacceptable risk to our operations. What then is the point of putting in this condition? It sets the Applicant up to fail.
- 87. There are discrepancies between the text and the diagrams of the application (as illustrated above), and there is no ability for the Applicant to undertake mitigation on NFL land as proposed by the Applicant to mitigate a number of the significant adverse effects of the proposal.

### **Signage Conditions**

- 88. Condition 10 states:

*“No Public Access” signs shall be erected at the entry to all side roads off the main access from the intersection of Motueka Valley Highway and Olivers Road to the subject site. No single sign shall exceed 2 m<sup>2</sup> in size.*

- 89. This condition cannot be imposed as it requires approval from NFL under the Deed Granting Easement of Right of Way (clause 3.4). Our experience is that signs are vandalised and not maintained. Working around signs (or having to have them removed and re-installed) for NFL to carry out its operations is a cost to NFL. This negates the mitigation that was proposed by the Applicant.

90. Condition 14 states:

*“The consent holder may erect traffic safety and warning signs at any time and at any place along the ROW and Rabbit Gully Road to identify any natural, road repair work or other hazard including fire and forestry operations risks. No single sign shall exceed 2 m<sup>2</sup> in size.”*

91. This condition cannot be imposed as it requires approval from NFL under the Deed Granting Easement of Right of Way (clause 3.4). Signage of this nature cannot be used in conjunction with forestry signage. It will cause confusion to road users. This negates the mitigation that was proposed by this condition.

### **Operations Plan Condition**

92. Condition 20 outlines the requirements for the provision of an Operations Plan, based on a number of Management Plans. As discussed under condition 1, this is not acceptable.

### **Volunteered Conditions**

93. The Applicant volunteered conditions (page 88 of the resource consent application) which have not been incorporated into the Hearing Report proposed conditions, in particular the limitations on the number of events and activities. This oversight therefore does not provide any mitigation of the adverse effects generated by these events, although I would say that limitations on the number of motorsport events will be of very little real assistance to us as any one event will bring people into proximity with the forest, and that is when the risk occurs. The size of the events will matter, as the larger the event the greater the number of people. The same with the number of events – the more there are the more people will be placed in proximity to our forests, and in addition the more events there are the likelier it will be that some will take place in dry months when fire risk is at or near its height. The type of event – such as overnight events or night races or concerts can also contribute to the degree of risk.

94. Appended to Mr Quickfall’s evidence is said to be amended volunteered conditions in response of consultation with submitters and which include a series of mitigation measures addressing Nelson Forests’ concerns (paragraphs 27 and 96). No such conditions have been attached. Mr Quickfall has said these condition were e-mailed to Nelson Forests in draft form (refer paragraph 96). The Applicant did provide NFL with a copy of proposed amendments to the volunteered conditions. However the Applicant was advised by NFL that the proposed mitigation did not address its concerns. Whether

these conditions had been further amended, as alluded to in the evidence of Mr Quickfall, could not be ascertained as no copy was provided as part of his evidence.

### **Conclusion**

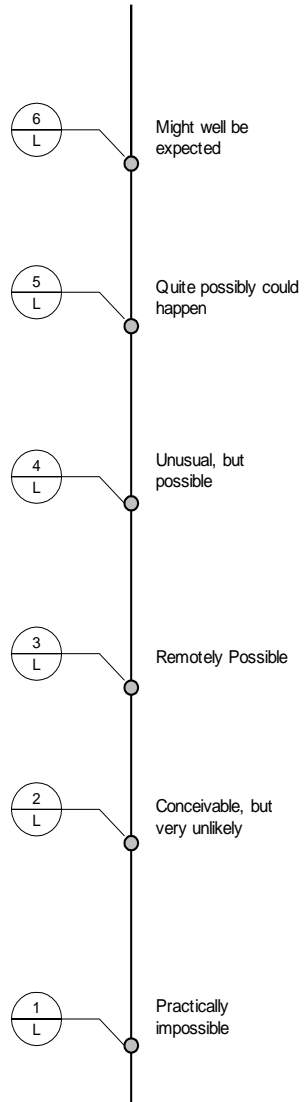
95. The adverse effects of the proposed Stanley Brook Motorsport Park are significant. The proposed mitigation volunteered by the Applicant and the proposed conditions of consent contained in the Hearing Report do not mitigate these adverse effects to an appropriate level, whereby the commercial Stanley Brook Motorsport Park and Nelson Forests Limited's forestry operations can operate sustainably side by side in this rural environment.
  
96. For these reasons Nelson Forests Limited remains firm in its opposition to this application and asks that it be declined in full.

Heather Arnold  
Nelson Forests Limited

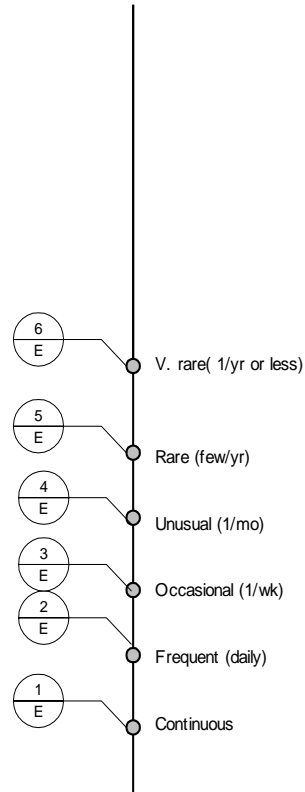
8 March 2012

# Appendix 1

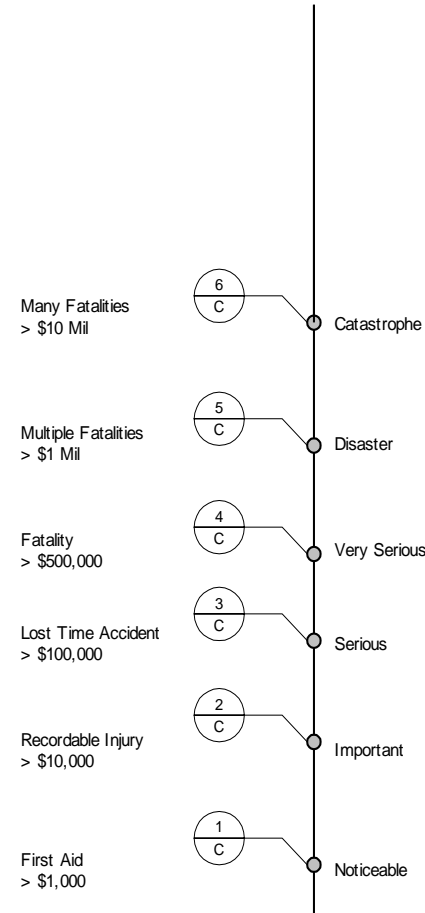
## Probability or Likelihood of Loss



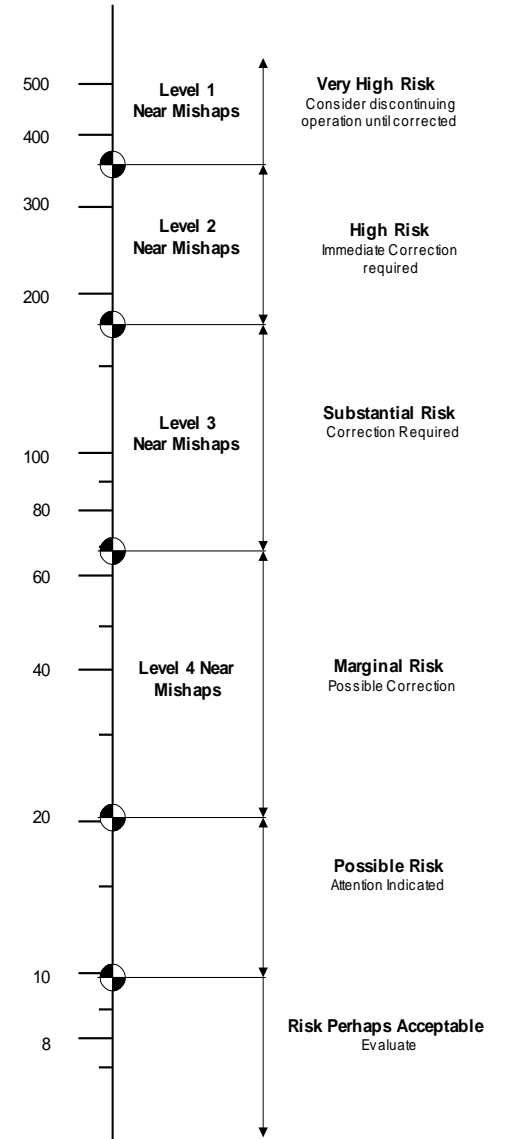
## Frequency of Task / Exposure to Risk



## Consequences or Severity



## Risk Score

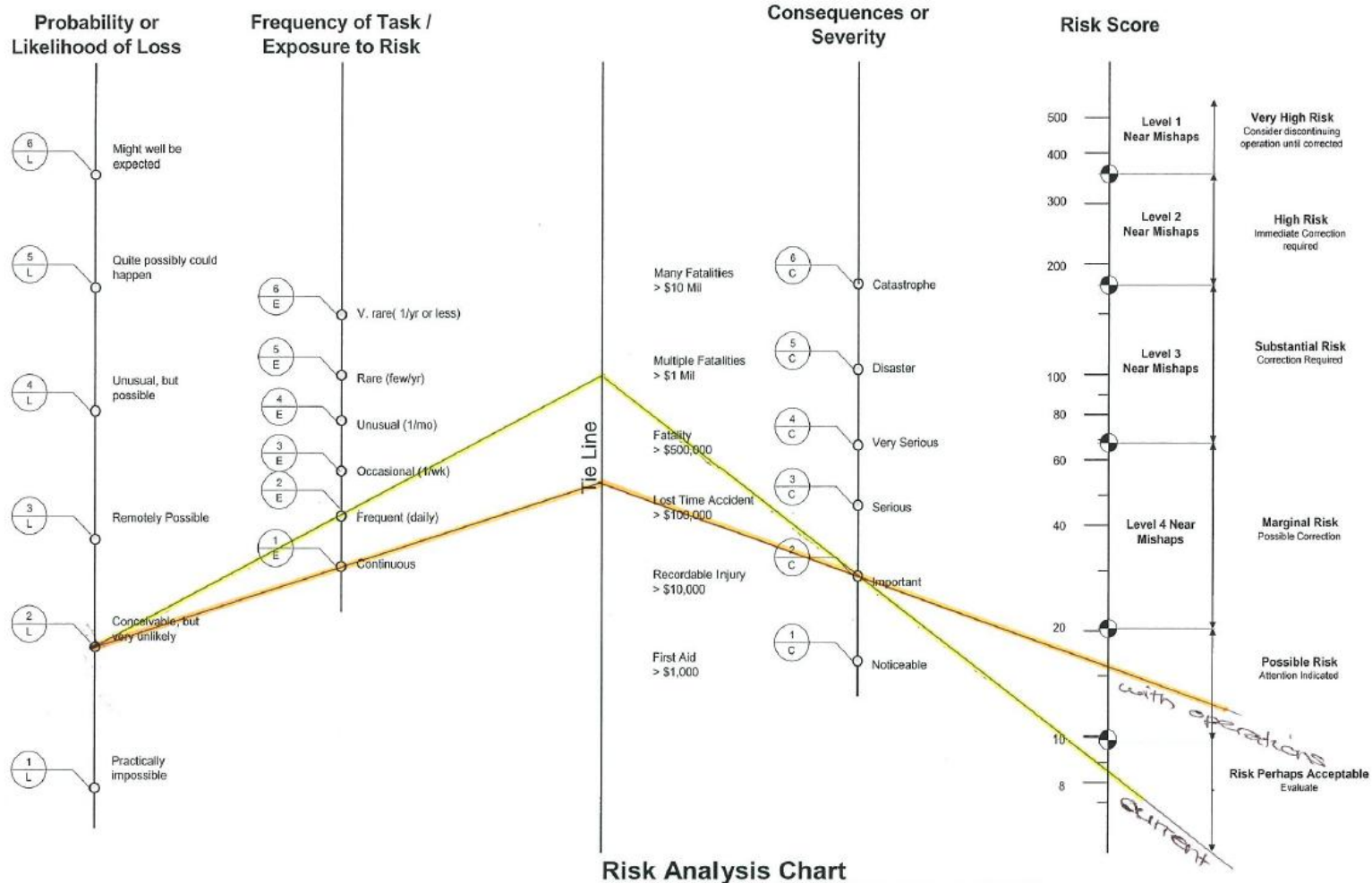


Tie Line

## Risk Analysis Chart

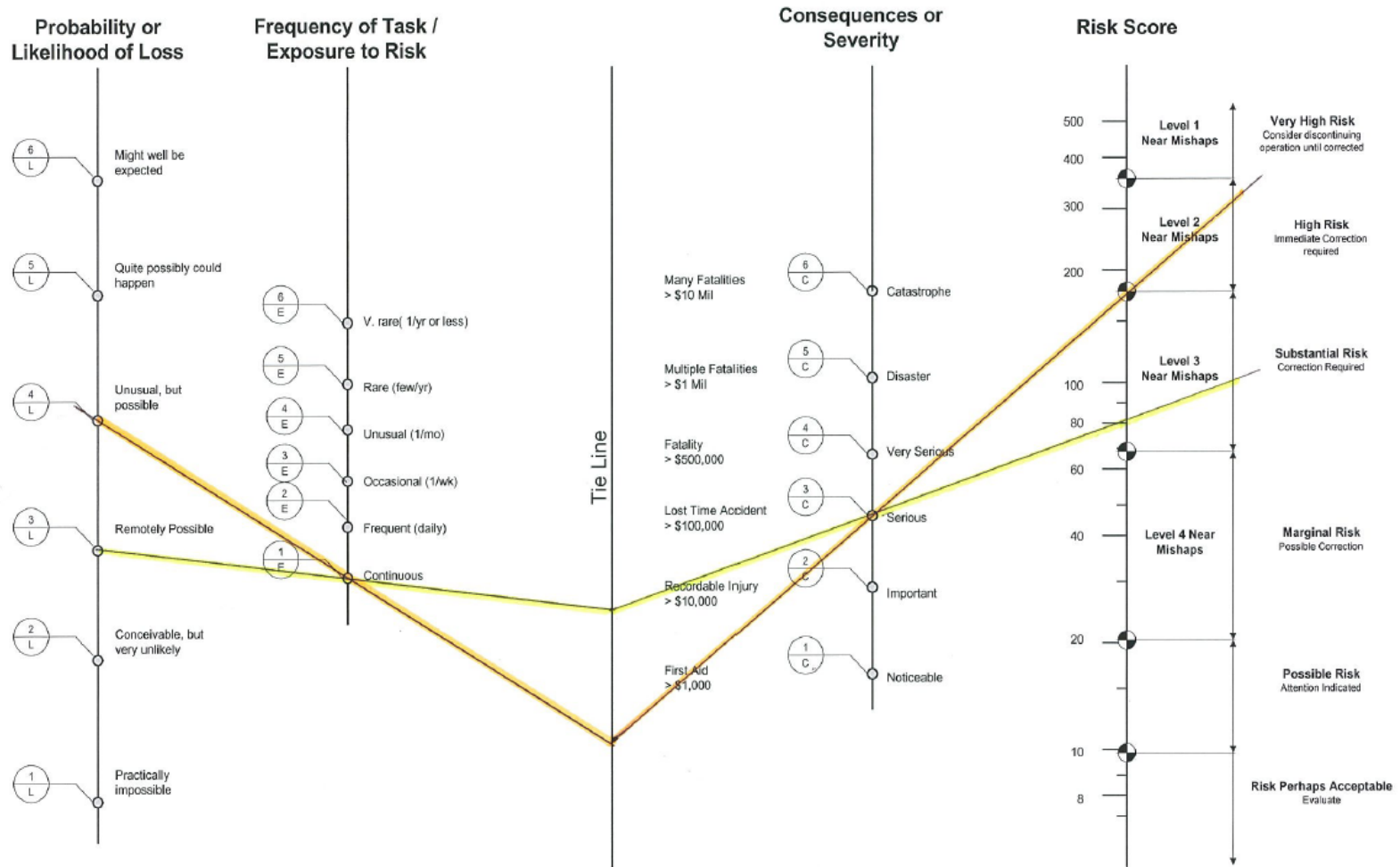


# Appendix 2



Current Situation – Farming and Forestry Activity

# Appendix 3



Stanley Brook Motor Sport Park