

# Application for Resource Consent

(Amended 2 October 2020)

Breach of night time noise standards to allow for road repairs and maintenance work including line marking and road sweeping to be undertaken overnight.

Applicant: Nelson City Council



# Application Form

## APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991

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(Please use the above contact details for invoicing purposes only)

1. Nelson City Council applies for the following type of resource consents

RMA	Consent Type	Activity	Term
Section 9	Land Use	Breach of noise standards for overnight road maintenance and repair work within the Residential, Inner City, Suburban Commercial, Industrial, Open Space and Recreation and Rural Zones.	15 years

2. A detailed description of the activities to which the application relates is provided within Section 3.0 of the attached Assessment of Environmental Effects.
3. No additional resource consents are required in relation to this proposal.
4. An assessment of the potential and / or actual effects the proposed activity may have on the environment, in accordance with Section 88 and Schedule 4 of the Resource Management Act 1991, is attached.
5. An assessment of the proposed activity against the matters set out in Part 2 and against any relevant provisions of a document referred to in Section 104(1)(b) of the Resource Management Act 1991 is attached.
6. No other information is required to be included in the application by the regional plan, the Resource Management Act 1991 or any regulations made under the Act.



Victoria Woodbridge

Signed on behalf of the Applicant

Dated: 05 August 2020 **Amended 2 October 2020**

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## Supporting Information

- Attachment A. One Road Network Classification
- Attachment B. Assessment and Management of Noise Effects (**Acoustic Engineering Services**)
- Attachment C. Noise Risk Assessment Document Template (**Acoustic Engineering Services**)
- Attachment D. Auckland Unitary Plan excerpt
- Attachment E. NCC Survey results

# 1.0 Executive Summary

## 1.1 Introduction

Nelson City Council (“the applicant”) applies for resource consent to breach the night-time noise standards to allow for road repairs and maintenance work (including line marking and road sweeping) which is undertaken by Council’s Transport Operation team and its contractors to be undertaken outside of ‘daytime noise limits’ as defined in the NRMP.

Council has a Statutory Obligation to ensure the road network within the Nelson District are ‘fit for purpose’ and this means undertaking routine and emergency repair and maintenance work. Council, along with its funding partner, the New Zealand Transport Agency (NZTA) are required to set a Long Term Plan that identifies key targets and programmes of work for the road network. Council then formulates an annual planning programme to identify roads which require work and these are scheduled for maintenance or renewal. At times emergency works are also identified that require immediate or fast-tracked repair to ensure a safe and efficient network.

At present, works to repair and maintain the road network are undertaken during daytime hours which can often result in considerable disruption to all road users including public transport timetables, cyclists and pedestrians. The works can significantly impact on businesses and households by limiting parking and access to properties and premises and causing general disruption. The need to maintain access for cars, cyclists and pedestrians as well as business premises plays a key role in dictating how works are managed, and often results in works taking a longer period of time.

Council has currently has a number of sites requiring repair and maintenance where the work has been deferred because Council cannot meet Traffic Management Requirements during the day and cannot undertake work at night due to the breach of noise standards. These works are now critical.

There is some merit, therefore, in undertaking some road works overnight when roads are generally free of cyclists and pedestrians and there is limited traffic. Although strict health and safety protocol would still be adhered to, without the high volume of traffic to factor into programming the repair and maintenance work this can be undertaken in a more efficient and timely manner avoiding disruption and delay to road users. In some areas streets are not wide enough to accommodate the plant equipment required to undertake the work and allow for the road to remain open to vehicles due to the limited width.

The Nelson Resource Management Plan does not place any restrictions on road repair and maintenance work, however, the Plan does require that activities comply with noise standards which are more stringent outside of daytime hours. The noise generation by equipment and activities associated with road works does not comply with those permitted noise levels.

This application is therefore a global consent to allow for road repair and maintenance work to be undertaken on certain roads during the night-time hours in breach of noise limit standards under the Nelson Resource Management Plan. The application seeks to undertake this work within the Industrial, Inner City (Centre and Fringe), Residential (including higher and lower

density areas), Rural (including both higher and lower density small holding areas), Suburban Commercial and Open Space and Recreation Zone.

This application is supported by an Assessment and Management of Noise Effects report and draft Noise Risk Assessment by Acoustic Engineering Services Ltd. A copy of the public survey conducted by Council is also appended to the application.

Resource consent is required for a land use consent to breach night-time noise standards as a Non-Complying Activity. The applicant requests that the application be publicly notified.

Section 3.6 was amended on 2 October 2020 to reflect updated volunteered conditions of consent as a result of Council's request for further information.

## 2.0 Site Information

### 2.1 Site Details

This application for resource consent relates to the road network within the Nelson Region in the Residential, Industrial, Inner City (including Fringe), Residential (including higher and lower density areas), Rural (including both higher and lower density small holding areas), Suburban Commercial and Open Space and Recreation Zone.

The consent applies only to road repairs and maintenance work undertaken on Arterial, Principal, Collector and SubCollector road (where the effects of closing the road are deemed more than minor as defined in section 3.2 of this application) or roads where the layout or width is such that Traffic Management requirements do not allow sufficient space for machinery and motorists. In addition, all roads, including ring roads, within the Nelson and Stoke Central Business District are included in the application.

The hierarchy to define roads listed above will be the same as referenced in the Nelson Resource Management Plan (NRMP), Nelson Tasman Land Development Manual (NTLDM) and One Road Network Classification (refer to Attachment A for current hierarchy list)

#### **Definition of Road**

Section 315 of Local Government Act 1974 defines road as:

*road means the whole of any land which is within a district, and which—*

- (a) immediately before the commencement of this Part was a road or street or public highway; or*
- (b) immediately before the inclusion of any area in the district was a public highway within that area; or*
- (c) is laid out by the council as a road or street after the commencement of this Part; or*
- (d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or*
- (e) is vested in the council as a road or street pursuant to any other enactment;—*  
*and includes—*
- (f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988;*
- (g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—*  
*but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989*



Under Chapter 2 'Meaning of Words' the NRMP definition of 'road' is the same as the LGA definition.

Under the Nelson Resource Management Plan roads are also included in the definition of Network Utility:

**Network Utility** – a network for any of the following activities:

f) construction, operation and maintenance of roads and railways, including any lighting, signalling or other equipment relating to the safe use of the road or railway

and includes:

m) the operation, maintenance and upgrading of the network utility

The NRMP definition of maintenance:

**Maintenance** - *in relation to State Highways, roads, tracks, firebreaks and landings, means soil disturbance and vegetation clearance necessary to maintain the facility in good operational order. State Highway maintenance works include minor realignment, shape corrections and vegetation clearance with road reserves*

*In relation to network utilities other than roads, means repair necessary to maintain the facility in good operational order and shall include vegetation clearance under overhead lines and minor realignment of such lines, and in respect of overhead lines may include the replacement of a conductor with a larger size conductor but does not include the replacement of towers, pylons, or insulators with larger size towers, pylons, or insulators.*

*For the avoidance of doubt, the meaning of "maintenance" does not include the armouring of structures or banks with rock or other permanent material but it does include clearance of gravel in or directly below or above culverts and bridges. [emphasis added]*

The application applies only to works within the road area for the purpose of repair and maintenance as required by Council to fulfil their Statutory Obligations. Road repair and maintenance work is routinely undertaken during daytime hours and the level of work proposed will not change as a result of this application, the focus of this application is consent to allow for a breach of the night time noise levels so that works can be undertaken overnight.

## 3.0 Description of the Proposal

### 3.1 Background and Context

#### Council's Obligations

The Local Government Act 2002 Subpart 1 – Purpose of local government, clause 10(1) & 10(2) states:

- (1) *The purpose of local government is—*
- (a) *to enable democratic local decision-making and action by, and on behalf of, communities; and*
  - (b) *to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.*
- (2) *In this Act, **good-quality**, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—*
- (a) *efficient; and*
  - (b) *effective; and*
  - (c) *appropriate to present and anticipated future circumstances*

It is clear, therefore that it is the responsibility of the Local Government to maintain roads (which are part of infrastructure) to a 'good-quality' standard which would include ensuring that the road network is safe, efficient and fit for purpose.

The Nelson Long Term Plan (LTP) 2018-2028 states:

*'Council aims to provide a transport network, now and into the future that enables the safe and efficient movement of people and goods throughout Nelson. Enabling regional freight and tourism movements is essential for economic wellbeing and the city's amenity. A well-designed transport system is critical to creating a liveable city.'*

*'Council aims to minimise the risk of transport disruption as a result of:*

- *Natural hazards such as earthquakes and flooding*
- *Increasing traffic movements and congestion*
- *Road maintenance and renewals.'*

Under the LTP Council have prioritised a re-sealing programme, with targets for a smooth sealed road network and also the maintenance of sealed local roads. The LTP approach in Infrastructure strategy for transport includes *'implementing projects that improve safety, enable growth and improve travel time reliability on key journey routes.'*

Council establishes an annual forward works programme to identify a specific programme of work to ensure roads are maintained and fit for purpose. The programme details which roads will be subject to repair / maintenance and what scale of work is required. It is during this planning stage that Council will consider and assess the appropriateness of undertaking a particular activity

overnight. Council's annual programme is broken down into 3 monthly and then monthly programmes which are updated throughout the year to respond to emerging issues, higher priorities, new developments, risks or projects, natural disasters and or changes in funding or focus from either Council or NZTA.

### **Evidence from Other Councils**

As noted above under the Local Government Act all local Council's will be required to undertake a programme of road maintenance and repair to ensure their roading network is fit for purpose. To place this application in a wider context and understand the approach other Council's take to road repair and maintenance work consultation with Auckland Council and Christchurch City Council was undertaken. Whilst the information gained from this consultation does not necessarily impact on the specifics of this application, which must be assessed against the specific provisions of the Nelson Resource Management Plan, it is considered that understanding how other Council's manage what is essentially a national issue will provide some wider context to the proposal.

#### *Auckland Council – Auckland Unitary Plan*

E25 Noise and Vibration contains a suite of rules relating to noise and vibration levels within different zones for a range of activities.

Rule E25.6.29 provides parameters for 'construction noise and vibration levels for work within the road'. This rule provides an exemption from compliance with noise standards for '*unplanned repair or maintenance works or planned works in the road between the hours of 10pm and 7am*'. A full copy of this rule is provided within Attachment D, however, in summary the noise standards specified by the Plan may be exceeded subject to the following:

- The number of nights where noise generated from the works exceeds specific noise levels (specified in the condition) for 3 nights or less; and
- Works cannot practicably be carried out during the day or because the road controlling authority requires this work to be done at night time; or
- The nature of the works are such that noise cannot practicably comply with specified noise levels; or
- Where the works are planned a works access permit by Auckland Transport or approval from the New Zealand Transport Agency is provided to Council 5 days prior to work commencing; or
- For minor planned works a construction noise and vibration management plan is provided to the Council no less than five days prior to the works commencing in accordance with the standards specified in the condition.

Where road rehabilitation works involve '*substantial removal and replacement of the road structure base and pavement in the road*' noise levels specified in the Plan may be exceeded for 20 days or less subject to the following:

- Milling, concrete cutting, percussive demolition are completed by 10.30pm; and
- The works cannot practicably be carried out during the day or because the road controlling authority requires this work to be done at night time; and

- The nature of the works is such that the noise produced cannot practicably be made to comply with the specified noise levels; and
- A copy of the works access permit issued by Auckland Transport or approval from the New Zealand Transport Agency is provide to Council five days prior to work commencing; and
- A construction noise and vibration management plan is provided to the Council no less than five days prior to the works commencing in accordance with the provisions specified within the Plan.

This rule also allows an exceedance of construction noise standards specified in the Plan for works in the road during the day dependent on the timeframe for works and subject to conditions which include providing a construction noise and vibration management plan. The noise and vibration plan must be prepared by a suitably qualified person and include specific details such as community consultation to be undertaken within 100m of the proposed work site, information justifying why the work is required to be undertaken overnight, proposed time and days of work and details of a contact supervisor as well as details of how complaints will be managed. Details of all equipment to be used is also required and proposed mitigation measures are to be utilised.

### *Christchurch City Council*

There are no specific rules in the District Plan which provide an exemption from compliance with the construction noises standards under NZS6803. Section 7.4.2.1 P12 of the Christchurch District Plan (CDP) includes ‘the operation or maintenance of transport infrastructure (including ancillary offices and car parking areas) and freight handling activities in the Transport Zone’ as a permitted activity. However, section 6.1.6.1.1 P2 of the CPD does require compliance with the noise limits under NZS6803 (Construction Noise limits).

AES discussed management of night time road repairs with Christchurch City Council Compliance Staff who confirmed that they adopt a reasonably informal approach taken to application of the noise limits in regards to night time road works. There is a general acceptance that night time road works would breach noise standards but many small scale road works will works fly under the radar and are undertaken without issue or complaint. For larger projects rather than a resource consent a Noise Management Plan (NMP) is utilised as a means of control. The NMP would typically include details of community engagement which has been undertaken and how hours of work will be controlled. Council encourages all contractors to undertake the particularly noisy aspects of the work prior to 11pm. This means of managing the effects of night time noise associated with overnight road works has proved to be generally successful in minimising complaints.

### **Blanket Consents**

Resource Management Plans can, at times, have an unintended consequence of restricting essential work required by Council’s and other regulatory authorities such as New Zealand Transport Agency. A Plan Change process is a lengthy and costly process; however, blanket consents can be justified in certain circumstances. Nelson City Council has approved various global consents which have been successful in allowing for Council and other organisations to fulfil their statutory duties with conditions of consent providing solid means of control, parameters around the scope of work and mitigation measures in the same way permitted activity conditions would.

For example, resource consent RM125020 obtained by the New Zealand Transport Agency (NZTA) in May 2012 allows NZTA *'to maintain and repair bridges, culverts and other related structures which are part of the Nelson area state highway roading infrastructure.'*

This application was lodged as a consequence of the activities not complying with Freshwater Plan rules FWr.1, FWr.4, FWr.8, FWr.9 and FWr.13, and considered as a non-complying activity.

Through the resource consent process the actual and potential effects were assessed and the appropriate conditions of consent included to mitigate those effects. This example highlights how even the State Highway roading infrastructure (roading network) cannot be maintained or repaired without resource consent approval due to the restrictive parameters of the NRMP. To obtain a resource consent for each individual maintenance or repair operation would have been an inefficient use of resources both for the applicant and Council. The global consent, however, allows for work to be undertaken as required for NZTA to meet their statutory obligations with measures of control and mitigation through conditions of that consent to ensure that effects of the activity are suitably managed.

It is acknowledged that Council are in the process of reviewing the Nelson Resource Management Plan and this provides an opportunity for many of the activities approved under blanket consents to be incorporated within the plan as permitted activities subject to certain conditions. At the time of preparing this application, however, the new Plan has not been released for consultation and therefore the timeframe for a decision does not align with the Council's aspirations for a more immediate resolution to the issue of undertaking road repair and maintenance work over night.

In summary, there have been numerous blanket consents processed and approved by Council in the past to enable a range of activities which Council is required to undertake to fulfil their obligations under the Local Government Act 2002 and to meet the expectations and targets under the Long Term Plan. This approach / method is therefore not a new one but in fact one that has already proven to be necessary and workable, while achieving sustainable management.

### **3.2 Scope of Activity and Proposal**

In order to fulfil their obligation under the Local Government Act and LTP to maintain the local road network, Council have considered how best to undertake this work. At present road repair and maintenance works are undertaken during the daytime, however, this often results in inconvenience for commuters, a health and safety concern for those undertaking the work and potentially substandard work due to the constraints from having to keep the road open during works. Council have therefore explored the potential for undertaking certain road repair and maintenance work overnight in an effort to reduce disruption to road users, safeguard road workers and ensure for a higher standard of road surface finish which is more consistent with the targets set by Council, Audit New Zealand and NZTA.

The Nelson Resource Management Plan contains rules for each zone within the district. These rules include limits on noise received at the boundary of sites, the Residential Zone or notional boundaries of dwellings. Road repair and maintenance work includes use of machinery which typically generates noise levels higher than the NRMP permitted activity levels. Table 3 in section 4.2 sets out the permitted activity rules and standards for each zone.

This resource consent application is sought on a blanket basis in that it seeks to enable Council to undertake road repair and maintenance work as listed below overnight in breach of the NRMP night time noise limits. Council also seeks to be able to undertake road sweeping from 5am daily as required. This work constitutes a permitted activity in all other respects but due to the noise generated by machinery essential to undertake the repair and maintenance work, noise levels will be breached.

### **Location of works**

Consent is sought to cover this work within the Nelson District in the Residential, Industrial, Inner City (including Fringe), Residential (including higher and lower density areas), Rural (including both higher and lower density small holding areas), Suburban Commercial and Open Space and Recreation Zones. However, the consent proposes several restrictions to where work may be undertaken and the frequency of which this work may be undertaken:

- Line marking and sweeping may be undertaken on all roads within Nelson region.
- Road repairs and maintenance work will only be undertaken overnight on the following classes of roads:
  - Arterial Roads
  - Principal Roads
  - Collector Roads
  - SubCollector Roads (which meet the criteria listed below)
  - Roads within the Nelson Inner City Zone (including the ring roads)
  - Roads within the Stoke Suburban Commercial Zone (including the ring roads)

The criteria for determining if overnight works on a Subcollector Road are appropriate is as follows:

- If undertaking the work during the day would result in a business being unable to operate due to customers / staff / deliveries being made to that business whilst road works were being undertaken.
- Closing the road or part of the road would restrict access to a lifeline asset.
- There is no alternative route for road users.

Notwithstanding the above work which is undertaken at an intersection between a road which meets the criteria listed above and a Subcollector or road with a lesser classification (e.g. local road, residential lane, service lane etc) the higher road classification shall be used in determining whether the works are included within this application. Works may also extend up to 50m into a side street of a lesser classification as this may be necessary to ensure an appropriate road repair and surface transition.



### **Type of Activities**

The activities which may be undertaken as part of overnight roadworks include, but are not limited to:

- Milling
- Excavation
- Spraying
- Sweeping
- Spreading of material
- Paving
- Compacting
- Line marking
- Saw cutting
- Road sweeping (from 5am)

The majority (but not all) of night-time activities will relate to asphalt resurfacing due to the time requirement, size of plant required to complete the work and time critical nature of the product being applied. However, Council may determine through their Risk Assessment and Forward Works Programme planning to undertake other types of activities for road repair and maintenance overnight if the detailed planning determines that for reasons of Health and Safety and in compliance with the mitigation measures volunteered with this consent these works are appropriate to be undertaken overnight.

The application seeks the ability to breach night-time noise levels to undertake these or other activities associated with road repair and maintenance work any day of the week but excluding public holidays, i.e. works may occur on any day Monday – Sunday but not on a public holiday. However, where possible weekends will be avoided.

### **Noise levels**

Each set of Zone rules under the NRMP includes a requirement to comply with specific noise levels during daytime and night-time hours. The Plan defines 'day time' as 7am to 10pm Monday to Friday and 9am to 10pm Saturday, Sundays and Public holidays. For the sake of clarity in relation to this application, any reference to 'night time' is time outside of those hours and therefore consent is sought to undertake road works between 10pm -7am Monday-Friday and 10pm-9am Saturday and Sunday in breach of permitted activity noise levels during those hours.

The NRMP requires that all noise measurements and assessment is in accordance with NZS6801:1991 and NZS6802:1991. The attached Noise Assessment report is in accordance with these standards.

Other than within the Residential Zone the NRMP contains rules which allow for an exemption from the permitted activity noise levels for building and demolition activities whereby noise received at any site within the Residential Zone must comply with the provisions of NZS6803P:1984 '*The Management and Assessment of Noise from Construction, Maintenance and Demolition*' rather than the permitted noise levels. NZS6803P:1984 has now been superseded by NZS6803:1999 and although the plan refers to the old standard it is more appropriate to consider the updated standards.

NZS6803:1999 *Acoustics – Construction Noise* contains provisions relating to the measurement of noise from construction, maintenance and demolition work and recommends the following upper limits in dB(A) for construction work noise in residential areas:

**Table 1 NZS6803:1999 Noise standards**

Building type	Days	Times	Recommended upper limits dB	
			L <sub>Aeq</sub> (15 min)	L <sub>A</sub> F <sub>max</sub>
Residential	Weekdays	6:30 am – 7:30 am	65	75
		7:30 am – 6:00 pm	80	95
		6:00 pm – 8:00 pm	75	90
		8:00 pm – 6:30 am	45	75
	Saturdays	6:30 am – 7:30 am	45	75
		7:30 am – 6:00 pm	80	95
		6:00 pm – 8:00 pm	45	75
		8:00 pm – 6:30 am <sup>1</sup>	45	75
	Sundays and public holidays	6:30 am – 7:30 am	45	75
		7:30 am – 6:00 pm	55	85
		6:00 pm – 8:00 pm	45	75
		8:00 pm – 6:30 am	45	75
Industrial and commercial	All days	7:30 am – 6:00 pm	80	-
		6:00 pm – 7:30 am	85	-

The different components of the road repair and maintenance activities involve different equipment and so result in differing noise levels. Noise levels also differ between makes of equipment which have the same function and so whilst details of noise levels for different equipment is provided below these may be subject to change in the future should a different piece of equipment be obtained and utilised. However, these levels are a maximum and so any different equipment utilised would have the same or lower noise levels.

**Table 2 Modelled Activities**

Activity	Equipment	Quantity	Details (Make, model, size, if known)	Sound Power Level of each source dB LWA
Milling	Profiler	1	Wirtgen – W150	110
	Truck - tipper	3	Hino -700 FS2844	103
	Broom	1	Kubota – B3030	95
Surfacing (AC)	Asphalt paver	1	Bitelli – BB730	106
	Truck - tipper	3	Hino -700 FS2844	103
	Vibratory roller	1	CAT – 150C PTR or Bomag BW120AD - 4t or Saikai SW652 - 7t	107



	Broom	1	Kubota – B3030	95
	Bobcat	1	CAT 272D	97
Surfacing (CS)	Spray truck	1	Hino – GH 1991	106
	Chip spreader	1	Penny Engineering – Fitted to Hino 700	108
	Truck - tipper	3	Hino -700 FS2844	103
	Broom	1	Kubota – B3030	95
Manual tasks	Seal cutting saw	1	Loncin – 200mm cut floor saw	121
	Plate compactor	1	Mikasa – 60kg	103
	Pedestrian roller	1	Wacker RS800	107
	Hydraulic breaker	1	Makita	115
	Generator	1	Subaru – 3.5 kVA	100
Line marking	Line marking machine	1	-	85
Sweeping	Road Sweeper	1	Stock with JCB power unit	112

### **Summary**

Consent is sought to undertake road repair and maintenance work which will breach the noise level requirements outside of daytime hours with activities including but not limited to:

- Milling
- Excavation
- Spraying
- Sweeping
- Spreading of material
- Paving
- Compacting
- Saw cutting

On the following roads:

- Arterial Roads
- Principal Roads
- Collector Roads
- SubCollector Roads (where the effects of closing the road during the day would be deemed more than minor i.e. it would prevent a business from operating, restricts access to a lifeline asset or where there is no alternative route for road users).
- Roads within the Nelson Inner City Zone (including the ring roads)
- Roads within the Stoke Commercial Leisure Zone (including the ring roads)

Line marking and road sweeping will be undertaken on all roads.

At intersections with a road of a lower classification the higher classification will prevail and allow for works to be undertaken at the intersection and for 50m along the road of a lower classification.

### 3.3 Consultation / Affected Parties

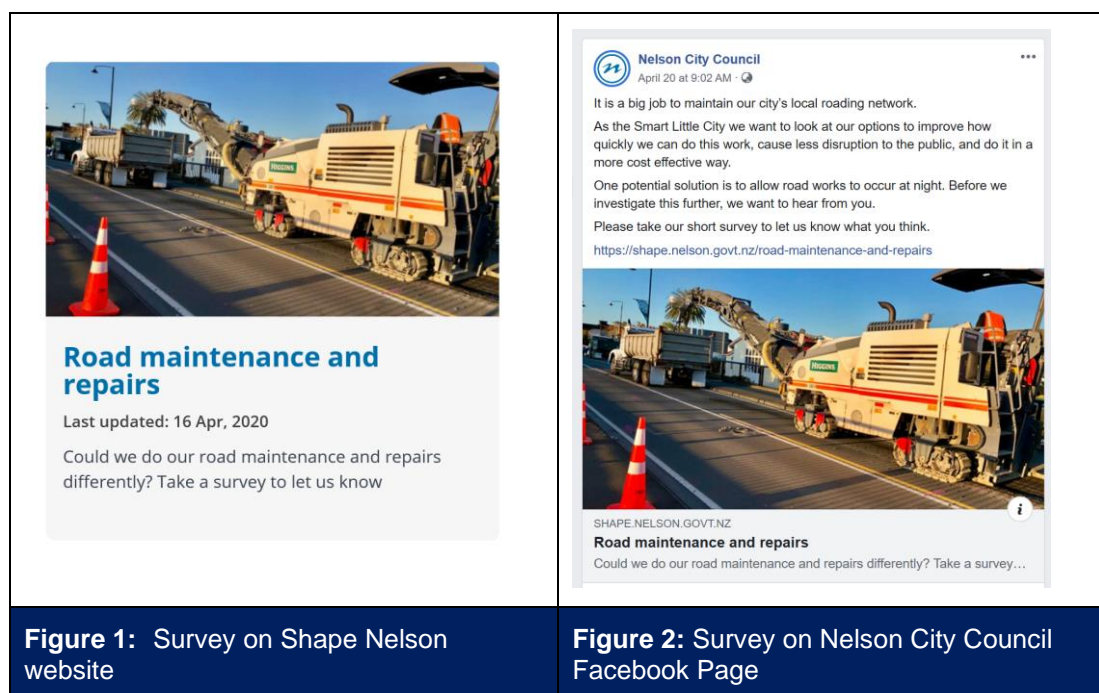
Given the broad scope of the application and the multiple locations for work to be undertaken it is impossible to ring fence affected parties. It is accepted that the effects of night-time noise, although only for a limited period of time, may have at least a minor effect on residential landowners and occupiers.

Therefore, the applicant requests that this application be publicly notified to allow the public to be involved in the process and as a means of consulting with them.

As the works could be carried out during the daytime as a permitted activity it is not considered necessary to consult with any other organisation or Iwi. The focus of this application is on noise generated by the works when carried out overnight. The works, which are part of Council's statutory and ordinary operational works to meet their obligations will have no greater effect on the wider environment (with the exception of noise effects) than works carried out during day time hours without the need for resource consent.

The applicant has given consideration to how effects on residents within the District can be avoided, remedied or mitigated with these measures listed below and subsumed within the volunteered conditions of consent.

Council has recently released a survey for all residents to complete. The Survey asked pertinent questions around the public's expectations for road repair and maintenance work and their tolerance for noise disruption associated with these activities being undertaken at night. The Survey was published on Council's Shape Nelson website which is the site where Council details all consultations, projects and feedback opportunities. A link to the survey was also shared on Council's Facebook page. The Survey was also shared by several Councillor's on their personal Facebook pages.



The survey remained live for four weeks to allow the public the opportunity to make comments and provide feedback.

The results of the survey are contained within Attachment E. The survey allowed respondents to indicate whether they would be supportive of Council undertaken road repair and maintenance works overnight, the length of time they would tolerate works for, how much notice they would like prior to works taking place. An opportunity for comment was also provided.

In summary 62.69% of respondents indicated they would be happy for road maintenance or repair work to be undertaken overnight with the majority of respondents (42.86%) being happy for that work go on for more than 4 nights, however, 29.19% of respondents felt that 2 nights would be the most they could tolerate. The majority of respondents didn't leave any specific comments but those who did tended to be those who were concerned about noise effects, loss of sleep and affects on the people undertaking the work overnight.

### 3.4 Lapse Date and Duration

The applicant intends to give effect to the consent immediately and so a lapse date of 5 years is accepted.

A duration of 15 years is volunteered for the Consent as after this period it would be appropriate to review the consent.

### 3.5 Summary of Mitigation Measures

The applicant has given careful and detailed considering as to how noise from the proposed works may be minimised and mitigated.

The Engineering Department is actively working with Council's Planning team on the content of the future Nelson Plan with the aim of ensuring that the Nelson Plan allows flexibility for road repair and maintenance work to be undertaken overnight in breach of night time noise levels. In the event that the Operative Nelson Plan provides permitted activity rules to allow for road repair and maintenance work to be undertaken overnight in breach of noise levels then the applicant would consider whether it was appropriate to surrender this consent.

This application seeks to authorise multiple different works at different sites across the district and so mitigation measures should be considered in relation to the specific individual scenarios relevant to each proposed work activity. There will also be different measures and assessments required at different stages of work.

It is proposed that at the works planning stage when Council are considering their Forward Works Programme for road repair and maintenance work, if any sites are identified as being appropriate for works to take place overnight a Noise Risk Assessment(NRA) will be undertaken in consultation with the approved Contractor. The NRA document will then form part of the larger Project Management Plan for that works proposal. A draft NRA compiled by Acoustic Engineering Solutions Ltd is included within Attachment B.

*'Through effective early planning and informed selection of noise mitigation the Council can minimise the disturbance to neighbouring properties. Noise mitigation will be provided for all programmed night-time road work sites.*

*This noise risk assessment document is a planning tool developed by Council for the early consideration of noise during the planning and programming of road maintenance activity that will be undertaken during the night-time. The risk assessment will be used to assess the level of noise risk for a specific site and then to select suitable noise mitigation measures in a transparent and uniform manner for all relevant sites.'* (AES draft Noise Risk Assessment pg.3)

The risk assessment process consists of the following tasks:

- Determine the site noise risk level rating.
- Identify noise mitigation measures.
- Acceptance and implementation of mitigation measures.

The assessment then leads Council to determine if the site of works is a high or low noise risk site. The assessment outlines general mitigation measures which Council must consider in relation to all sites:

- Community notification and communication (*volunteered as a condition of consent*).
- How site planning and layout can provide mitigation opportunities.
- Scheduling of activities (*volunteered as a condition of consent*).
- Control of the site during the works.
- Limit vehicle movements to and from the site.
- Quiet equipment selection and use.
- Onsite communication.
- Training for site staff.

However, specific recommendations are also made for mitigation measures dependent on the level of noise risk which has been determined through the assessment proposes.

For higher noise risk sites there are highly recommended or desirable mitigation measures which include:

#### *Highly recommended*

- Limits on the period of time works can be undertaken (*volunteered as a condition of consent*).
- Onsite observation monitoring to ensure best practicable options for noise minimisation are being employed.
- Removal of larger sections of spoil by lifting and then breaking them down away from receivers or off-site.

#### *Desirable*

- Screening or muffling of semi-static noise sources
- Use of non-percussive breaking equipment such as pulverisers.
- Provide residents with information about "masking noise" such as white noise or ambient sounds.

- Issue residents with ear plugs and instructions for fitment.

Other mitigation measures include:

- Works will not be undertaken over night within 100m of any one given house or residential property more than twice per calendar year, with the exception of sweeping and line marking.
- Works will not be undertaken overnight on more than 20 different occasions per calendar year across the district. Where 'occasion' encompasses the entire time taken to undertake the repair and / or maintenance work i.e. one road repair / maintenance activity which takes 4 days to complete would constitute one 'occasion' where that work is within the same location for those 4 days.
- High noise generating activities such as milling or concrete cutting will generally be undertaken ahead of time or early on in the night time.
- Where static plant equipment, such as a generator, is required then barriers such as fencing will be positioned around the equipment to reduce noise effects. Placement of static equipment will also be carefully considered to ensure the equipment is sited as far from residential accommodation as possible.
- A list of planned night work sites (other than where the work is line marking or road sweeping) will be released to the public (via Councils website and in 1 Newspaper circulating the district) at least 1 month prior to the first site commencing onsite. Subsequent updates, additions, subtractions to the programme will be updated on Council's website. However, emergency work may be undertaken at short notice where there is a risk to life or property.
- At least 1 week prior to works commencing information will be distributed and residents advised via either Council's website, social media, letter drop, email, phone call or variable message boards situated on the road or a mixture of these depending on the circumstances.
- All work and noise will be kept to a minimum following best practicable option and in accordance with industry best practice using modern plant / equipment to limit noise generation as far as possible.
- Council monitoring staff will receive notification at least 48 hours prior to the commencement of works.

### 3.6 Volunteered Consent Conditions (amended 2 October 2020)

Many of the mitigation measures identified under section 3.5 can be translated into conditions of consent which will provide certainty regarding the parameters of work and mitigation measures. The following conditions are volunteered:

#### General Conditions

1. The Consent Holder shall provide an annual schedule of all proposed road work and maintenance activities that are planned to be undertaken at night time to Council's Monitoring Officer.  
**Advice Note:** *For the purpose of condition 1 'road work and maintenance activities' are those activities which are authorized by this consent to include resurfacing, line marking (where not undertaken as part of resurfacing) and road sweeping. For the purpose of this consent and condition 1 resurfacing includes pavement dig-outs, milling, excavation, saw cutting, paving, compacting, spreading of material, re-sealing and line marking of the new road surface.*
2. Should a road repair or maintenance activity be identified which is not listed on the schedule of work provided to Council's Monitoring Officer under condition 1 the Consent Holder shall provide details of that activity and a reason why it was not included in the annual schedule, to Council's Monitoring Officer at least 5 days prior to commencement of works.  
**Advice Note:** *Emergency works carried out under the provisions of Section 330 of the Resource Management Act 1991 do not require resource consent approval and therefore the provisions of condition 2 (nor any other condition) do not apply to those works.*
3. All work and noise shall be kept to a minimum following best practicable option and in accordance with industry best practice using modern plant / equipment to limit noise generation as far as possible.
4. The Consent Holder shall maintain a complaint register of all complaints received in relation to road work and maintenance activity undertaken overnight. The register shall detail the location, date, time and type of complaint. The Consent Holder shall then detail the specific activity which was being undertaken at that time and the specific equipment in use at that time. The Complaint register shall be made available to Council's Monitoring Staff on request.

#### Conditions which only apply to resurfacing work

5. A Noise Risk Assessment in accordance with the draft Noise Risk Assessment contained within Appendix A shall be undertaken during the planning process for each proposed resurfacing activity. A copy of the Noise Risk Assessment shall be provided to Council's Monitoring Officer at least 5 working days prior to the works being undertaken.  
**Advice Note:** *For the purpose of this consent and conditions 5-11, resurfacing includes pavement dig-outs, milling, excavation, saw cutting, paving, compacting, spreading of material, re-sealing and line marking of the new road surface. Line marking which is undertaken separately to resurfacing work (for example refreshing existing line marking or painting new lines on existing road surfaces).*
6. No more than 20 individual road work or maintenance activities which involve resurfacing shall be undertaken overnight per calendar year across the district.



7. No more than two resurfacing activities shall be undertaken overnight per year within 100m of any one given house or residential property.

**Advice Note:** For the purposes of conditions 5, 6 and 7 'resurfacing activity' is intended to mean a single planned resurfacing activity on a single stretch of road regardless of the length of time it takes to complete.

**Advice Note:** For the purposes of conditions 1-5, night time and overnight is intended to mean the hours between 10pm-7am.

8. At least one week prior to the resurfacing activity being undertaken overnight the Consent Holder shall provide a letter notifying residents within the site of the work being undertaken.

**Advice Note:** For the purposes of Condition 6 the term 'site' is considered to be defined by the extent of traffic management, excluding detour routes.

9. The letter required by condition 8 shall include details of the work to be undertaken, the timeframe for the work, details of mitigation measures to be implemented, contact details and complaints procedure.
10. High noise generating activities such as milling or concrete cutting shall be undertaken as early as possible in the night time.  
  
**Advice Note:** For the purposes of condition 10, night time is intended to mean the hours between 10pm-7am.
11. The mitigation measures identified as suitable and practical within the Noise Risk Assessment shall be undertaken prior to the start of the overnight resurfacing activity and remain in place for the duration of the work.
12. Static equipment shall be sited as far from residential accommodation as possible.
13. The Consent Holder shall notify Council Monitoring staff of the proposed resurfacing activity at least 48 hours prior to commencement of the work.

### **Conditions which only apply to road sweeping**

15. Road sweeping shall not be undertaken any earlier than 5am on any given day and no later than 10pm on any given day.
16. The Consent Holder shall publish details of its sweeping programme on Council's website with reminder alerts provided via social media or other publication at least three times a year.
17. The Consent Holder shall complete a single Noise Risk Assessment for each annual sweeping programme. A copy of the Noise Risk Assessment shall be provided to Council's Monitoring Officer within 3 months of the date of this consent or 1 month prior to sweeping first occurring under this consent whichever occurs first.

**Advice Note:** Road sweeping may be undertaken between the hours of 7am-10pm Monday – Friday and 9am-10pm Saturday, Sunday and Public Holidays without compliance with the conditions of this consent.

18. The Noise Risk Assessment required under condition 17 shall be reviewed annually with results of the review provided to Council's Monitoring Staff. The review shall take account of any complaints received about sweeping occurring before 7am.

**Conditions which only apply to line marking which is not undertaken as part of resurfacing work**

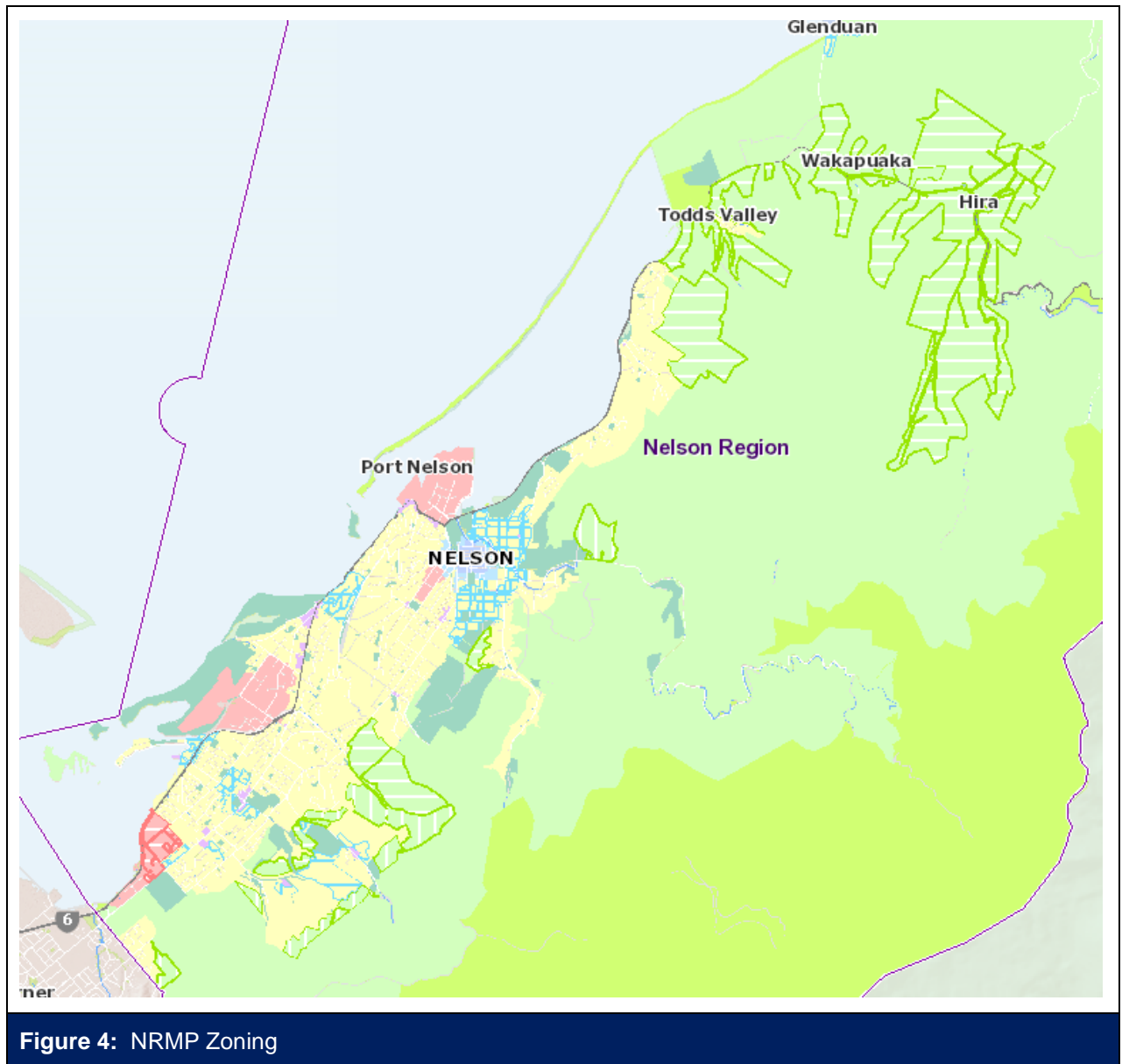
19. The Consent Holder shall complete a single Noise Risk Assessment for the annual line marking programme where line marking is not part of resurfacing work.
20. A copy of the Noise Risk Assessment required by condition 19 shall be provided to Council's Monitoring Staff 1 month prior to line marking being undertaken during night time hours.



# 4.0 Activity Status

## 4.1 Nelson Resource Management Plan

Figure 4 shows the different NRMP zoning across the District. This application seeks to allow for works to take place in all zones except the Conservation Zone.



## 4.2 Relevant Rules

Table 3 assesses the proposal against the relevant rules within the Nelson Resource Management Plan.

TABLE 3		
Rule	Status	Reason
<b>Residential Zone</b>		
REr.43 Noise	<b>Discretionary</b>	REr.43 requires that noise levels generated by any non-residential activity (which road works would be) measured at, or within, the boundary of any site in the Residential Zone must not exceed: Other times (outside of day time which is 7am-10pm Monday – Friday and 9am-10pm Saturdays, Sundays and Public Holidays) L10: 45dBA Lmax: 75dBA (refer to the noise level details under section 3.4)
REr.45 Vibration	Not applicable	The road works are a short term construction activity and therefore exempt from compliance with this rule.
REr.53 Network Utility – above ground and underground utilities	Permitted	REr.53.1 (a) – a road is not an underground utility. (b) – the roads are existing and this application proposes only maintenance of existing roads.
REr.56 Network Utility – roads	Not applicable	The proposal does not include construction of new roads.
<b>Inner City Zone</b>		
ICr.42 Night time Noise Limits	<b>Discretionary</b>	ICr.42 requires that sound level assessed 1m from any external wall of any Residential Unit or Short Term Living Accommodation Unit shall not exceed the following noise limit during the hours 10:00pm to 7:00am: The noise generated by the activity may exceed 75 dBLmax.
ICr.42A Noise Generating Activities	Not applicable	The activity does not meet the NRMP definition of a 'noise generating activity'.
ICr.43 Noise Received at sites in the Residential Zone	<b>Non- Complying</b>	Parts (a) and (b) are not applicable to building and demolition activities (which is considered to include road repair and maintenance work), however, under (c) compliance with NZS6803P:1984 'Acoustics – Construction Noise' must be achieved for construction works when assessed at, or within, any site within the Residential Zone. Noise levels may exceed those standards. NZS6803P:1984 has been superseded by NZS6803:1999, the noise standards under NZS6803:1999 are set out in section 3.4.
ICr.44 Vibration	Not applicable	The works associated with this application are within the road which is not considered a 'site' based on the NRMP definition of site.
ICr.51 Network Utility – above ground and underground utilities	Permitted	Maintenance of an above ground network utility (which includes a road) is a permitted activity under ICr.51.1(b)(i).

ICr.53 Network Utility – roads	Not applicable	The proposal does not include construction of new roads.
<b>Suburban Commercial Zone</b>		
SCr.36 Noise	<b>Discretionary</b>	Noise levels received at the boundary of sites will exceed the permitted noise levels.
SCr.37 Noise at residential boundary	<b>Discretionary</b>	Parts (a) and (b) are not applicable to building and demolition activities (which is considered to include road repair and maintenance work), however, under (c) compliance with NZS6803P:1984 'Acoustics – Construction Noise' must be achieved for construction works when assessed at, or within, any site within the Residential Zone. Noise levels may exceed those standards.  NZS6803P:1984 has been superseded by NZS6803:1999, the noise standards under NZS6803:1999 are set out in section 3.4.
SCr.38 Vibration	Not applicable	The works associated with this application are within the road which is not considered a 'site' based on the NRMP definition of site.
SCr.44 Network Utility – above ground and underground utilities	Permitted	Maintenance of an above ground network utility (which includes a road) is a permitted activity under SCr.44.1(b)(i).
SCr.46 Network Utility – roads	Not applicable	The proposal does not include the construction of new roads.
<b>Industrial Zone</b>		
INr.37 Noise (General)	<b>Discretionary</b>	Noise levels received at the boundary of sites will exceed the permitted noise levels.
INr.38 Noise At or within residential boundary and the boundary of the former railway reserve	<b>Non-Complying</b>	Parts (a) and (b) are not applicable to building and demolition activities (which is considered to include road repair and maintenance work), however, under (c) compliance with NZS6803P:1984 'Acoustics – Construction Noise' must be achieved for construction works when assessed at, or within, any site within the Residential Zone. Noise levels may exceed those standards.  NZS6803P:1984 has been superseded by NZS6803:1999, the noise standards under NZS6803:1999 are set out in section 3.4.
INr.49 Network Utility – above ground and underground utilities	Permitted	Maintenance of an above ground network utility (which includes a road) is a permitted activity under INr.49.1(b)(i).
INr.52 Network Utilities - roads	Not applicable	The proposal does not include the construction of new roads.
<b>Open Space and Recreation Zone</b>		
OSr.37 Noise	<b>Discretionary</b>	Noise levels measured at or within the boundary of any site in the Residential Zone will exceed the permitted noise levels.

OSr.43 Network Utility – above ground and underground utilities	Permitted	Maintenance of an above ground network utility (which includes a road) is a permitted activity under OSr.43.1(b)(i).
OSr.46 Network Utility – roads	Not applicable	The proposal does not include the construction of new roads.
<b>Rural Zone</b>		
RUr.46 Network Utility – roads	Not applicable	The proposal does not include the construction of new roads.
RUr.47 Noise	<b>Discretionary</b>	Noise levels from rural areas when measured at or within any site in a Residential Zone and at the notional boundary of any rural dwelling will exceed the permitted noise levels.

### 4.3 Required Consents

In summary, the following resource consents are required:

<b>TABLE 4</b>			
<b>RMA</b>	<b>Consent Type</b>	<b>Activity</b>	<b>Status</b>
Section 9	Land Use	Resource consent is required to breach the night time noise levels in all Zones except the Conservation Zone and Coastal Marine Area	Non-Complying

## 5.0 Assessment of Environmental Effects

### 5.1 Introduction and Scope

The scope of this assessment of the actual and potential effects of this proposal has been determined from Section 104 and assessment criteria of Chapter 5 (District Wide Policies and Objectives) and the policies and objectives for each relevant zone of the Nelson Resource Management Plan.

All information required under Schedule 4(4) has been provided and the Assessment of Environmental Effects provided satisfies the requirements of Schedule 4(5).

### 5.2 Permitted Baseline

Pursuant to Section 95D(b) of the Resource Management Act 1991, the permitted baseline provides guidance as to the effects of the proposal, with three relevant considerations:

- The effects of activities that are permitted by the District Plan;
- The effects of existing lawfully established activities on the site;
- The effects of unimplemented resource consents.

The actual works undertaken to repair and maintain roads are permitted under the Nelson Resource Management Plan, however, what is not permitted is the exceedance of the night time noise limits and it is this element of the work for which resource consent is required therefore only the effects of the noise level exceedance should be considered in relation to the proposal.

### 5.3 Effects of carrying out works during daytime

In order to understand the rationale for undertaking road repair and maintenance activities overnight it is necessary to understand the effects of undertaking that same work during the daytime.

This application seeks consent to undertake line marking and road sweeping on all roads and road work and maintenance activities overnight on the following roads (or future One Road Network Classification equivalent):

- Arterial Roads
- Principal Roads
- Collector Roads
- SubCollector Roads – when justified (refer to section 3.2)
- Intersections with roads of a lower classification

Undertaking road repair and maintenance activities during the day on roads with a higher volume of traffic can result in traffic delays which exceed 5 minutes in duration. The Code of Practice for Temporary Traffic Management (COPTTM) is a guide to managing traffic and designing Traffic Management Plans produced by New Zealand Transport Agency (NZTA). Compliance with the COPTTM is mandatory in Nelson and is deemed to be a minimum performance standard. The

COPTTM outlines the required traffic management provisions which include a requirement that no vehicle is made to wait more than 5 minutes at any worksite. The volumes of traffic on Arterial, Principal, Collector and Subcollector roads is often high, particularly at peak times and even with effective traffic management controls delays far exceed the expected 5 minute duration. This means Council is in breach of its COPTTM obligations and also presents a considerable frustration, delay and disruption to road users.

In addition to the COPTTM requirements Council must ensure the health and safety of its contractors in accordance with the Health and Safety at Work Act (HSWA) 2015. Due to lane widths, volume of traffic, visibility or other similar site constraints the safety of road workers can be compromised, and the work is deemed medium to high risk. HSWA 2015 requires Council and the Contractor must take practical steps to ensure the safety of both staff and the public. In some instances, the constraints of the site and need to keep the road open to traffic which includes heavy vehicles means health and safety of workers and the public is compromised. Closing the road or reducing traffic to any significant degree is considered to increase the risk of public safety particularly where sites are close to schools or at intersections.

As noted under section 3.1 the Local Government Act and Long Term plan place an obligation on Council to maintain the road network in good working order with targets for ensuring road surface quality. Undertaking road work and maintenance activities during the day can result in a segmented approach to work to ensure traffic flow is maintained. This could be to the detriment of the finish and quality of the work and ultimately reduces the life expectancy of the road surface. Timeframes for completing work are also extended due to the need to keep roads open to traffic flow which includes prolonged adverse effects for road users, pedestrians and cyclists.

Council has currently has a number of sites requiring repair and maintenance where the work has been deferred because Council cannot meet Traffic Management Requirements during the day and cannot undertake work at night due to the breach of noise standards. These works are now critical and the inability to undertake this work is forcing Council to fail to meet its Statutory Obligations.

## 5.4 Effects on Amenity Value

The NRMP acknowledges that '*noise has a major influence on the amenity of an area*' with rules around permitted noise levels designed to prevent '*unreasonable*' noise levels noting that excessive noise can also be controlled by Consent Authorities under Section 326 of the RMA.

The NRMP does not define what '*unreasonable*' noise may be but REr.43.5 states:

*'What is reasonable, needs to take account of the nature of the neighbourhood, the time of day or night, and whether it is a week day or weekend. Reasonableness may also relate to the duration or frequency of the event. Recurring noise may be more annoying than one off louder events. Temporary noise may be tolerated more (within reason) than ongoing disturbance eg. Noise associated with construction.'*

The AES Noise Assessment (Attachment B) states that '*the NRMP noise rules are intended to be applied in a planning context to protect the longer-term acoustic amenity for the district and region. The delivery of short-term road maintenance works during the night-time will not cause any*

*increase in the background noise levels experience in those areas over the longer term.*' (AES report pg 1)

This is a key matter of consideration as the temporary effects of the noise are an important mitigating factor. The NRMP includes the following assessment criteria which are considered relevant to assessing the effects of increased noise levels on amenity values:

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

The works will be undertaken for a limited period of time to ensure the effects of the night time noise are limited and temporary, on average night work will not exceed 4 consecutive nights, however, there are times when work would take longer than this due to weather, complexities associated with the work or unforeseen circumstances. Residents living near the work site will be notified of the duration of works once detailed planning has been undertaken, if the duration of works is extended once works have commenced further notification will be undertaken. The low number of nights when noise levels would be exceeded will help minimise adverse effects.

Details of the sound power of each piece of equipment to be used have been included in this application, however, the degree to which the total noise will exceed the NRMP night time noise levels at the boundary to any property will depend on factors such as topography and density of nearby buildings. It should also be noted that the level of disturbance from the noise will also vary from property to property.

*'The actual internal noise level would depend on factors such as the type of construction of the building, the layout of the building and whether the windows were open or closed. For example, a typical residential building facade with windows closed would provide at least 20 dB of noise reduction, meaning that sleep may not be disturbed until external levels exceed 55 dB LAeq. If the bedroom is located on the opposite side of the house to the noise source, the levels would be lower.*

*The receiver catchments around some sites will have elevated existing ambient noise levels caused by the contribution of noise from transportation routes or from sources of industrial noise emission associated with the port area for example. The effects of noise on receivers in those areas may be lower than for other areas in the region. There will also be receiver catchments around some sites that do not typically experience elevated levels of ambient noise, and the effects of noise from the night-time works could be greater in those areas.'* (AES report pg 17)

The AES report includes a variety of different noise modelling data and contour maps. These models are based on actual site locations which Council would undertake overnight road repair and maintenance work and show the extent of non-compliance with the NRMP noise standards within a particular environment.

- b) *Whether the noise is likely to detract from the general environmental quality being proposed for the zone.*

As this is a global consent covering all zones (other than the Conservation Zone and Coastal Marine Area) within the Nelson Region consideration should be given to the anticipated environmental quality within each Zone. The Residential zone is considered to be the most sensitive and highest quality environment in terms of noise sensitivity due to



the zone being specifically for residential activity with greater restrictions on other activities which may detract from residential amenity values. In other zones such as Industrial or Commercial zones the activities permitted to establish on within those zones are less sensitive to reverse sensitivity effects from noise generating activities. The Inner City zone has a primary focus on commercial activities such as retail, restaurants, bars and cafes with offices at first floor level. The NRMP does make provision for residential activities within the Inner City zone, however, it is likely that those living in an Inner City zone would anticipate slightly elevated background noise levels compared to those living in a residential zone.

Even within the Residential zone there will be fluctuations in the environmental quality in terms of noise dependent on the existing environment. For example, residential zones close to the Port and Airport or properties situated close to arterial routes will already experience a degree of background noise which will influence the existing quality of the environment.

The 'Noise Risk Assessment'(NRA) (refer to Attachment C) requires consideration be given to the type of environment where works are proposed to assess whether a site is a 'lower noise risk site' or 'higher noise risk site' with this information then used to determine the extent of noise mitigation measures which should be employed for that particular site.

*'The level of noise risk for a site depends on factor such as the existing levels of ambient noise, the type and density of the receiver catchment, the planned duration of the work and other possibly known risk elevators such as a history of complaints or the presence of high sensitivity spaces adjacent to the work area.'* (AES report pg 15)

The NRA will be completed for each road repair / maintenance work selected by Council for delivery during the night time period.

- a) *The effectiveness of, and in particular the certainty provided by, any conditions or controls that might be imposed on the activity.*

Conditions of consent are volunteered (refer to section 3.6) to provide controls on the proposed works to ensure adverse effects are minimised. The volunteered conditions are considered sufficiently robust to provide certainty about the process Council must undertake to determine necessary mitigation measures and the notification process for residents.

The volunteered NRA is a key tool to effectively consider the effects of the works for a particular site and will allow for a more tailored approach to mitigation measures dependent on the particular details of the site and the proposed works. Given this is a global application the NRA is fundamental to ensuring adverse effects on individual sites is minimised.

All conditions proposed and the NRA are considered to be effective tools to manage and minimise adverse effects associated with the breach of night time noise levels from road repair and maintenance works undertaken overnight.

- b) *The topography of the site and the neighbouring areas and any influence this may have on noise transmission*



The AES report includes noise modelling and contour maps for each of the proposed activities (milling, surfacing (asphalt), surfacing (chip seal), manual task, line marking and sweeping) as identified in Table 2 in section 3.2. Six locations were selected for modelling to include a range of topographies and density of nearby buildings, the sites selected are actual sites that Council would consider for night works:

- 174 Trafalgar Street, Nelson.  
Located in the Nelson City Central Business District and surrounded by multilevel commercial buildings.
- 653 Main Road, Stoke.  
Located in suburban Nelson and surrounded by a mix of residential and commercial buildings and only small areas of open space.
- 20 Parkers Road, Tahunanui.  
Located in suburban Nelson and surrounded by a mix of residential and commercial buildings and only small areas of open space.
- 5 Market Road, Bishopdale.  
Located in suburban Nelson and surrounded by a mix of residential and commercial buildings, with a large open space area to the south.
- 70 Washington Road, Washington Valley.  
Located in suburban Nelson and surrounded by residential buildings, with open space areas to the east, south and west.
- 33 Dodson Road, Atawhai.  
Located in suburban Nelson and surrounded by residential buildings, with the ocean to the east and a large open space area to the west.

These contour maps detail the influence topography and building density has on the extent of compliance with the NRMP noise levels.

The NRA also requires consideration be given to the receiver catchment type to determine if the location of works is within a high or lower noise risk area which informs the recommended mitigation measures.

*c) Opportunities to mitigate noise.*

Section 3.0 of the NRA (Attachment X) outlines the noise mitigation measures proposed, section 3.5 of this application also details the proposed mitigation measures.

Council will utilise mitigation measures as appropriate to the site and the proposed work to ensure that adverse effects from noise is minimised as far as possible for surrounding residents.

Under Section 16 of the RMA the applicant has a duty to avoid unreasonable noise by adopting best practicable option to ensure that emission of noise does not exceed a reasonable level.

The matter of reasonableness is clearly subjective and one person's tolerance for noise will not be the same as another person's, however, the mitigation measures which the applicant proposes seek to ensure that the noise generated is not unreasonable bearing in mind the short duration of the noise effects.

The AES report states:

*'We observe that the NRMP noise rules are intended to be applied in a planning context to protect the longer term acoustic amenity for the district and region. The delivery of short-term road maintenance works during the night-time will not cause any increase in the background noise levels experienced in those areas over the longer term.'*

*Similarly, the night-time noise limits outlined in NZS6803 would apply equally to noise associated with nonessential work which occurred all night every night, and to noise associated with essential work which only occurred occasionally. The Standard acknowledges that compliance with those limits may prevent night-time works but provides no guidance as to an appropriate approach where night-time work is unavoidable, for non-acoustic reasons.*

*It is common ground that noise levels exceeding 45 dB LAeq at the facade of bedrooms where people are sleeping with open windows may cause sleep disturbance. The Christchurch and Auckland examples described above illustrate some pragmatic approaches to this issue, where higher noise levels are permitted, provided that all practicable steps are taken to minimise noise effects. We support a similar approach in this case.'* (AES report pg 9)

## 5.5 Positive Effects

Undertaken road repair and maintenance work overnight will result in positive outcomes which should be considered in balance to the potential for adverse effects associated with the breach of noise standards.

During the daytime roads have a much high volume of traffic. Contractors typically close off part of the road using cone barriers allowing traffic to travel through the open section of the road at a slower speed. There are health and safety considerations for contractors working on roads whilst the road remains partially open, although lower speeds are required these are not always adhered to by motorists. Cones do not represent a physical barrier to prevent a car or larger vehicle such as a truck veering into the area where road workers may be present. Workers are subject to fumes from passing traffic and also subject to frustrations of drivers who have had their journey delayed. Undertaking road repair and maintenance work overnight allows for a safer working environment for contractors as the volume of traffic sharing the road is considerably lower and it may be possible to close the road entirely.

Road repair and maintenance work often results in significant disruption for road users and businesses. Nelson's roads are becoming increasingly congested during the daytime and road repair and maintenance work which results in part of a road closed means traffic is slowed and congestion increases which causes disruption and aggravation for road users. Furthermore, where there is a need to close a road and / or footpath outside a business this can result in loss of trade for that business. The loss of footfall traffic, inconvenient access to the business or a visual screening of the business by equipment and machinery can all result in lower levels of trade for the duration of the works.

Undertaking works overnight results in a high quality outcome leading to longer lasting infrastructure and roading surface which is cost effective, a sustainable use of resources and means less disruption for road users.

## 6.0 Statutory Assessment

### 6.1 Introduction

In accordance with the Fourth Schedule and Section 104 the following assesses the proposal against the relevant policies and objectives of the Nelson Resource Management Plan and Nelson Regional Policy Statement.

Section 104 requires that consideration is given to the relevant provisions of all Plan and Regional Policy Statement policies and objectives. Where relevant, these matters are addressed under this heading.

### 6.2 Nelson Resource Management Plan

#### Residential Zone

##### RE2 Residential Character

Policy RE2.1 noise 'noise levels received at adjacent site boundaries should be consistent with a predominantly residential environment' RE2.1.i states that the policy '*aims to ensure noise received on or from an adjacent site is reasonable for a residential zone.*'

Policy RE2.6 'non-residential activities' by default a road is also a non-residential activity as does not meet the NRMP definition of 'residential activity'. Although it is accepted that road has its own discrete meaning there it is also a non-residential activity in the same way a commercial activity would also be a non-residential activity. RE2.6.i states that 'maintenance and alteration of existing non-residential activities is provided for under the existing use rights of the Resource Management Act (section 10). This application is all about maintaining the road network

#### Inner City Zone

Objective IC4 'Activities and adverse effects' translates into policies which require that activities should not give rise to levels of noise which will detract from the character aims for the City Centre (IC4.2) and acknowledge that a reasonable standard of residential amenity should be provided for site used for residential activity but that the fundamental character of the area is non-residential (IC4.3).

IC4.2 acknowledges that the '*city centre is primarily a people place. Because of this, the Plan aims to exclude activities from the City Centre which are excessively noisy or smelly...*' The undertaking of road works and repairs overnight recognises that the city centre has a focus on people and how those people interact with their surroundings. The presence of daytime road works is therefore more likely to adversely affect businesses and those persons visiting the city centre. Undertaking work at night when the city centre is less populated, and businesses are closed is therefore consistent with the aims of IC4.2.

IC4.3.i states '*the Inner City is not the suburbs and a similar level of residential amenity cannot be expected. Higher levels of noise and glare, for example, must be expected in the Inner City.....at the same time, the policy recognises a broad bottom line to provide a reasonable level of residential amenity in the Inner City.*' Undertaking road works during the day will impact on

residential activities and businesses within the Inner City Zone, undertaking the road works at night will have a degree of effect on residential amenity values but when considered against the anticipated environment within the City Centre which may include noise from deliveries and other night activities the mitigation measures proposed are considered to be sufficient to ensure that the 'reasonable level' of amenity which the policy seeks to achieved is maintained.

### Suburban Commercial Zone

Objective SC2 requires a high level of amenity within the suburban commercial centres which do not have significant adverse effects on neighbouring areas or on the safe and efficient operation of road networks. The application seeks to undertake road repair and maintenance work overnight to ensure that the road network is maintained in a safe and efficient manner during the daytime. Whilst there will be noise generated from the works it is unlikely to have significant adverse effects on surrounding residential zones due to the limited duration of works and therefore temporary nature of the effect (SC2.3).

### Industrial Zone

Objective IN2 seeks to maintain and enhance the amenity of the Industrial Zone and adjoining zones. In particular policy IN2.2 'nuisances' requires that activities do not produce unreasonable levels of noise which detract from adjacent activities and the surrounding environment unless the adverse effects are reasonably mitigated. The road repair and maintenance work proposed is a temporary activity which would have a limited and short term affect rather than a more permanent activity which the policies and objectives seek to control.

### Open Space and Recreation Zone

Objectives OS1 and OS2 are about maintaining the social wellbeing and health of the community through provision of open space and recreation land, maintaining existing facilities and providing for the evolving aspirations of the community. The proposal will not be contrary to any of these policies and objectives as it will not hinder the ability for the community to access and utilise open space and recreation land nor will it adversely affect the ability to create and alter opportunities for future community needs. The ability to undertake road repair and maintenance work overnight will allow for access to these facilities to be maintained during the daytime.

### Rural Zone

Objective RU3 requires the protection of amenity experienced within the Rural Zone including the local noise environment. Whilst the policies and objectives do acknowledge that the rural area is a working environment where there may be a higher degree of noise effects associated with those rural activities. The road repair and maintenance work is for a limited duration and given in the rural zone dwellings are typically setback greater distances from the road and with consideration given to other background noise levels the proposal is not considered to be contrary to the policies and objectives which seek to maintain amenity values.

## DO10 Land Transport

Objective DO10.1 land transport system seeks ‘a land transport system that is safe, efficient, integrated and context responsive, and that meets the needs of Nelson in ways that are environmentally, socially and economically sustainable.’

DO10.1.i explains that ‘*it is important to ensure that the transport system is as safe as well as an efficient network that caters for all users throughout the different parts of the transport network.*’

Policy DO10.1.2 ‘road network’ articulates the objectives in a clear manner requiring that ‘the road network should be maintained...’

It is an unarguable fact that road maintenance and repair is a necessary part of ensuring the land transport system can operate in a safe and efficient manner. However, as identified elsewhere within this application there are instances when undertaking this essential work results in inefficiencies and significant effects on the community and business, in addition there are times when work cannot be undertaken during the day due to an inability to comply with traffic management requirements because of the road layout or width. As such by undertaking this work overnight when roads are quiet and have limited use the work can be completed in a more efficient manner with greater long term results so that the land transport system is fit for purpose.

DO10e ‘environmental results anticipated, and performance indicators’ includes result DO10e.2 ‘*improved safety for motorists, pedestrians and cyclists*’. Undertaking road repairs and maintenance clearly contributes to this environmental result, however, there are also increased health and safety benefits with undertaking this essential maintenance work overnight. These benefits are highlighted in sections 3.0 and 5.0 but include reduced risk to pedestrians and cyclists from the presence of heavy machinery in the road during daytime hours when traffic volumes are also highest.

DO14.4 Network Utilities – no specific relevant policies and objectives.

## **6.3 Nelson Regional Policy Statement**

Chapter 14 has a focus on infrastructure, however, the policies and objectives relate predominantly to the longer term provision of infrastructure which includes the transport network. However, Objective IN2.2.1 does seek ‘*a safe and efficient land transport system.....*’ with policy IN2.3.4 being specifically relevant ‘to provide for the continued safe and efficient operation, maintenance and upgrading of the land transport system....’ In order to provide a safe and efficient transport system Council must constantly maintain the network in a manner which allows for minimal disruption to road users and to nearby businesses and residents.

## **6.4 NES or NPS**

There are no relevant National Environment Statements or Policy Statements

## 6.5 Statutory Acknowledgments

Undertaking road maintenance and repair work is part of Council's Statutory Obligation and ordinarily Council would undertake this work during the daytime without resource consent but having regard to all other Statutory Obligations.

As part of the works programme planning for each activity Council will have regard to Statutory Acknowledgements and the need to ensure works will not adversely affect the special relationship of Iwi to land and water.

## 6.6 Management Plans

### Regional Land Transport Plan

The main purpose of the Regional Land Transport Plan is to set out the region's land transport objectives, policies and measures for the next 10 financial years using national funding. The Plan has been developed in partnership with Tasman District Council and the New Zealand Transport Agency to provide the community with an efficient, safe and resilient road network.

The Plan was published on 1 July 2015 with a mid-term review published on 1 August 2018.

The Plan identifies that congestion and trip time reliability is a key issue facing Nelson City. The Plan also identifies that there has been an increase in road freight volumes and that maintaining the transport infrastructure is key to ensuring Council provides the desired level of service in the most cost effective manner.

Appendix 4 of the Plan identifies projects which require prioritisation including local road improvements.

Being able to efficiently and effectively maintain local roads is therefore a key requirement to meet the provisions of the Regional Land Transport Plan and to ensure that the road network is capable of supporting public and freight traffic volumes in a manner which allows for wider positive economic outcomes. Undertaking road works overnight will reduce the level of daytime congestion when traffic volumes are highest and will be a cost effective means of maintaining the transport infrastructure.

### Long Term Plan

The Long Term Plan identifies Council's priorities for 2018-2028 with infrastructure being listed as a top four priority.

Under the LTP Council have prioritised a re-sealing programme, with targets for smooth sealed road network and also the maintenance of sealed local roads. The LTP approach in Infrastructure strategy for transport includes '*implementing projects that improve safety, enable growth and improve travel time reliability on key journey routes.*'

Being able to undertake road works overnight in some situations will allow Council to meet their targets around re-sealing of roads in a manner which improves safety and does not hinder travel time on key journey routes.

### Nelson Tasman Land Development Manual

The Nelson Tasman Land Development Manual (NTLDM) includes network asset design standards and construction requirements for both Nelson and Tasman. The Plan is intended to provide a consistent minimum standard and guidance for network assets.

Section 8.4 'Construction' in Chapter 8 sets out standards relating to physical works associated with trenching and reinstatement construction practices as follows:

- Normal work hours will be between 0700-1800 hours, Monday to Saturday. Works on arterial streets may be limited to 0900-1600 hours or other hours as may be appropriate.
- Work hours within the Nelson Central City, Stoke, Richmond, Motueka and Takaka town centres, will be as approved by the Council.
- During any construction in the street, the disruption to the public and adjacent residents will be kept to a minimum.
- Noise created by construction will be kept to a minimum and shall not exceed the levels described in Part 5 of NZS 6803.

The proposal is not considered inconsistent with these requirements, although the noise levels will exceed those described in Part 5 of NZS 6803 which relates to Construction Noise and the effects of this breach have been considered in the AES Noise report and in Section 5 of this application.

There are a number of other documents and Plans including Council's Asset Management Plan, NZTA roading specifications and the requirements of Audit NZ are all given consideration by Council in relation to road repair and maintenance work. The proposal is considered to allow for consistency with these Plans and documents.

## 6.8 Conclusion

Due to the mitigation measures proposed and temporary limited duration that noise levels will be exceeded the proposal is considered to be generally consistent with the Nelson Resource Management Plan Policies and Objectives, the Nelson Regional Policy Statement and all other applicable Plans and requirements.



# 7.0 Resource Management Act 1991

## 7.1 Notification Requirements

Under section 95A(3)(a) the applicant requests Public Notification without delay.

## 7.2 Sections 104, 104B, 104D and 108 of the RMA

This application includes a full Assessment of Environmental Effects which includes an assessment of the actual and potential effects of the subdivision and provides appropriate mitigation measures.

This application also includes an assessment the proposal against the provisions of the Nelson Resource Management Plan the Nelson Regional Policy Statement.

Section 104D states that:

*'a consent authority may grant resource consent for a non-complying activity only if it is satisfied that either –*

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

In relation to this proposal the provisions of section 104D are considered satisfied in relation to 104D(a) as the proposal is not considered to be contrary to the policies and objectives of the Nelson Resource Management Plan as the noise effects are temporary and limited and it is considered that the policies and objectives relevant to noise effects refer to more permanent noise effects.

## 7.3 Overall Assessment and Part 2 of the RMA

Section 5 defines the purpose and principles of the Act which is to promote the sustainable management of natural and physical resources. The roading network is a physical resource upon which the City is entirely reliant. Section 5(2) states:

*'In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while*

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

This proposal is concerned with the maintenance, repair and general upkeep of the existing roading network which is a physical resource that enables the community to provide for their social

and economic well being. Ensuring the road network is fit for purpose and functioning in a safe and efficient manner allows the Community to function and ensures the health and safety of all road users. Whilst it is possible to undertake road repairs and maintenance work during the day this work may impact on the economic success of business and people and can affect the health and safety of those undertaking the work while heavy traffic passes close by. The proposal to undertake work overnight, balanced with the proposed mitigation measures is consistent with Section 5.

Section 6 sets out the matters of national importance.

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

*(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*

*(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*

*(c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*

*(d) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*

*(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*

*(f) the protection of historic heritage from inappropriate subdivision, use, and development:*

*(g) the protection of protected customary rights:*

*(h) the management of significant risks from natural hazards.*

The proposal is considered to be consistent with the matters outlined under section 6 for the reasons outlined within section 5.0 and 6.0 of this application.

Section 7 sets out other matters for consideration:

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—*

*(a) Kaitiakitanga*

*(aa) the ethic of stewardship*

*(b) the efficient use and development of natural and physical resources*

*(c) the maintenance and enhancement of amenity values*

*(f) maintenance and enhancement of the quality of the environment*

*(g) any finite characteristics of natural and physical resources:*

The proposal is considered consistent with Section 7.

There are no inconsistencies with the Treaty of Waitangi principles as outlined in Section 8.

# Attachment A

## One Road Network Classification

(Nelson Tasman Land Development Manual)

# Attachment B

## Assessment and Management of Noise Effects

(Acoustic Engineering Services Ltd)

# Attachment C

## Noise Risk Assessment Template

(Acoustic Engineering Services Ltd)

# Attachment D

## Auckland Unitary Plan Excerpt (Rule E25)

# Attachment E

## NCC Survey Results