

NOTICE OF MEETING

RESOURCE CONSENTS HEARINGS PANEL

TO: Chairperson John Childs
 Crs John Kirikiri
 Grahame Powell

A meeting of the Resource Consents Hearings Panel will take place in the Council Chamber, Rodney District Council, Centreway Road, Orewa on Friday, 3 September 2010 commencing at 9.00 a.m.

for: CHIEF EXECUTIVE
Rodger Kerr-Newell

OREWA
27 August 2010

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PROGRAMME

<u>Time</u>		<u>Page</u>
9.00 a.m.	A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991	1

AN APPLICATION FOR RESOURCE CONSENT TO HOLD A MAXIMUM OF TWO OUTDOOR CONCERTS BETWEEN JANUARY AND MARCH OVER A PERIOD OF THREE YEARS (2011, 2012 AND 2013) FROM 4PM TO 11PM FOR UP TO 2500 PEOPLE

Address: 404 And 424 Whitmore Road, Takatu

APPLICANTS: MATAKANA MUSIC CHARITABLE TRUST

INDEX

<u>Item No.</u>	<u>Subject</u>	<u>Page No.</u>
1.	Apologies	1
2.	A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991	1

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ITEM NO: 1

APOLOGIES

ITEM NO: 2

REPORT



TO Resource Consents Hearings Panel
ON 3 September 2010
FROM Michelle Carmine – Reporting Planner
SIGNATURE

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APPROVED FOR RELEASE BY Erik Oosthuizen – Team Leader Resource Consents
SIGNATURE

A handwritten signature in black ink, appearing to be "Erik Oosthuizen".

SUBJECT **A LIMITED NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991**

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FILE REF RMA 54905

WARD Northern

Having considered the proposal against all the relevant statutory criteria it is recommended by the reporting planner that the application be *GRANTED*. The reasons for this recommendation are set out in section 13 of this report.

Note: This report sets out the advice of the reporting planner. This report has yet to be considered by the Panel delegated by the Council to determine this application. The recommendation is not the decision on this application. A decision will only be made after the Panel have considered the application and heard the applicant and any submitters.

1.0 APPLICATION AND PROPERTY DETAILS

SITE ADDRESS:	404 and 424 Whitmore Road, Takatu	
APPLICANT:	Matakana Music Charitable Trust	
LEGAL DESCRIPTION:	Lot 1 DP 55706 and Pt Allot 9 Psh Matakana SO 1150C	
SITE AREA:	1061m2	
DISTRICT PLAN: ZONING:	Operative District Plan as amended by Plan Change 55:	Tawharanui Special Character Activity Area
	District Plan 2000-Operative in Part:	East Coast Rural
ACTIVITY STATUS:	Operative District Plan as amended by Plan Change 55:	<i>Discretionary Activity</i>
	Rodney District Plan 2000-Operative in Part:	<i>Non Complying Activity</i>
	Overall:	<i>Non Complying Activity</i>
OTHER RELEVANT CONSENTS:		None
CONSENT NOTICES/TITLE RESTRICTIONS:		None

2.0 BACKGROUND

S93/94 Decision

- 2.1 This application was Limited Notified to the public for the following reasons:
- 2.2 It was considered that the effects on the environment in terms of traffic, rural character, amenity, dust and noise pollution would be no more than minor as the concert, although for a prolonged period of three years, is considered to only cause temporary effects on the environment that can be controlled through management plans ensuring effects on the environment will be no more than minor.
- 2.3 All parking can be provided within the subject sites and the Council's traffic engineer didn't believe there would be any adverse effects on the road or surrounding roading network as a result of the concerts.
- 2.4 There were no special circumstances that warranted public notification.
- 2.5 As the consent is for over a three year period it is considered the effects on surrounding neighbours although temporary have the potential to be more than minor in terms of disturbance from traffic generation and safety, noise, glare and general disturbance to the directly surrounding neighbourhood amenity.

Relevant Planning History

- 2.6 There have been three previous consents granted that are relevant to this consent. These consents all relate to previous concerts held at the property. The size of the concerts have grown each year they have been applied for and these applications were for singular years rather than a three year period as specified in this current application. It is also important to

note that these concerts were held in a different location within the site to the location proposed for the current application. All three consents were granted on a non notified basis.

- RMA40982 was granted on 10/01/2006 which approved two concerts on the 25th of February 2006 (4pm to 10pm) and 26th of February 2006 (2pm to 8pm) for up to 1000 people.
- RMA51230 was granted on 24/01/2007 which approved two concerts on the 17th of February 2007 or a rollover date on the 18th of February 2007 on the property from 5pm to 10.30pm with a maximum of 1500 people.
- RMA52760 was granted on 9/10/2007 to hold a concert on the 09th of February 2008 or a rollover date on the 10th of February 2008 on the property from 4pm to 11.30pm with a maximum of 2400 people

2.7 Reports from the Environmental Protection Officers on the previous consents indicate that the events were well run in a professional manner. Noise testing undertaken showed the concert complied with conditions of consent. There was one complainant for each of the concerts. It was noted that the complainant – Betty Terzaghi also laid a complaint with the Ombudsmen. The findings of the complaints noted that the actions taken by the Council were not unreasonable in the circumstances, and recommend that the Council may wish to consider using an independent acoustic expert to confirm the noise levels at the Terzaghi property. The noise reports and Ombudsmen findings are attached as **Attachment A**.

3.0 THE PROPOSAL AND REASONS FOR APPLICATION

3.1 The applicant proposes to hold a maximum of two outdoor music concerts between the months of January to March for the years 2011, 2012 and 2013 to raise money for charity. The type of music genre will generally be opera and/or classical.

3.2 The concerts will cater for up to 2500 people and all parking will be provided on two sites owned by the applicant. The applicant would like the opportunity to cater for up to 4000 people if appropriate onsite parking can be proved prior to ticket selling. The concerts will run from 4pm till 11pm in the evening.

3.3 A temporary stage and seating area with marquees for very important persons (VIPs) and portable toilets will be set up prior to the events and removed post events.

3.4 In the case of bad weather the applicant would like the ability to postpone the concert to the next night. As there are two concerts proposed per year this will require two roll over dates.

3.5 There will be three vehicle entrances to the concert. Gates A and B will be parking entrances and located on Lot 1 DP 55706 (owned by the applicant). This will consist of parking areas P1 to contain 82 carparking spaces, P2 to contain 107 carparking spaces and P3 to contain 134 carparking spaces.

3.6 Gate C will access the site in which the concert will be undertaken; it will contain parking areas P4 of 60 parking space, P5 of 322 parking spaces and P7 containing 220 parking spaces. The total number of parking spaces across the two sites owned by the applicant will be 925 parking spaces.

3.7 A copy of the application is attached as **Attachment B**.

Reasons for Application.

Operative District Plan as amended by Plan Change 55

3.8 The use of the site for concerts is not provided for in the Tawharanui Special Character Activity Area Zone. The Plan states that any activity not listed in the Table is deemed to be a non-complying activity.

3.9 The application is considered to be **Non-Complying activity** under Plan Change 55.

Proposed District Plan

- 3.10** The use of a site on not more than a total of 3 days within any 12 month period for events such as festivals, carnivals, markets, race meetings and rallies (including temporary structures for such activities) provided that the number of persons catered for and attending such events does not exceed 200 for each event is a Permitted Activity and where persons do not exceed 1000 for each event, is a Discretionary Activity.
- 3.11** The application is to undertake two concerts within a 12 month period for the next three years, which will attract up to 2500 people per event with the ability to increase numbers if the required parking can be provided. This number of people attending a concert is not listed in the activity table and is therefore considered to be a Non Complying Activity.
- 3.12** The proposal does not comply with rules 21.10.2.6 (e) in that the temporary carparking area will have a maximum gradient of 1 in 3; this is steeper than the allowed gradient of 1 in 8. Infringing this rule is a Restricted Discretionary Activity.
- 3.13** As the proposed parking areas have gradients steeper than 1 in 10 and the activity is not considered under the temporary activities listed in Chapter 16, the applicant is required to seal the carparking area. To depart from this is considered a Restricted Discretionary Activity.
- 3.14** Under the Proposed District Plan, the application is considered to be a **Non-Complying** activity.
- 3.15** **Overall the application is a Non-Complying Activity.**

4.0 SITE DESCRIPTION

- 4.1** The proposal will use two sites both owned by the applicant. The sites are rural in nature. The smaller site with the existing dwelling has a horse arena, a grove of olive trees and small paddocks in pasture as well as the existing dwelling and associated buildings. The dominant use of this site will be for carparking and an administration base for the concert. This site has two entrances from the road referred to in the report as Entrance A and Entrance B.
- 4.2** The concert itself will be held on the neighbouring larger rear site. The concert will be within a paddock that is surrounded by patches of native vegetation and a pond within the southern confines of the site. The site is accessed by a long gravel access way from Whitmore Road this is referred to as Entrance C. The long gravel access winds around several paddocks and crosses a stream to reach the proposed concert area. Along the gravel access is a large steep paddock that is proposed to be used for carparking, an olive grove and a fork in the access that leads to more paddock space proposed for use as parking. The gravel access reaches a turn around area at a pond and a flat paddock area surrounded by native bush. This is the location for the proposed concert.



Image 2. Aerial of subject sites and the surrounding area.

5.0 WEIGHTING OF DISTRICT PLANS

- 5.1** Fourteen chapters of the Rodney District Plan - Operative in Part were made operative on the 30th January 2009. However some chapters of the Plan have yet to be made operative. This includes Chapter Three – Definitions, Chapter 7 – Rural, and Transportation and Access - Chapter 21.
- 5.2** It is understood there are no outstanding appeals to Chapter Three the ‘Definitions’ chapter of the plan, however the Council is delaying making this chapter operative in case in resolving appeals to other chapters changes to the ‘Definitions’ chapter would be required.
- 5.3** Chapter 12 of the Operative District Plan 1993 is technically the operative plan for transportation and access. The appeals against Chapter 21 are not relevant to the proposal and it is considered that very little weighting should be given to the Operative District Plan 1993.
- 5.4** There are no outstanding appeals regarding the activity table and the rules in which the activity relates to within Chapter 7.
- 5.5** The activity proposed is located within the Tawharanui Special Character Area in the Operative Plan, and the East Coast Rural Zone, which falls under Proposed Chapter 7 of the District Plan 2000 - Operative in Part.
- 5.6** It is considered that most weighting should be given to the rules within the Rodney District Plan 2000 - Operative in Part.

6.0 NOTIFICATION AND SUBMISSIONS

Notification

- 6.1 The application was limited notified on the 10th July 2010 and submissions closed on the 9th August 2010. A summary of the submissions is set out below. A full copy of the submissions is attached as **Attachment C**.

Submissions

- 6.2 A total of one submission was received by the close of the submission period. The submission was in opposition to the proposal

Name	Address	Main Concerns	Relief Sought	Wish to be heard
Eric and Betty Terzaghi	369 Whitmore Road, Takatu	<p>Council should not be making decisions of this nature this close to the reorganisation of Greater Auckland.</p> <p>Events for thousands are inherently urban in nature and should be located in appropriate venues designed for the type of activity proposed.</p> <p>Carbon Footprint</p> <p>Traffic movements late at night affecting their tenant. Traffic safety from exit points.</p> <p>Potential risk of spreading Kauri <i>Phytophthora</i></p> <p>Fire Hazard and Safety concerns</p>	Refuse consent in whole.	Yes

Additional Comments in respect of submissions lodged.

- 6.3 Council's Ecologist, Rue Statham, has provided verbal comments in regards to the potential spread of Phytophthora. Mr Statham believes the risk of spreading Phytophthora will be low as none of the concert goers will be entering any of the bush areas. He has recommended that if the bush is currently unfenced it may be appropriate to temporarily fence the bush off to ensure that nobody enters the bush. A condition of consent can be included should the Panel consider temporary fencing to be appropriate.
- 6.4 It is noted that the tenants Mr and Mrs Terzaghi have referred to as being affected by the traffic movements have not lodged a submission on the application. Occupiers of identified affected properties were served notice as well as owners; it can therefore be assumed that the tenants of the affected property do not have an interest in the proposal.
- 6.5 Concerns regarding fire hazards and the safety of patrons in this regard is an occupational health and safety issue and should be directed to the Occupational Health and Safety Department or the Fire Service. Council's rural fire ban will likely be in force and it must be assumed that attendees of the concert will comply with the fire restrictions.

Written Consents

- 6.6** Written consent was provided from several parties to the previous location of the concert however no written approvals have been provided for the new and current proposed location of the concert.

7.0 PRE HEARING MEETING

- 7.1** No pre hearing meeting has been held.

8.0 REPORTS FROM OTHER OFFICERS/DEPARTMENTS

- 8.1** Reports and/or comments have been received from the persons with respect to this application:

- (1) Traffic Engineer's report from David Mitchell (see **Attachment D**)
- (2) Development Engineer's Comments from Cameron Ure (see **Attachment E**)
- (3) Environmental Health Comments from Daniel Winter (see **Attachment F**)

9.0 STATUTORY ASSESSMENT

- 9.1** The Act requires for all applications for resource consent that subject to Part 2 of the Act, the Council must have regard to the matters set out in section 104 of the Act.

- 9.2** Section 104 (2) of the Act states that the Council "may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect." The permitted baseline of effects will therefore be assessed prior to the assessment in terms of section 104 (1) of the Act.

- 9.3** Following the section 104 (1) assessment an assessment will be made in terms of Part 2 of the Act.

10.0 SECTION 104 ASSESSMENT

Permitted Activities Assessment.

The Existing Environment

- 10.1** In addition to the site description within this report the existing environment is one of small scale hobby farming mixed with small scale viticulture and wine trails with bed and breakfast and homestay accommodation common throughout the immediate area. There are remnants of native bush scattered throughout the area with some bush protection covenants. There is an existing horse training facility and saddle club within the subject site.

Unimplemented Consents

- 10.2** There are not considered to be any unimplemented consents that would have relevance to this proposal.

Activities Permitted by the Plan

- 10.3** Under Operative Plan Change 55, events are not provided for; therefore they do not form part of the permitted baseline. However outdoor recreation utilising resources in their natural state is a permitted activity.

- 10.4** Under the Proposed District Plan, it is permitted to use a rural site for not more than a total of 3 days within any 12 month period for events such as festivals, carnivals, markets, race meetings and rallies (including temporary structures), provided that the maximum number of people attending is 200 per day and access is not from a State Highway.

Section 104(1)(a) Actual and potential effects on the environment

- 10.5** Section 3 of the Act states that the term “effect” includes any positive or adverse effect; temporary or permanent effect; past, present, or future effect; any cumulative effect and potential effects.

Rural Character

- 10.6** The proposed concert is considered a temporary activity on the site. The activity is over two sites that make up 35.75 hectares. It is considered that the activity will not reduce the high ratio of open space to the building. The activity will be undertaken out of sight of most surrounding properties, structures will be erected close to the existing pond and the stage will be compacted into a paddock surrounded by native bush. It is considered that the nature and scale of the activity will not dominate any natural features; rather the activity is using the natural features to act to screen the concert from surrounding sites.
- 10.7** The activity will require a stage, and a number of marquees to be erected onsite. The scale, design and external appearance of these structures will be temporarily located on the site and the scale and density of the temporary structures will not create an urban nature and scale to the rural area. It is considered that the proposed activity and associated structures will have adverse effects on the rural character that are no more than minor.
- 10.8** The additional number of people arriving to the site may have some effects on the neighbouring property owners as, compared to previous years, the number of people envisaged is higher with two concert nights proposed within a three month period (as opposed to one in previous years). The large number of vehicles and people arriving to the site will create only a temporary effect on the neighbouring owners, the use of marshals and the short duration of the concerts from 4pm to 11pm are considered to have a no more than minor effect on the environment of the surrounding neighbours. It is considered that increasing the number of people to 4000 cannot be appropriately assessed as no information has been given in regard to any additional facilities required to cater for the increase in people or any carparking areas within the site that could be appropriate. I therefore do not feel comfortable in making a recommendation about the adverse effects of increasing the number of concert attendees to 4000.

Rural Amenity

- 10.9** The concert will be held on private property within the East Coast Rural area where it is considered that the amenity values of the environment will not be compromised in terms of traffic and noise emanating from the vehicles, and music and singing from the concert, because the effects will be temporary (two evenings a year over a period of three years) and noise levels will be monitored to comply with standards. In the past the concert has been over one night only.
- 10.10** The proposed concerts will not create significant adverse effects on the amenity value of the adjacent residential sites. This is because the concerts will only be undertaken within a private property surrounded by bush and in a valley, and will occur for a maximum of two days, restricted between the hours of 4pm and 11pm.
- 10.11** In terms of aural privacy and visual effects, the topography of the land limits the visual effects to the immediate surrounding area where the concert will be held. The location of the proposed stage and seating area is surrounded by native bush and is some distance away from the side boundaries. In this case, it is considered that the aural privacy and visual effects will be no more than minor.
- 10.12** It is proposed the concerts will generate 2500 people, however the applicant would also like the flexibility to increase numbers to a maximum of 4000 people, but only if the required parking can be met. It is considered that there is not enough information to assess the effects of increasing the number of people to 4000 as no additional plan has been provided demonstrating additional seating/audience room for an increase to 4000 people. It is therefore considered inappropriate to assess the effects of the additional number of people on amenity.

- 10.13** The location of the concert has been moved from where the event was previously held to a location which is further removed from the neighbouring property that has previously been concerned with the noise from the concert. There will be noise disturbance throughout the time of the concerts in relation to the music and singing. It is however considered that the noise effects will be temporary and have a no more than minor effect on neighbouring properties or the environment. The nearest neighbours that may be affected by noise have not submitted on the application and it can therefore be assumed that they have no issues with the proposal. The sound effects generated will comply with the Council's standard noise limits and therefore the effects will be no more than minor. In previous events, noise has been monitored throughout the concert and deemed to comply. It is recommended that the noise continues to be monitored to ensure compliance with the District Plan. It is considered that carrying out the Ombudsman's recommendation of an independent acoustic expert confirming noise levels on the Terzaghi's property is no longer necessary as the concert has been relocated away from the Terzaghi's property to avoid any potential adverse effects on noise.
- 10.14** It is also considered that the dust and odour effects will be temporary. When the previous concerts were held Whitmore Road was unsealed, however the sealing of Whitmore Road up to the applicant's property has been completed. There is a small section of unsealed road that will be used to access Gate C which contains the majority of the parking spaces, however as this is only a minor section of the road it is not anticipated that the dust created will have a more than minor effect on the environment or surrounding properties. The adverse effects are therefore considered to be no more than minor.

Health and Safety

- 10.15** The Environmental Health Officer, Daniel Winter, has viewed the proposal and does not have any concerns regarding the proposal. The provision of sanitary services for the number of people attending is considered appropriate. There will be life saving equipment located next to the pond should it be required. The applicant is required to ensure that the concerts are run in accordance with health and safety under other legislation and in accordance with the requirements of the Department of Labour. The Development Engineer, Cameron Ure, considers there are no health and safety issues outside of good working practice.

Traffic, Access and Parking

- 10.16** The Council's Traffic Engineer, David Mitchell, has commented that the number of car parking spaces for the event conforms to the District Plan requirements for onsite parking. Gates A and B which contains the mainly flat areas of parking can be reserved for the use of two wheel drive vehicles. Marshals will direct four wheel drive vehicles to the steeper parking areas through Gate C. The applicant will be recommending that patrons use four wheel drive vehicles as the majority of the parking is within hilly areas. The applicant will provide tractors and towing equipment in the unlikely event that a vehicle gets stuck. The applicant also proposes to postpone or cancel the concert if wet weather makes the grass parking areas unusable. The Council's Development Engineer has noted that some areas of parking have a 1 in 3 gradient. The Council generally requires gradients steeper than 1 in 5 to be sealed. In this case this is not a practical option as the carparking is temporary in nature. It is considered that careful management of the parking area and conditions of consent ensuring only four wheel drive vehicles use the steep parking areas within parking areas P5 and P7 shown on the approved plans will avoid and mitigate any potential adverse effects associated with the parking. The effects will be no more than minor in regards to parking.
- 10.17** The traffic to and from the concert has the potential to effect the surrounding neighbouring properties through an increase in numbers in traffic movements.

David Mitchell, the Council's Consultant Traffic Engineer has stated the following in regards to the effects of traffic from concert users on the surrounding roading network:

- 10.18** While the impact will be significant on the surrounding road network, the effects will be of very limited duration and can be adequately controlled to ensure road safety is not compromised. The traffic generated by this event along this road is unlikely to have an adverse affect on the transportation network.

- 10.19** It is considered however that expanding the capacity of the event will not be possible, although a thorough monitoring and recording programme of the first event will greatly assist in any future assessments.

We consider that there are no traffic or transportation reasons to decline this application, provided that a traffic management plan is in place.

- 10.20** To avoid and/or mitigate any adverse effects on the surrounding roading network the traffic engineer has recommended a condition requiring a Traffic Management Plan and appropriately qualified traffic management specialists to be located at the main intersections leading to the concert. This is considered appropriate and will ensure that traffic will not back up to an unsafe level. By undertaking the measures recommended it is considered that the effects on the road network and safety of the accesses and the effects on surrounding road users will be no more than minor.

Conclusion

- 10.21** In conclusion it is considered that the most relevant potential effects have been addressed above and it has been concluded that the adverse effects on rural character, rural amenity, noise, health and safety, traffic, parking and access, will be minor or less than minor.

Section 104(1) (b) Any Relevant Plan Provisions

Section 104(1)(b)(i) and (ii) Relevant provisions of National Environmental Standards and other regulations

- 10.22** There are no NES or other regulations in effect that apply to this application

Section 104(1)(b)(iii) Relevant provisions of National Policy Statements

- 10.23** There are no National Policy Statements relevant to this application.

Section 104(1)(b)(iv) Relevant provisions of the New Zealand Coastal Policy Statement (NZCPS)

- 10.24** The NZCPS is relevant to this application.
- 10.25** The purpose of the NZCPS is to state policies in order to achieve the purpose of the RMA, in relation to the coastal environment of New Zealand.
- 10.26** The relevant policies of the NZCPS include the preservation of the natural character of the coastal environment which includes protection from inappropriate subdivision, use and development; protecting areas of significant indigenous vegetation and habitats of indigenous fauna in that environment; protecting the following features which are essential or important elements of the natural character of the coastal environment: landscapes, seascapes and landforms, areas of spiritual, historical or cultural significance to Maori and significant places of historic or cultural significance; protecting the integrity, functioning and resilience of the coastal environment; and to restore and rehabilitate the natural character of the coastal environment.

Hauraki Gulf Marine Park Act 2000 (HGMPA)

- 10.27** When considering an application for a resource consent for the Hauraki Gulf, its islands, and catchments, a consent authority must have regard to sections 7 and 8 of the HGMPA. These sections must be treated as a New Zealand coastal policy statement. Section 7 recognises the national significance of the Hauraki Gulf, its islands and catchments, while section 8 outlines the objectives of the management of the Hauraki Gulf, its islands and catchments. The objectives are intended to protect, maintain and where appropriate enhance the life supporting capacity of the environment of the Gulf and its islands.

- 10.28** The relevant provisions of the NZCPS have been considered and it is concluded that the proposal is consistent to the NZCPS because although the concerts are within a coastal catchment, the concerts and associated structures are temporary in nature and located inland from the coastline and the activity will not be visible from the coastal area. The activity will not have any effect on the natural character of the coastal environment.

Auckland Regional Policy Statement (ARPS)

- 10.29** The strategic direction within the Auckland Regional Policy Statement (RPS) focuses on the sustainable management of natural and physical resources from a regional perspective. The Regional Policy Statement addresses matters of significance to iwi, transport, energy, heritage, coastal environment, water quality, water conservation and allocation, air quality, natural hazards, soil conservation, minerals, pests, waste, hazardous substances, contaminated sites, esplanade reserves and strips.
- 10.30** It is considered that the proposal is not inconsistent with the RPS as the proposed concerts will provide a service for the rural community while ensuring the effects on the surrounding environment from the activity are minor or less than minor.

Proposed Change 6

- 10.31** Part of Proposed Change 6 addresses the integration of Land Use activities with the Transportation network. Although Proposed Change 6 has outstanding appeals against it, the particular Strategic policy relevant to this proposal has no outstanding appeals against it.
- 10.32** It is considered that although the proposal will create an increase in vehicle movements and is located away from public transportation this is acceptable as there are no public transportation networks operating within the rural area. It would therefore be considered unreasonable to prevent services providing for the rural communities on the basis that there is no public transportation system. It is considered that the onsite parking, buses provided and the existing roading network are suitable to accommodate the proposed concert. The proposal is considered to be consistent with Proposed Change 6.

District Plan Provisions

Operative Plan 1993 as amended by Plan Change 55: Objectives and Policies

- 10.33** The most relevant Objectives and Policies are referenced below. The proposal is considered to overall be consistent with the following objectives and policies
- 10.34** Objective 3 ,Objective 5.1 and Policies 5.2 (i) – (vi)
- 10.35** The proposal is considered consistent with the objectives and policies of the rural zone as the concerts are temporary in nature and are not considered to detract from the natural functioning of the coastal processes, effect water quality, or have effects on the remote character anticipated by the zone. The stage, concert area, and parking will not be visible to the surrounding catchment and the temporary increase in traffic movements can be accommodated by the existing roading network and managed through a traffic management plan.

Rodney District Plan-Operative in Part: Objectives and Policies

- 10.36** The most relevant Objectives and Policies are listed below. The proposal is considered to overall be consistent with the following objectives and policies in Chapter 7 – Rural.

Rural Zone Objectives

- 10.37** *Objective 7.3.1 To maintain and enhance the rural character of the District*
- 10.38** *Objective 7.3.2 To enhance and protect the distinctive special character of parts of the District which have a high degree of naturalness and high landscape and amenity values which contribute to the identity of the District.*

- 10.39 *Objective 7.3.3 To maintain and protect the amenity values present in the rural parts of the District.*

East Coast Rural Zone Objectives

- 10.40 *Objective 7.8.2.1.1 To retain the open, high quality coastal landscape character of, and the natural environmental values present within the Zone, whilst enabling the continued operation of rural production activities*
- 10.41 *Objective 7.8.2.1.2 To protect and enhance natural areas and features, including landscapes, streams, rivers, lakes, estuaries, harbours and wetlands.*
- 10.42 *Policy 7.8.2.2.1 Activities and subdivision should not adversely affect the high quality coastal landscape - in particular the extensive sandy beaches and related sand dunes, the steep headlands and small coves and beaches (including Leigh Harbour, Baddeleys Beach, Campbells Beach) indented coastline with sheltered outlets and strong landform and the large estuary areas (including Mahurangi and Waiwera) - through urbanisation, subdivision and the effects of activities.*
- 10.43 *Policy 7.8.2.2.2 Activities should be limited to those of a non-urban, rural nature and scale enabling the special characteristics and rural character in the Zone to be maintained*
- 10.44 The proposal is considered to be generally consistent with the Objectives and Policies of the Rural Zone. As the concerts are temporary events and will only be run on two evenings a year for the next three years it is considered that the rural character and amenity sought in the zone will be maintained. The concerts are not considered to affect the natural areas or features present within the zone and the operation of rural protection on the site will continue to function except for a small number of days each year to prepare and undertake the concerts. Given the size of the concerts catering for 2500 people and the number of traffic movements the proposed activity is considered to be partially consistent with policy 7.8.2.2.2 that states activities should be limited to a non urban nature and rural in nature and scale. Although the concerts will result in a large number of traffic movements and a large number of people within the same area the concerts will provide a service to the rural community and will be temporary over two evenings a year. Overall when considering all of the objectives and policies the proposal is consistent with the overarching purposes of the Objectives and Policies for the zone.

Section 104 (1) (c) Any other Matter

Vision Rodney

- 10.45 Vision Rodney is the district strategy for the next 20-30 years, which was determined after much public consultation. Vision Rodney is a statement of the future and what the residents of the district want for themselves. Vision Rodney sets the following community outcomes:
- Prosperous - We will have a growing and resilient economy based on a wide variety of businesses that fit our character.
 - Vibrant - We will have a range of recreational and cultural facilities and events across the district and we will encourage creativity and diversity.
 - Distinctive - We will maintain and enhance the character of our townships and rural areas through excellent urban and rural planning and the intelligent management of growth.
 - Connected - We will have the infrastructure and services needed for our residents, business and visitors.
 - Safe and Healthy - We will continue to have a sense of community and we will provide for the emotional and physical well-being of our people.
 - Clean and Green - We will continue to value, protect and enjoy the natural environment.
- 10.46 It is considered that the most relevant outcomes to this proposal are 'vibrant' and 'safe and healthy'. It is considered that the proposal is consistent with the vibrant outcome as the concert provides for the opportunity of a cultural event within a rural setting the existing concerts undertaken within the area such as "High Life" and "Music Mountain" are directed at

one particular age group where as the charity concert of this sort with opera and classical music is directed at a range of age groups.

- 10.47** It is considered that the proposal will be consistent with the safe and healthy outcome as the activity being undertaken will provide for a sense of community by congregating within the same place. The concerts will benefit charity and could potentially give people in the community a greater sense of belonging and giving to the community.

Auckland Regional Growth Strategy

- 10.48** The Regional Growth Strategy sets a vision for how the region can manage growth sustainably for the next 50 years. The vision of the Strategy is to promote a high quality living environment within a region which is easy to get around while protecting our coast and surrounding natural environment. Variation 22 to the Proposed District Plan 2000 proposes to integrate the land transport and land use provisions of the plan in order to give effect to the Auckland Regional Growth Strategy.

- 10.49** The proposal is not considered to have an effect on the Regional Growth Strategy, as the strategy has planned for a certain amount of people and services in each area. The applicant's proposal is for temporary events over the course of three years and therefore is not considered to affect the regional growth strategy.

Section 104D Particular restrictions for Non-complying Activities

- 10.50** It is considered that subject to appropriate conditions of consent, the proposal satisfies the threshold test of section 104D because as demonstrated in this report the adverse effects on the environment will be no more than minor and/or the proposal will not be contrary to the objectives and policies of as concluded in this report. From the above section 104D assessment it can be concluded that the application meets the tests of section 104D of the RMA. Therefore the application can be assessed against the provisions of section 104B of the RMA and a substantive decision made.

Section 104 Assessment Conclusions

- 10.51 Overall it is considered that having regard to all the relevant section 104 matters that consent be granted.**

11.0 PART II ASSESSMENT

- 11.1** The purpose of the Act is to promote the sustainable management of natural and physical resources. In terms of section 5 of the Act it is considered that this application does promote the principles of sustainable management. It is considered that the activity proposed would contribute positively towards community wellbeing and provides a service for the rural community while not adversely affecting the surrounding environment and contributing positively towards the economic wellbeing of the community.

- 11.2** There are no Section 6 Matters of National Importance that are considered relevant to this application

- 11.3** The following 'other matter' under section 7 is relevant to this application: "The maintenance and enhancement of amenity values" It is considered that the proposal does not affect the overall amenity values of the surrounding area as the proposal is temporary in nature over a time period of two nights a year for three years. Traffic will be managed appropriately in accordance with the traffic management plan and noise will comply with the standards of the District Plan.

- 11.4** There are no Section 8 Treaty of Waitangi matters relevant to this proposal.

- 11.5** Overall for the reasons outlined above the application is considered to meet the relevant provisions of Part 2 of the RMA as the proposal achieves the purpose of the RMA being sustainable management of natural and physical resources.

12.0 RECOMMENDATION

- 12.1** That, pursuant to Sections 104 and 104D of the Resource Management Act 1991, the Limited Notified application for a Non Complying resource consent by Matakana Music Charitable Trust to undertake 2 charity concerts for up to 2500 people between the months of January to March (inclusive) between the hours of 4pm and 11pm for the years 2011, 2012 and 2013, to be located at 404 and 424 Whitmore Road, Matakana is **GRANTED** consent. It is recommended that the ability to increase the number of people attending the concert to 4000 is declined due to lack of information regarding effects of an increase to this number of people.

13.0 REASONS FOR THE RECOMMENDATION

- 13.1** Pursuant to Section 113 of the Resource Management Act 1991, the reasons for this decision are as follows:

13.2 The location of the concert has been moved from where it was held in previous years to a location which is further removed from the neighbouring property that has had previous concerns with the noise from the concert. There will be noise disturbance throughout the time of the concerts in relation to the music and singing. It is however considered that the noise effects will be temporary and have a no more than minor effect on neighbouring properties or the environment. The nearest neighbours that may be affected by noise have not submitted on the application and it can therefore be assumed that they have no issues with the proposal. The sound effects generated will comply with Council's standard noise limits and therefore the effects will be no more than minor.

13.3 The activity will be undertaken out of sight of most surrounding properties. Structures will be erected close to the existing pond and the stage will be compacted into a paddock surrounded by native bush. It is considered that the nature and scale of the activity will not dominate any natural features, rather it is using the natural features of the land to screen the concerts from the view of the surrounding sites.

13.4 To avoid and/or mitigate any adverse effects on the surrounding roading network the traffic engineer has recommended a condition requiring a Traffic Management Plan and that appropriately qualified traffic management specialists be located at the main intersections leading to the concert. This is considered appropriate and will ensure that traffic will not back up to an unsafe level. By undertaking the measures recommended it is considered that the effects on the road network and safety of the accesses and the effects on surrounding road users will be no more than minor.

13.5 It is considered the effects on the environment will be no more than minor. The most relevant potential and actual effects have been assessed and it has been concluded that the adverse effects on rural character, rural amenity, noise, health and safety, traffic, and parking and access, will be minor or less than minor.

13.6 The proposal is consistent with the Auckland Regional Policy Statement, the New Zealand Coastal Policy Statement and all other relevant matters of the plan.

13.7 It is considered that subject to appropriate conditions of consent, the proposal satisfies the threshold test of section 104D because as demonstrated in this report the adverse effects on the environment will be no more than minor and/or the proposal will not be contrary to the objectives and policies of as concluded in this report. From the above section 104D assessment it can be concluded that the application meets both of the tests of section 104D of the RMA.

13.8 Overall for the reasons outlined above the application is considered to meet the relevant provisions of Part 2 of the RMA as the proposal achieves the purpose of the RMA, being sustainable management of natural and physical resources.

RECOMMENDED CONDITIONS OF CONSENT

Pursuant to section 108 of the Resource Management Act 1991, this consent be granted, subject to the conditions attached, to the application for a Non Complying Activity for the reasons stated.

1. (general) The development shall proceed in general accordance with the application submitted except as amended by the conditions below, and the plans labelled Matakana Music Charitable Trust – Concert Venue 404/424 Whitmore Road, Matakana, undated, and signed by Processing Planner Michelle Carmine dated 23rd August 2010.

Advice Note: (building consent) The granting of this resource consent does not preclude the consent holder from the need to obtain a building consent prior to construction commencing.

2. (resource consent and monitoring charges) The resource consent holder shall pay to the Council within one month of the issue of this consent or prior to the activity commencing (whichever is earlier) the cost, including specialist services, staff time and administration for the processing of this application together with initial charges for the following inspections:

Environmental Protection x2.

Advice Note: Monitoring deposits will be invoiced by the Council together with the consent processing charges. Should further monitoring be required to ensure compliance, the Council will recover the actual and reasonable costs that are incurred for this monitoring as set out in the Council's Schedule of Fees and Charges.

3. (duration of consent) The Matakana Music Charitable Trust Concert shall hold a maximum of two concerts within the months of January to March inclusive for the years 2011, 2012 and 2013
4. (number of people) The Matakana Music Charitable Trust concerts shall be restricted to a maximum of 2,500 people per concert.
5. (horse training) The existing horse training activity onsite shall not be operating during the concert subject to this application.
6. (finishing hours of concert) The concert music shall start no earlier than 4p.m. and finish no later than 11p.m. with the venue being cleared of the public by 12 midnight.
7. (noise) The consent holder shall ensure that all amplified sound equipment on the site to which this consent applies, is sited and operated so that the following noise limits are not exceeded at any point within the notional boundary of any dwelling on adjacent properties within the following timeframes.

2.00 p.m. to 6.00 p.m.	80 dBA Leq
6.00 p.m. to 11.00 p.m.	75 dBA Leq

Sound levels shall be measured in accordance with the provisions of NZS 6801:1999 Acoustics - Measurement of environmental sound, and assessed in accordance with the provisions of NZS 6802:1999 Acoustics - Assessment of environmental noise

8. (parking) The areas labeled P5 and P7 on the approved site plan shall provide parking for four wheel drive vehicles only, due to the gradient of the land.
9. (concert management plan) A Concert Management Plan will be required to be submitted and approved by Team Leader Environmental Protection prior to the commencement of each concert. The Concert Management Plan shall set out the procedures for the concert, including staffing, the entry and exit of patrons from the concert, signage, responsibilities to include traffic marshals and site management. A copy of the Concert Management Plan, together with the Council's approval letter shall be kept on the site at all times during the concert. All measures for the protection of the public and other personnel set out in the approved Plan shall be maintained and complied with at all times until such time as the concerts are completed and the consent expires.

10. (traffic management plan) A traffic management plan (TMP) shall be submitted to Council and approved by Council's Network Manager each year prior to the two events. The TMP will have a Site Traffic Management Supervisor (STMS) monitoring and controlling the intersections of Takatu Road/Leigh Road and the Takatu Road roundabout, with suitably qualified and managed personnel stationed at these junctions, the Takatu Road/Whitmore Road intersection and on the gateways/driveways leading into the event. All measures for the protection of the public and other personnel set out in the verified Plan shall be maintained and complied with at all times until such time as the works are completed.

Advice Note: This will be required for each year, as other network issues will change and different co-ordination or requirements may be required from year to year.

11. (no stopping) The applicant shall ensure that no vehicles are parked on Whitmore Road within 100 metres either side of the site.

ADVICE NOTES

1. *Sanitary accommodation shall be provided in accordance with Chapter 10 – Sanitation and Cleanliness of Buildings and Places of Public Resort; of the Rodney District Council General Bylaw 1998.*

Note: If urinals are not to be separately provided for males, then the same number of sanitary conveniences provided for females shall also be provided.

ATTACHMENTS

Attachment A: Report from Ombudsman and previous noise reports.

Attachment B: Application and Site Plan.

Attachment C: Submissions

Attachment D: Traffic Engineers Report

Attachment E: Development Engineer Comments

Attachment F: Environmental Health Comments.