

07 August 2020

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Resource Consent Number: RM205196

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Dear Victoria

REQUEST FOR FURTHER INFORMATION - RESOURCE CONSENT 205196

Thank you for your resource consent application to authorise road repair and maintenance works to be undertaken on certain roads in Nelson during night-time hours in breach of permitted noise standards in the NRMP.

Marshall Day Acoustics (MDA) has been engaged to undertake a peer review of the Assessment and Management of Noise Effects Report prepared by Acoustic Engineering Services (AES). Pursuant to section 92(1) of the Resource Management Act 1991 (the 'Act'), the following information is requested so that we can better understand the proposed activity, the effects of the activity on the environment and the way in which any adverse effects of the activity may be mitigated:

Scope of Activities

1. Please provide further clarification of what is meant by "road repairs and maintenance", particularly as the types of activities on page 15 of the application 'are not limited to' those listed. Is it essentially the upkeep and replacement of the road pavement and road structure base, or it is intended to allow for infrastructure maintenance, repair or replacement (ie service trenching and installation) within the road corridor? The NRMP definition of "maintenance" is of little help as it relates only to soil disturbance and vegetation clearance to maintain the road in good operational order. The definition of "road" under the LGA also relates to that area for use of the public and things such as culverts, drains and fords "belonging thereto".
2. The application is for breach in noise limits only. Please confirm that any works requiring other resource consents such as under the Freshwater or earthworks rules in the NRMP (including "excavation" within the types of activities listed as being undertaken as part of night time road works), or specifically excluded from the definition of "maintenance" in the NRMP, will be addressed separately should these arise as a requirement of the proposed maintenance works.

3. In relation to public notification of planned works, the application states that "emergency work may be undertaken at short notice where there is risk to life or property" (pg 21 of the application). Does emergency works constitute one of the 20 occasions per calendar year to which this global resource consent will relate, and to what extent will this need to go through the Noise Risk Assessment (NRA) process?

Volunteered Consent Conditions

4. In relation to the Volunteered Consent Conditions in 3.6 of the application, please clarify the following:
- (a) It would appear that these are not intended to apply to line marking and road sweeping activities which form part of the application. If not, should there be a separate set of conditions for these activities? Please provide these to complement the volunteered conditions for road repairs and maintenance.
 - (b) As unplanned night time works for maintenance and repairs, how do these conditions relate to emergency works?
 - (c) Why is Condition 4 limited to "re-surfacing" only?

Noise Levels and Mitigation of Effects

The following matters arise out of Marshall Day Acoustics' peer review of Acoustic Engineering Services' report, and it is expected that these will be referred to AES for comment:

5. AES state that the noise contours are based on a flat ground model without screening from buildings or terrain (top of page 13). The local topography is not flat and MDA anticipate that at a number of the proposed locations there will be a large number of properties elevated above the road – they will overlook the road and noise levels may be higher than predicted.

Accounting for the local topography and screening and reflections offered by existing buildings is necessary for an accurate noise level assessment – while this may increase the noise levels at some properties, the total affected area may decrease.

Please confirm why AES consider a flat model to be appropriate or provide updated noise models accounting for topography and buildings.

6. It is unclear if noise contours indicate façade noise levels. Typically, noise contours are presented as free-field levels. However, as the construction noise limit in NZS 6803 is a façade noise level and the main concern is sleep disturbance within dwellings, presenting façade noise level contours would be most appropriate.

Please confirm if the noise contours are façade noise levels or not and provide commentary on how AES have considered façade noise levels in their assessment.

7. Practicable noise reducing measures are not discussed. There may be some noise mitigation options that could be easily adopted to reduce noise equipment noise levels – such as localised noise barriers around equipment. AES do not appear to have considered any practicable noise reducing mitigation measures in their analysis. It is noted that the use of the best practicable option to minimise noise emissions is a requirement of NZS 6803 and of Section 16 of the Resource Management Act 1991.

Please provide commentary on whether AES have considered any practicable noise reducing measures or indicate why they have not allowed for any noise mitigation in their analysis.

8. The noise maps only provide contours up to 60 dB LAeq. There are a significant number of properties that are shown within the 60 dB LAeq noise contours. However, it is anticipated that the noise level incident on the façades of these properties will be significantly higher than 60 dB LAeq.

Please provide updated noise maps showing noise contours up to 75 dB LAeq.

9. Further commentary is required on the existing ambient noise environment. AES highlight that existing ambient noise levels are an important factor in determining the noise risk level rating. However, they do not provide any indication of the expected ambient noise levels at each of the sites. They do comment on the 24 hr traffic noise levels, but this does not address the local environment or that noise levels at night will be significantly less than the average noise level over 24 hours. Low levels of background noise will exacerbate the noise effects.

Please confirm how AES have accounted for these expected low levels of ambient noise in their risk level rating.

10. AES have determined set back distances for the proposed ranges of activities beyond which a level of 45 dB LAeq is calculated – the complying noise limit for night-time construction works. However, within this set back area there will be a vast range of noise effects depending upon the façade noise level and the duration of the construction works. Establishing a compliance set back distance does not address the adverse noise effects experienced at dwellings within the set back area.

MDA consider that it would be appropriate to use set back distances as means of identifying affected parties. But as the effects will vary with noise level, establishing a more refined range of set back distances – for example in 5 decibel increments – would be necessary to determine the appropriate mitigation measures. These setback distances may also vary for each construction activity. The duration of the night-time works will also significantly influence the noise effects – an activity occurring for 30 mins may have a lesser effect than an activity occurring for 6 hours, dependent on noise level. Whether occupants have their windows open or not will also be an influencing factor that should be taken into account.

Please provide an assessment of noise effects of each activity for affected parties based on:

- *the calculated façade noise levels in maximum 5 decibel increments up to the highest calculated façade noise level (likely to be in excess of 70 - 75 dB LAeq);*
- *the duration of the construction works during the night;*
- *whether windows are open or closed;*
- *the expected ambient noise levels at night.*

11. There is no assessment of the expected L_{AFmax} noise levels from the proposed range of activities and how this may affect receivers.

Please provide details of expected L_{AFmax} noise levels with an assessment of noise effects.

12. The draft noise risk assessment and management statement discusses vibration effects. However, the AES report does not provide any details on vibration from the proposed range of activities, appropriate vibration limits or the expected vibration effects on affected parties.

Please provide details on any expected vibration levels from the activities and their effects.

13. Limiting construction activities to weekday nights seems unnecessary. The draft noise risk assessment and management statement states that no work can occur on Sundays or Public Holidays. As the works occur at night, the noise effects are unlikely to alter whether they occur on a weekend night or a weeknight. It is noted also highlight the NZS 6803 does not highlight any special protections for Saturday/Sunday nights compared to weeknights.

Please comment on the rational to restrict activities during these times.

14. The range of catchment type does not appear to be reflective of Nelson City. The draft noise risk assessment and management statement lists receiver catchment types as:

- Urban – Medium density of housing
- Urban – High density of housing
- Urban – Inner City

These types do account for the predominant suburban environment outside of the Nelson CBD. MDA consider that the receiver catchment type would be based on factors such as the site zoning, the building use (commercial, residential, etc) and the ambient noise levels.

Please develop a more appropriate range of receiver catchment types.

15. The draft noise risk assessment and management statement lists only two mitigation options for reducing noise levels at the receiver:

- Inform residents about 'masking noise'
- Provide earplugs to residents

While these may be appropriate at some dwellings, these would not adequately address the noise effects all affected parties. It is recommended that a more comprehensive range of mitigation options is developed dependent upon the noise effects received at each receiver – in some instances this may even include offering residents alternative accommodation for the nights on which construction will occur.

Please provide a range of appropriate mitigation measures based on the revised noise level assessment (refined set back boundaries as recommend above).

16. The noise complaint management procedure does not promptly address complainants' queries. The draft noise risk assessment and management statement indicates that any Service Requests would "generally be addressed the next morning". There is concern that this will not be timely enough respond to queries or prevent recurrence of complaints, particularly where further construction works would be occurring the following night.

Please provide a detailed complaints response procedure outlining the response timeframes, mitigation options that would be offered to complainants where appropriate and how any changes to the activities will be incorporated into the management plan.

General

17. Please provide an amended assessment of environmental effects to address any matters that may arise out of the preparation of the further information you provide to the Council.

This information is required to ensure that should any matter arise out of the further information that is provided, then the effects on the environment must be addressed as part of the application for resource consent.

Legislative requirements

Section 92A(1) of the Act requires you to respond to the Council by **8 September 2020** (being 15 working days from the date of this request) by either:

- (a) Providing the information; or
- (b) Agreeing in writing to provide the information within a reasonable timeframe to be agreed with the Council; or
- (c) Refusing in writing to provide the information.

The processing of this application will be put on hold until you respond to the Council. The time taken by you to provide the further information, or to respond to this request, is excluded from the calculation of working days for processing your consent.

If you do not respond to the Council in writing as per (a) and (b) above, or if you refuse to provide the information by 8 September 2020, the Council must:

- (a) Publicly notify the application pursuant to Section 95C of the Act if the Council has not already decided whether to give public or limited notification of the application;

And

- (b) Must consider the application under Section 104 of the Act. Under Section 104(6), the Council may decline the application on the grounds that it has inadequate information to determine the application. In making an assessment on the adequacy of the information, the Council must have regard to whether any requests made of the applicant for further information or reports have resulted in further information or any reports being available (Section 104(7)).

Notification of the application will involve an additional charge of \$7,000, which must be paid before the application is notified. This is in addition to the initial payment made when the application was lodged.

My contact details are on the top of this letter. Please contact me at if you would like to discuss any matters relating to this request.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'J Hilson', written in a cursive style.

Jane Hilson
Consultant Planner