



NOTICE OF MEETING

HEARINGS COMMITTEE

I hereby give notice that an Ordinary Meeting will be held on:-

DATE: **Thursday, 7 February 2002** **TIME:** **9.15 am**

VENUE: **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to consider the business as set out herein and to take any necessary action connected therewith.

25 January 2002

Sidney Hargis
COMMITTEE SECRETARY

Telephone (09) 836 8000 extn 8864

MEMBERSHIP:

Councillors	GE	Nash, JP (Chairperson)
	RP	Dallow, QPM, JP (Deputy Chairperson)
	BA	Brady, JP
	PA	Hulse
	VS	Neeson, JP
	DA	Yates, JP

Ward Representative
Mrs DJ Webster (Massey Community Board)

Alternate Representative
Ms KG Perri (Massey Community Board)

(Quorum 4 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR AN ORDINARY MEETING OF THE HEARINGS COMMITTEE TO BE HELD
IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,
ON THURSDAY, 7 FEBRUARY 2002, COMMENCING AT 9.15 AM.**

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ON THURSDAY, 7 FEBRUARY 2002, COMMENCING AT 9.15 AM.**

1 APOLOGIES



2 URGENT BUSINESS

Section 46A(7) and (7A) of the Local Government Official Information Act and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

NOTE: Urgent Business need not be dealt with now and may be delayed until later in the meeting.



3 CONFIRMATION OF MINUTES

Ordinary - Thursday, 29 November 2001

RECOMMENDATION

That the minutes of the Ordinary Meeting of the Hearings Committee held on Thursday, 29 November 2001, as circulated, be taken as read and now be confirmed.



4 **NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991 BY IVAN SELAK FOR RESOURCE CONSENT FOR THE CONSTRUCTION OF A GO-KART TRACK INVOLVING 97.5M³ OF EARTHWORKS OVER AN AREA OF 1500M² AND RESOURCE CONSENT FOR THE PRIVATE USE OF THE TRACK, AT 16-18 KENNEDY'S ROAD, WHENUAPAI**

RMA 20010399

WARD MASSEY

N.B. This report sets out the Consents Unit's advice to the Hearings Committee on the environmental issues raised by the application for resource consent. It is not the decision of the Council. The decision will be made after consideration of the application by the Hearings Committee.

1.0 INTRODUCTION AND RECOMMENDATION

1.1 Nature of the Application

The applicant seeks Resource Consent for the construction of a go-kart track involving 97.5m³ of earthworks over an area of 1500m² (being an area 5.0m in width and 300m in length). Consent is also sought for the use of the track, which although for private use, would fall into the Proposed District Plan definition of a "non-residential activity".

1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for a resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the Transitional and the Proposed District Plan.

The proposal (including the earthworks already completed) has the potential to create adverse effects on the aural and visual amenity of the Countryside and Coastal Environment. The proposal also had the potential to adversely effect the quality of coastal water via sediment run-off.

The proposal requires Resource consent for earthworks, carrying out a non-residential activity and traffic generation associated with a non-residential use of the site. The proposal also exceeds the maximum noise requirements of the Countryside Environment. A full description of the necessary consents is provided in section 5 of the following report. The consent for earthworks would be retrospective as they have already been completed.

1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application for **the use of a go-kart track by up to three go-karts at any one time and resource consent for 97.5m³ of earthworks over an area of 1500m² (being an area 5.0m in width and 300m in length) subject to conditions.** It is considered that the environmental effects that would be generated by the activity would be minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of both the Transitional and Proposed District Plans will be satisfied.

2.0 APPLICATION DETAILS

Site Address:	16-18 Kennedy's Road, Whenuapai
Legal Description:	Lot 4 DP 63327
Site Area:	6.5357 hectares
Transitional Plan: Zoning:	Rural 1
Section:	Waitemata
Hazards:	No
Proposed Plan: Human Environment:	Countryside
Natural Area:	General and Coastal Natural Area
Landscape Elements:	Coastal Edge 20m
Hazards:	Outer Drainage Area
Roading Hierarchy:	Local

3.0 LOCATION PLAN

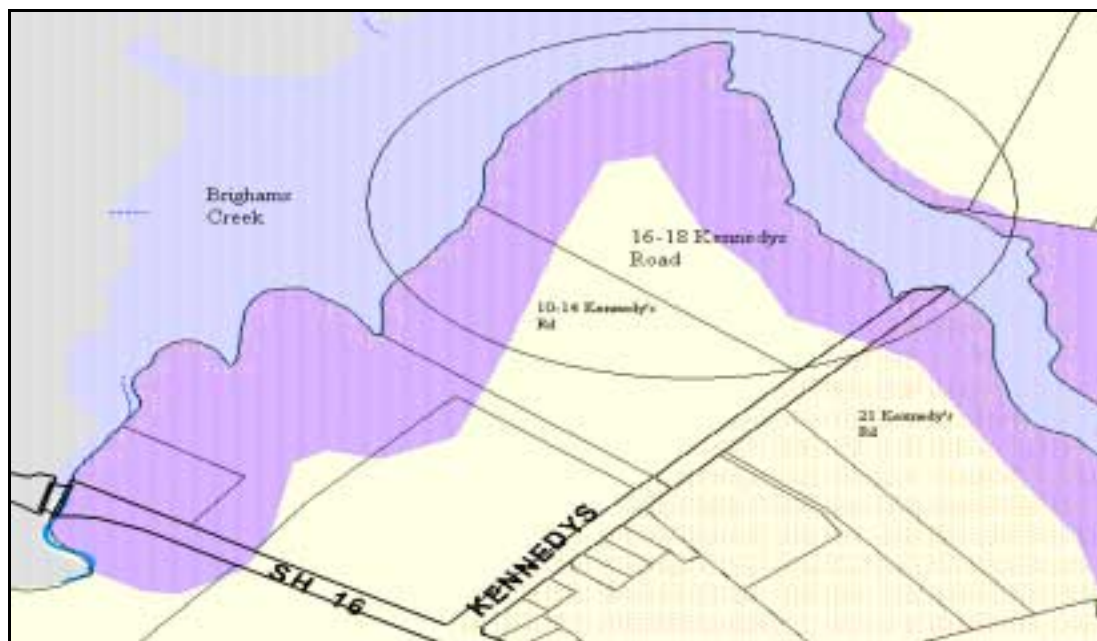


Figure One: Location of 16-18 Kennedy's Road, Whenuapai

4.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION

The site is located at 16-18 Kennedy's Road, Whenuapai, being the last property accessed off this no exit road. The site abuts the Brigham Creek estuary to the north and west and the Totara Inlet Estuary to the east. To the south and south east are two other properties, one (10-14 Kennedy's Road) owned by the applicant and the other (21 Kennedy's Road) owned by RB and LM Woolley.

The site is a lifestyle block containing a dwelling, out buildings (go-kart workshop and storage shed), a swimming pool and tennis court.

The topography of the site is a gentle slope down from the southern-most corner (near Kennedy's Road) to the top of the bank leading to the waters edge. The esplanade adjoining the north and north western portion of the site (in the vicinity of the track) has existing planting consisting of Eucalyptus species with a single row under-storey of karo, Pittosporum crassifolium and an Acmena species, (possibly Waterhousia or Monkey Apple). The eucalypts are approximately 12 metres tall, planted in a double row approximately 1.4 metres wide and 7 metres back from the mean high water spring. The line of karo is located further towards the dwelling, with the Acmena located adjacent to the go-kart track. The Acmena is on Council's list of Environmentally Damaging Plants.

The site is within an area identified as having High Fertility Soils (refer Maps 3.5D and E of the Policy Section), however the site is not identified within the District Plan Planning Maps as containing Special Soils (refer Planning Map 4 of the Map Section).

Adjoining sites are also lifestyle blocks of similar size, containing dwellings, glasshouses, and other small farm buildings.

The Brigham's Creek Estuary is approximately 150m wide, and marks the boundary of the Waitakere City Council. The properties on the adjoining bank are also lifestyle blocks of similar scale and character and are located within the Rodney District Council.



Figure Two: Aerial Photo Showing Location of Go-Kart Track

5.0 PROPOSAL

The applicant seeks retrospective resource consent for the construction of a go-kart track involving 97.5m³ of earthworks over an area 5.0m in width and 300m in length. Consent is also sought for the use of the track, which falls within the definition of non-residential activity. The definition of Non-Residential Activity is "any activity which is not defined as a Residential Activity or a Temporary Activity or a Prohibited Activity". The go-kart activity is not associated with living accommodation, which is the focus of the definition of Residential Activity within the District Plan. The activity is not identified as a Prohibited Activity and is not temporary in nature.

The construction of the track was undertaken over a two - three week period in May 2000 and comprised approximately 97.5m³ of earthworks, involving excavation of a 65mm depth of topsoil over the 5.0m width and 300m length of track. Upon completion of the earthworks the applicant refilled the excavated area with base course material, which was then compacted and surfaced with 60mm depth of hotmix material. The finished surface is approximately 55mm above the existing ground level, with the topsoil removed utilised to level and smooth the edge differential between the hotmix surface and the existing ground level. As such the earthworks resulted in no excess material being removed from the site.

The track is located clear of the 20m Riparian Margin as measured from Mean High Water Springs along the ground surface in accordance with the Proposed District Plan definition of Riparian Margins.

The applicant has advised that the proposed use of the track is for the private recreation use of the property owner and his guests. The applicant has proposed that the use of the track be limited to a maximum of three karts operating at any one time, for a maximum of three hours, between 12.00 pm and 6.00 pm Monday to Sunday inclusive. The karts would be fitted with noise attenuation devices in the form of an additional muffler. The applicant has stated that the noise generated by the activity will comply with the District Plan noise limitations for the Countryside environment. However Council's own noise tests indicate that the proposal would exceed the permitted noise levels on Sundays and Public Holidays.

A4-A69

The applicant consulted with property owners at 62, 86 and 88 Brigham's Lane, 26 Dale Road, and 8, 10 and 21 Kennedy's Lane prior to lodging the application, and the details of that consultation are included in the application as attached at pages A4 to A69. As a result of the consultation written consent for the activity was obtained from each of the properties, with the exception of 86 Brigham's Lane.

6.0 REASONS FOR THE APPLICATION

Consent is required under those provisions of the Transitional and Proposed District Plans for the following reasons:

6.1 Proposed District Plan

Discretionary Activity Consent for Non-Residential Activities that are not home occupations and which are not located within an existing building and where there are no retail sales, pursuant to Rule 7.4 of the Countryside Environment. The proposal is identified as a Non-Residential Activity, being an activity not defined as a Residential Activity or a Temporary Activity or a Prohibited Activity and is not located within a building and does not include retail sales.

Limited Discretionary Activity for Non-Residential Activities which do not generate more than 20 vehicle movements per day or 2% of the roads daily traffic volume, which ever is the greater on a front site and where access is not gained from a major road, pursuant to Rule 8.2 of the Countryside Environment. The proposed use of the go-kart track is for private recreation only and does not generate any additional vehicle movements to the site.

Discretionary Activity Consent for any Non-Residential Activity which exceeds the permitted noise standards, as defined in the table on page 16 of the Countryside Environment Rules pursuant to Rule 9.3 of the Countryside Environment. The use of the go-kart track exceeds the permitted noise levels of 45dBA L₁₀ for Non-residential Activities within the Countryside Environment on Sundays and Public Holidays by up to 5 dBA.

Discretionary Activity Consent for earthworks of less than 100m³ outside an approved building platform which are not for the purpose of driveway or infrastructure construction, provided that the earthworks are not for a solid waste landfill, pursuant to Rule 3.3 of the Coastal Natural Area. The proposal involved approximately 97.5m³ of earthworks, the majority of which was located within that part of the site identified as Coastal Natural Area, for the purpose of the construction of a go-kart track.

6.2 Transitional District Plan

Non-Complying Activity for any activity not listed as a predominant or conditional use within the Rural 1 Zone pursuant to Rule 12.1 of the Waitemata District Plan. The use of the site for a go-kart track is not identified as a predominant or conditional use and therefore must be assessed as a Non-Complying Activity.

6.3 Overall, the application is considered to be a Non-Complying Activity. The proposal complies with all other development controls under the Transitional and Proposed District Plans.

6.4 No other consents are required in respect of this application.

7.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

A75-A111

The application was publicly notified on Friday 25 May 2001, and the period for submissions closed on 26 June 2001. Thirteen submissions were received, including one combined submission, prepared by four separate parties. Eight submissions supported the application, and five submissions opposed the application. A copy of the submissions received is attached at page A75 to A111.

7.1 Submissions

Submissions were received from the following people:

Map Reference

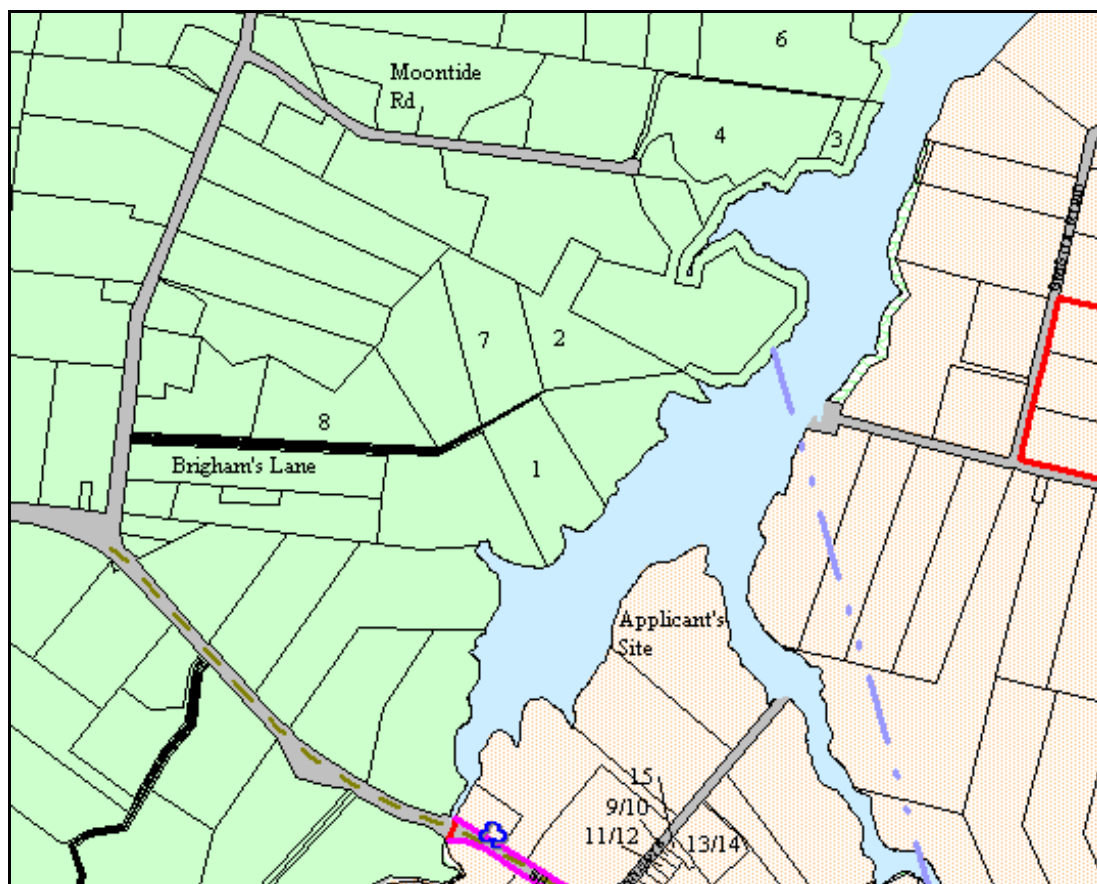
<i>A75-A85</i>	1.	G Collett and K Nye	86 Brigham's Lane, Kumeu	Oppose
<i>A86-A90</i>	2.	ID and VJ McDougall	89 Brigham's Lane, Kumeu	Oppose
<i>A91</i>	3.	T and A Marinovich*	91 Moontide Road, Kumeu	Oppose
<i>A91</i>	4.	G and M Green*	95 Moontide Road, Kumeu	Oppose
<i>A91</i>	(Not shown)	J Giles*	Moontide Road, Kumeu	Oppose
<i>A91</i>	6.	R and C Oxenham*	86 Riverland Road, Riverhead	Oppose
<i>A92-A94</i>	7.	P and S Adams	85 Brigham's Lane, Kumeu	Oppose
<i>A111</i>	8.	C and S Jones	29 Brigham's Lane, Kumeu	Oppose
<i>A95-A96</i>	9.	S Boyce	13 Kennedy's Road, Whenuapai	Support
<i>A97-A98</i>	10.	D Boyce	13 Kennedy's Road, Whenuapai	Support
<i>A99-A100</i>	11.	JD Honey	11 Kennedy's Road, Whenuapai	Support
<i>A101-A102</i>	12.	RY Honey	11 Kennedy's Road, Whenuapai	Support
<i>A103-A104</i>	13.	JS Robertson	17 Kennedy's Road, Whenuapai	Support
<i>A105-A106</i>	14.	LJ Robertson	17 Kennedy's Road, Whenuapai	Support
<i>A107-A108</i>	15.	KY and BR Barry	19 Kennedy's Road, Whenuapai	Support
<i>A109-A110</i>	(Not shown)	Guardians of the Upper Harbour	24 Pohutukawa Road, Whenuapai	Support

Key: *Combined Submission received.

A summary of the issues raised by submitters is as follows:

- Noise - duration and frequency of occurrence, whining sound, squealing tyres, revving engines.
- Exhaust smell.
- Potential to scare bird life away from the estuarine environment.
- Detrimental affects on visual amenity and natural character of local environment.
- Consideration of alternative locations.
- Ability of Council to monitor the use of the track including the type of karts used on the track and the attachment of mufflers.
- Proposed restrictions on usage (hours, days, maximum number of karts, maximum hours of racing per day).
- Ability to control future use of the track (ie. If the property is sold).
- Safety – prevention of karts crashing into the mangroves/estuary.
- Potential of pollution of Brigham's Creek if karts crashed into estuary.
- Misleading noise assessment (only one kart racing, comparisons with other activities which are expected in the rural environment).
- Potential for reduction in property value.
- Shelter belts providing partial visual screening are not on applicants property and could be removed.

Map Showing Location of Submitters



7.2 Further Information

The original application was for a retrospective Resource consent for earthworks. However, given that the proposed activity falls within the definition of Non-residential Activity, the proposal also required consent under the Rules of the Countryside Environment (as described in section 6 above). Application for and assessment against these rules was requested on 16 March 2001 and was received on 17 April 2001.

Following notification of the proposal, a review of the noise tests provided in the application was undertaken and following the pre-hearing meeting a second noise test was carried out from the notional boundary of Mr Collett's property at 86 Brigham's Lane.

A3

A full list of the dates of information requested and received is provided as attached at page A3.

7.3 Pre Hearing Meeting

A pre-hearing meeting was held on Friday, 9 November. In attendance were Mr Ivan Selak (Applicant), Ms Linda O'Reilly (Bell Gully Buddle Weir), Mr Peter Kensington (Boffa Miskell), Mr Gerald Collett (Submitter), Mr Phillip Adams (Submitter), Bronwyn Allerby (Reporting Planner), Lee Ogilvie (Team Leader) and Mr Andrew Chalton (Customer Field Advisor Health).

The purpose of a pre hearing meeting is to allow an informal opportunity for the applicant and submitters to clarify, mediate, or facilitate resolution to any of the matters raised in the application and submissions.

The meeting outlined a number of issues which would require discussion and clarification in the hearing (such as how monitoring was to be achieved, provision of a detailed landscaping plan and visual assessment from 86 Brigham's Lane) and that a second noise test, with both Mr Chalton and Mr Hegley present, should be carried out from the notional boundary of Mr Collett's property. (Note that this was subsequently arranged and carried out on Monday, 26 November.)

A116-A117 A copy of the minutes from the meeting is attached at pages A116 to A117.

8.0 STATUTORY REQUIREMENTS

The relevant policies and criteria which apply under the Transitional and Proposed District Plan and the Resource Management Act 1991 are set out in more detail in Section 9.2 of this report. This should be referred to as the legal framework within which the application should be addressed.

8.1 The Weighting of District Plans

The Act requires the consideration of both the Transitional and Proposed District Plan prior to the Proposed Plan becoming operative. In relation to this application the approach taken by both plans could be considered to be significantly different with the Transitional Operative Plan not allowing for the activity within the zone. However as determined by case law the regard to be given to the different plans can be weighed up in relation to what stage in the process of becoming operative a proposed plan is. In this case the Proposed Plan is in the final stages before becoming operative with only a few outstanding references. There are no outstanding references affecting this specific site, it's zoning, or related development controls. Any provisions of the Proposed Plan, which has been prepared under the auspices of the Resource Management Act, relevant to this proposal have been resolved via the District Plan submission and appeal process. Therefore the Proposed Plan is considered to have greater weight in this particular case.

8.2 Non-Complying Activities

As noted, the proposal requires consideration as a non-complying activity under the provisions of the Resource Management Act 1991. Section 105(2A) of the Act sets a threshold test which all resource consent applications for non-complying activities must first pass before a consent authority has jurisdiction to grant consent, having regard to the matters specified in Section 104. In short, the proposal must be able to establish and operate without generating more than minor adverse effects on the environment, or must not be contrary to the relevant objectives and policies of either the Proposed District Plan or the Transitional District Plan.

Section 104 of the Resource Management Act 1991 sets out those matters to be considered when assessing an application for resource consent. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the Transitional and Proposed District Plan. All considerations are subject to the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

The Proposed District Plan has been prepared with an "effects based" emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that all the relevant matters contained in Section 104 of the Act would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

9.0 EVALUATION IN ACCORDANCE WITH SECTION 104 OF THE ACT

9.1 Assessment of Environmental Effects (104(1)(a)): Actual and Potential Effects on the Environment

9.1.2 Water Quality and Quantity

The earthworks carried out in the construction of the track had the potential to impact on the quality of the water in the estuary due to the potential for sediment run off. The application provides details of the methodology of the construction of the track (refer page two of the applicant's Assessment of Environmental Effects for "Retrospective Land Use Resource Consent Application Requesting Permission To Undertake Earthworks Within A Coastal Natural Area"). This methodology however did not provide details of any sediment control measures, implemented during the earthworks. The area of proposed track was rotary hoed and then the top 65mm of soil was scraped aside and retained. After the hotmix material had been laid the excavated soil material was placed around the edge of the track, resulting in a smooth edge and contour between the hotmix and grass interface.

Given that only the top 65mm of soil was affected, that this material was re-used on site around the edge of the track and that the works occurred over 20m from the Mean High Water Springs of Brigham's Creek, the potential for run-off and therefore adverse effects on the water quality in Brigham's Creek is considered to have been de minimis, even though no specific sediment controls were implemented.

9.1.3 Native Vegetation, Vegetation and Fauna Habitat

The proposal does not involve the removal of or work within the drip line of any protected vegetation. However the proposed use of the track for racing go-karts has the potential to adversely impact on the quality of existing and proposed vegetation via karts losing control around the hairpin bend and running off the track, crashing into the trees and shrubs. This has already occurred on at least one occasion as described in the submission by Phillip and Sue Adams.

There are some existing crash barriers, in the form of stacked tyres, located within the shrubs, adjacent to the riparian margin. However it is recommended that further crash barriers be provided, in the form of tyres located hard up against, but not within the line of vegetation. The tyres are visually un-obtrusive and provide protection not only to the go-karts, but also to the vegetation.

Near the hairpin corner, the existing smaller shrubs are acmena species, (possibly Waterhousia or Monkey Apple), which are identified on Council's list of weed species and as such are not suitable within the Coastal Environment. A condition of consent would require the removal of the acmena and the replanting of this area with an alternative (more appropriate) species as discussed below in Section 9.1.10.

Provided these barriers/planting are in place during use of the track the potential for the karts to crash into the estuary is reduced and therefore the potential for adverse impacts on the vegetation is considered to be no more than minor.

Submitters raised concerns regarding the impact of the proposal on bird life within the Brigham's Creek estuary. These concerns have been discussed with Mr Kenneth Catt, a local representative from New Zealand Forest and Bird and Council's Ecologist, Ruth Andrews. In their opinion the proposed use of the go-karts would not adversely impact on the bird life within the estuary, due to the adaptability of bird life and the proposed restrictions on the use of the go-karts (duration and noise attenuation). As such it is considered that there are no adverse effects on vegetation and fauna habitat as a result of the proposed activity.

9.1.4 Land / Soil

As discussed the proposal involved approximately 97.5m³ of earthworks, for the purpose of the construction of a go-kart track. Given that the proposal involved the removal of the top 65mm of topsoil only, did not involve large extents of cut or fill and accordingly did not alter the topography of the site, it is considered that the earthworks activity has had a negligible effect on soil/ existing landform.

9.1.5 Air

The submission received from G Collett and K Nye of 86 Brigham's Lane, Kumeu raised concerns regarding the exhaust fumes from the racing go-karts. The engines are two-stroke engines, which run on a petrol and oil mixture similar to a lawn mower or small motorbike. Council's Customer Field Advisor Health (Mr Andrew Chalton) has advised that given that the nearest neighbouring residential dwelling is over 230 metres away, it is considered that the exhaust fumes would have sufficient distance to dissipate in the air prior to reaching any residential dwelling. This, in conjunction with the limitations on the frequency and duration of use, ensures that the effects on the quality of air as a result of the proposal would be negligible.

9.1.6 Ecosystem Stability

The proposal is located on a part of the site previously used as landscaped lawn. The proposal does not involve the removal of or alteration to protected vegetation or special soils. The potential effect on native bird life is considered to be negligible as discussed above in section 9.1.3. As the existing environment is already modified there would be no adverse effects on the stability of ecosystems as a result of the proposal.

9.1.7 Outstanding Natural Features; Landforms, Geological Sites

The subject site is identified in the Proposed District Plan as being within an area identified as containing "outstanding natural features" within the City (The site is within an area identified as having High Fertility Soils (refer Maps 3.5D and E of the Policy Section), however the site is not identified within the District Plan Planning Maps as containing Special Soils (refer Planning Map 4 of the Map Section). Given that only the top 65mm of topsoil has been removed and that the environment is already extensively modified by dwellings and associated lifestyle development, the proposed activity is not considered to have adversely affected any identified outstanding natural features.

9.1.8 Natural Character of Coast and Margins of Lakes, Rivers and Wetlands

Given that the proposal is located within the Coastal Environment it has the potential to impact on the natural character of the coast. However, the location of the track is on an area of land, which has already been modified and was previously used as a paddock and then as a landscaped open lawn. The track is set back from the coastal edge, clear of the 20m Riparian Margin and did not involve the removal or alteration of protected vegetation in its construction. The construction and use of the track does not impede or adversely affect natural processes or actions of the coastal environment.

The track can be visually screened from view from the coastal environment by appropriate planting as discussed below in section 9.1.10. In addition, as a condition of consent, existing exotic vegetation (acmena and gorse) located within the Coastal Riparian Margin is to be removed and replaced with more appropriate species, which will enhance the coastal margin. Aspects of noise are discussed below, however subject to conditions of consent the proposal can operate within District Plan noise restrictions. As such the affects of the proposed activity on the Coastal Environment are considered to be no more than minor and can be mitigated through appropriate conditions of consent.

9.1.9 Outstanding Landscapes

The subject site is not identified in the Proposed District Plan as being within an area identified as “outstanding landscape” within the City (refer Map 3.6B). The site is already extensively modified and therefore the proposed activity would not adversely affect any identified outstanding landscapes.

9.1.10 Amenity Values - Health and Safety, Landscapes, Local Areas and Neighbourhood Character

Noise

Noise was raised by the submitters as a concern and in particular because of the current, unrestricted use of the track. The applicant has proposed that the use of the track be limited to a maximum of three karts operating at any one time, with hours of operation restricted to between 12.00 pm – 6.00 pm for a maximum of three hours on any one day. In addition the karts would be fitted with an additional muffler device to reduce the noise emitted.

A112-A115

The application included a noise report prepared by Hegley Consultants Limited dated April 2001. Noise tests were taken at the nearest dwelling to the go-kart track, (other than the applicant’s house), located on the opposite side of the Brigham’s Creek estuary. Given that the Noise report provided with the application was based on the operation of one go-kart, and the application applies for the operation of three go-karts, a review of the report and separate noise readings were carried out by Council’s Customer Field Advisor (Health), Mr Andrew Chalton. A copy of his report and noise readings are attached at pages A112 to A115 along with a copy of the permitted noise levels for the Countryside Environment.

The noise readings were taken primarily for comparative purposes, in calm weather on Friday, 19 October, from the same location as the readings taken by the applicant’s acoustic engineer. The results were consistent with the readings provided by Hegley Acoustic Consultants taking into account the additional two karts. Mr Chalton advised that three karts would generate between 47-50dBA L₁₀.

As discussed further noise testing was carried out on 26 November 2001 by both Mr Chalton and Mr Hegley. These noise readings were taken at the notional boundary of Mr Collett’s property at 86 Brigham’s Lane, being a point 20m from (and on the go-kart track side) of the dwelling. Again the noise readings were taken on a clear, calm day. Testing was carried out with one muffled kart, two muffled karts, and two muffled and one un-muffled karts racing to compare and enable an assessment of noise levels with three muffled karts racing. Mr Chalton advised that three muffled go-karts would generate 49.5dBA L₁₀, with the permitted levels being 50dBA L₁₀ from 7.00 am to 7.00 pm Monday to Saturday inclusive.

The noise readings were taken in accordance with New Zealand Standard 6801:1991 “Measurement of sound” and New Zealand Standard 6802:1991 “Assessment of sound” as per the requirements of Rule 1.4 of the General Noise Standards of the Proposed District Plan. Although some of the neighbouring properties are located within the Rodney District, the applicable noise rules to assess the activity against are those applying to the site of the noise source, being the Rules of the Waitakere City Council Proposed District Plan.

The noise readings confirm that the proposed activity (being a maximum of three karts racing at one time, with additional muffler devices attached) can meet the Proposed District Plan Daytime Noise Requirements for Monday to Saturday inclusive, but would exceed the maximum District Plan noise levels stated for Sundays and Public holidays. Therefore, in order to mitigate the potential noise effects of the proposal the following conditions would be imposed should consent be granted:

- There shall be no operation of the karts on Sunday's or Public Holidays;
- The maximum number of karts will be limited to three operating at one time;
- And each kart must have the additional muffler device attached as described in the application (Assessment of Environmental Effects Additional Information to Assist in the Assessment of a Go-kart Track Activity within the Countryside Environment - page five).

As stated, the application proposes that the use of the track will only occur between the hours of 12.00 pm (noon) and 6.00 pm, with the maximum duration of the activity on any one day being three hours. These restrictions on the use of the karts will be enforced via conditions of consent.

In addition to the above, Council's Customer Field Advisor (Health) has recommended that the karts be used no more than three days per week, Monday to Saturday inclusive. However given that the operation of the go-karts can comply with the District Plan Maximum Noise Rules and the effects on the rural amenity are no more than minor it is considered inappropriate to further restrict usage during the week.

It is considered that the above restrictions on the use of the go-karts will allow sufficient time for the enjoyment of the applicant's hobby without creating a nuisance to neighbouring properties in terms of noise.

In order to monitor the operation of the activity the applicant will be required, via a condition of consent, to maintain a logbook of all use of the go-kart track and to provide this logbook upon request of the Council. This will enable any complaints regarding the use of the track to be accurately checked and compliance with the conditions confirmed or enforced. The keeping of a log book relies on the honesty of the Consent Holder, however, Council would, through its enforcement officers, investigate any complaints regarding the use of the track outside the permitted time period. In order to gauge the extent of the use of the track, the logbook would be required to be submitted to Council, every three months for the first year. These conditions of consent will be reviewed 12 months after the date of consent or sooner if deemed necessary by the Manager Resource Consents in order to assess their effectiveness.

Visual Amenity and Screening

The track is partially visible from directly across the estuary and in particular from properties at Brigham's Lane. While not in use the track itself does not adversely impact on the visual amenity of the site or surrounding area. The track is not visually obtrusive being only 10mm higher than the original ground level and over 230m from the nearest neighbouring dwelling. It is not illuminated, constructed of reflective material or bright colours. The track is constructed of hotmix, which is a commonly used surfacing for driveways and manoeuvring areas in lifestyle blocks.

It has been submitted that the use of the track detracts from the visual amenity and natural character of the area. However the area has already been extensively modified through clearance to create farmland, introduction of exotic vegetation and the establishment of lifestyle blocks and associated buildings and development.

Existing vegetation is located to the north and north west of the track, as well as on the opposite side of the estuary. On the applicants site planting consists of naturally occurring riparian vegetation, exotic weed species such as gorse and additional planting which the applicant has undertaken including eucalyptus, karo, acmena and camellia. This vegetation provides some visual screening of the site and track, however it is still visible through the trunks of the eucalyptus trees, above the Acmena, which is located near the hairpin end of the track. A site visit was undertaken with Council's Landscape Architect (Mr Gordon Griffin) on 30 October 2001 to assess the existing planting in terms of its effectiveness in providing a visual screen. Council's Landscape Architect recommended that the Acmena and gorse be removed from the riparian margin given that they are identified as environmentally damaging species and that the Acmena be replaced with more suitable coastal species such as Pittosporum crassifolium, or karo, similar to the existing planting further north along the applicant's boundary. This planting would be required to be undertaken as a condition of consent to ensure that an unbroken visual barrier between the subject site and adjacent sites would be achieved. The Acmena species to be removed is approximately 0.7m high and therefore the impact on visual screening through its removal is considered to be negligible.

It is also recommended that the visual screening effect of planting be increased by planting larger, preferably native coastal trees, at about 10 metre intervals, in the existing grassed area adjacent to the riparian margin and on the bank down to the estuary. In addition to tree species, lower species including manuka, kumerahau, and karamu, would also be suitable to plant in the area nearer the water. This planting will not only increase the visual screening of the site, it will enhance the coastal edge increasing the effectiveness of the planting in the esplanade area and strengthening its natural values. The planting will be imposed via conditions of consent, requiring the applicant to submit a landscape plan to be approved by Council's Landscape Architect. The minimum size of vegetation to be planted would be pb28 to give an instant height and visual screening of approximately 1.0 -1.5 metres.

Given that the track is partially screened by existing vegetation on both sides of the estuary and that this planting is to be enhanced via condition of consent and that the use will be restricted through further conditions of consent (hours, days, number of karts) the potential impacts on the visual amenity of the area by the track whilst in use are considered to be adequately mitigated so as not to generate any more than minor adverse effects. It should be noted that although vegetation does not provide any significant noise attenuation, the better the screening of the activity the lesser the extent of perceived noise.

As discussed the applicant does not propose to use any additional crash barriers, other than those already in place, in the form of stacked tyres and vegetation. The stacked tyres are not visually obtrusive, being located within the shrubs on the edge of the grass, and visible only from the applicants property, however as previously stated additional crash barriers in the form of tyres would be required.

Traffic Generation

Kennedy's Road is a no exit local road designed to cater for the properties accessed off it. The proposal is for the private use of the track by the property owner and his guests. It is not intended to be used for commercial or competitive racing. A condition of consent would enforce this. As such the activity itself does not generate additional vehicle movements to or from the site and therefore is not considered to impact on the safety or amenity of the road.

9.1.11 Heritage

There will be no adverse effects in respect of heritage items as the proposed activity would not be located near, or impact on any identified heritage item.

9.1.7 Summary

It is the report writer's opinion, that the potential adverse effects of the proposed activity are no more than minor, and can be adequately mitigated through appropriate conditions of consent. Further, having regard to the meaning of the word 'effect', the potential adverse effects are such that this activity can meet the requirements of Section 104(1)(a).

9.2 District Plan Considerations (104(1)(d)): Relevant Objectives, Policies, Rules and other provisions of a Plan or Proposed Plan

As discussed in Part 7 of the report the Proposed Plan is considered to be the dominant document and discussion of the proposal in relation to the objectives, policies and rules of the District Plan has therefore been limited to those of the Proposed Plan.

9.2.1 Proposed District Plan

9.2.1.1 Assessment Criteria

The assessment criteria relating to the proposed activity have been addressed in the effects discussion under Section 9.1 above and therefore will not be discussed in full detail, however a brief assessment against the relevant criteria is provided below.

Non-Residential Activities

7(a)

The extent to which Non-Residential Activities compromise the landscape character.

The existing landscape has already been extensively modified through clearance to create farmland, introduction of exotic vegetation and the establishment of lifestyle blocks and associated buildings and development. The track itself is not considered to compromise the landscape character, as it is not visually obtrusive given its size and construction materials. The use of the track will be visually screened by existing planting, which is to be enhanced via conditions of consent. The track will not be used intensively throughout the day. Furthermore the track is for private recreational use and not for commercial gain. As such the proposed activity is not considered to compromise the landscape character.

7(c)

The extent to which Non-Residential Activities fragment the neighbourhood character of the surrounding area.

The property and surrounding sites are lifestyle blocks containing a mixture of semi-rural and recreational activities. The location of the track was previously used as landscaped outdoor lawn area adjacent to other recreational uses on site such as the tennis court. Given that the use is purely private and does not change the use of the site as a whole, the proposal is not considered to fragment the neighbourhood character of the surrounding area.

7(d)

The extent to which the activity would lead, on an individual or cumulative basis, to pressure for urban expansion and the fragmentation of rural character and amenity.

As for 7(c) above. In addition the proposal does not create pressure for urban expansion given that it is for private, recreational use and does not require connections to any infrastructure.

Traffic Generation

8(a)

The effects of traffic generation on the capacity of roads giving access to the site, having regard to the road's function in the Roding Hierarchy, the safety of road users, including cyclists and pedestrians, the safety and efficiency of road intersections, the extent to which trips from the urban area are generated by activities that may be more appropriately located in the urban area, landscape character and amenity values.

As discussed Kennedy's Road is a no exit local road designed to cater for the properties accessed off it. The proposal is for the private use of the track by the property owner and his guests and would not generate additional vehicle movements to or from the site and therefore is not considered to impact on the safety or amenity of the road.

Noise

A112-A115

The following comments with regards the assessment criteria for noise have been provided by Council's Customer Field Advisor (Health), Mr Andrew Chalton and are based on the noise readings taken by him on 19 October 2001 and 26 November 2001 as attached at pages A112 to A115.

9(a)

The extent to which background noise level (L95) in the vicinity of the subject site affects the relevance of noise standards for permitted activities.

Background noise levels are dependant on a number of factors such as weather conditions, traffic volumes and types, seasons and wildlife (such as Cicadas in Summer). Background noise can influence the accuracy of noise readings for a specific activity. If background noise is high it can interfere with the noise reading for a particular activity.

The main influences of background noise levels at this particular site is the weather, due to the location of the site away from major roads and other noise sources. Hence the reason why the noise readings were taken on still, calm, days.

9(b)

The extent to which noise generated will exceed the existing background level.

On a still calm day, background noise readings are likely to be in the range of 30-35 dBA and therefore the go-karts would exceed the background noise levels by 10-15 dBA. On a windy day, background noise levels could be as high as 45-50dBA and therefore the extent to which the noise from the go-karts would exceed the background noise would be minimal and difficult to determine and therefore be less noticeable, given the interference of the background noise.

9(c)

The extent to which the noise generated will meet the provisions of New Zealand Standard New Zealand Standard 6802: 1991 "Assessment of Environmental Sound" clauses 4.2.1 and 4.2.2.

The rules contained within the Proposed District Plan were developed in accordance with the above standards and have been tailored to the particular environment within which an activity occurs (ie. maximum noise levels within an industrial environment will be greater than that of a residential environment). The proposed activity, being the racing of a maximum of three go-karts between the hours of 12.00 pm to 6.00 pm, for a maximum of three hours per day would comply with the Countryside Environment noise limits for Monday to Saturday inclusive, but exceeds the Countryside Environment noise limits on Sunday's and Public Holidays when the permitted noise level is lower. Noise levels contained within the Plan are purposefully lower on Sunday's and Public Holidays when people are generally not working and expect to be able to enjoy their time off. Intrinsic to this expectation, is an anticipation of "peace and quiet", hence the proposed restriction of the use of the karts on these days.

9(d)

The extent to which adequate noise buffers are provided between the activity and residential and other noise sensitive activities on other sites.

The nearest dwelling, with the exception of the applicants own house, is approximately 300m from the go-kart track, however the track is located adjacent to the Brigham Creek estuary, which provides no buffering of noise to dwellings located on the other side of Brigham's Creek. Vegetation on the edge of the estuary and to the edge of the property provides minimal noise attenuation.

As outlined previously the applicant proposes to achieve greater noise attenuation by the attachment of additional mufflers to the go-karts. The racing of three go-karts, with additional mufflers attached, around the track would comply with the Proposed District Plan noise requirements for Monday to Saturday inclusive, but would exceed the maximum noise levels for Sundays and Public Holidays. As such potential adverse effects from the noise emitted from the proposed activity are considered to be no more than minor.

Earthworks

3(a)

The extent to which earthworks adversely affect the overall resilience, biodiversity and integrity of the Green Network.

As the earthworks did not involve the removal of protected vegetation and did not alter the topography of the site, the overall resilience, biodiversity and integrity of the Green Network is not considered to be adversely affected.

3(b)

The extent to which earthworks adversely affect the potential for restoration or enhancement around the area of earthworks.

The earthworks occurred in an area of grassed paddock and therefore did not involve the removal of protected vegetation. A large area remains around the edge of the track and the property, which could be utilised, for restoration or enhancement planting.

3(f)

The extent to which earthworks reduce the extent, range and linkages between vegetation, fauna habitat and natural features.

The earthworks did not require the removal of native vegetation and therefore the extent, range and linkages between vegetation, fauna habitat and natural features is not reduced.

3(g)

The extent to which earthworks adversely affect the significance or landscape value or natural character of natural landscape elements and other natural features.

Although the site is identified as being within an area of High Fertility Soils on Map 3.5(E) of the Policy Section of the District Plan, the site is not identified as containing Special Soils within the Maps Section of the District Plan and the site is not currently used for productive purposes, but rather as a rural lifestyle block. The removal of the top 65mm of soil from the site in the construction of the track is not considered to create adverse effects on the significance or landscape value or natural character of natural landscape elements and other natural features.

3(h)

The extent to which earthworks exacerbate or contribute to flooding, erosion or instability of land, or the potential for flooding, erosion or instability of land.

The site is not identified as being subject to flooding, erosion or instability, and the removal of the top 65mm of soil from the site is not considered to exacerbate the potential for flooding, erosion or instability of land.

3(i)

The extent to which earthworks exacerbate or contribute to degradation of natural watercourses in a way that destroys or reduces their ability to support in stream vegetation and fauna; their ability to be used as a healthy food source; their clarity, quality or flow or their suitability for swimming.

Given that only the top 65mm of soil was affected, that this material was re-used on site around the edge of the track and that the works occurred over 20m from the Mean High Water Springs of Brigham's Creek, the potential for run-off and therefore adverse effects in terms of degradation of natural watercourses is considered to have been de minimis.

3(j)

The extent to which earthworks adversely affect the visual amenity of the site or adjoining sites.

The earthworks were carried out in order to construct a sealed track for the racing of go-karts. The track itself is not considered to create an adverse visual effect on the amenity of the site or surrounding properties. It is constructed of similar materials to that of many sealed driveways, which are a normal feature of lifestyle blocks in the area.

3(k)

The extent to which earthworks may harm the health and safety of residents.

Given the distance of the track from adjoining properties (it is over 230m to the nearest neighbouring dwelling) the works are not considered to have had the potential to harm the health and safety of residents.

3(l)

The extent to which heavy vehicle traffic generated to the site by earthworks activities creates: adverse effects on amenity values and neighbourhood character, a situation hazardous or unsafe to road users or physical damage to roads.

The earthworks did not result in any soil material being transported to or from the site and therefore did not generate any additional vehicle movements

3(n)

The extent to which proposed earthworks are necessary to accommodate development otherwise permitted by the Plan.

The proposed earthworks were necessary to construct a go-kart track, the use of which is also subject to this Resource Consent.

3(o)

The extent to which earthworks are avoided.

The earthworks were limited to the volume and extent, required to construct the track.

3(p)

The extent to which unavoidable earthworks are minimised.

As for 3(o) above.

3(q)

The extent to which the duration of earthworks is minimised.

The earthworks were carried out over a two to three week period.

9.2.1.2 Policies and Objectives

The relevant objectives and policies in relation to this proposal relate to maintaining the amenity of the coastal and rural environment, prevention of nuisance to neighbouring properties and avoiding adverse effects on the roading network.

Noise

Policy 10.2 states that activities should not emit noise such that it causes a nuisance to occupants of surrounding properties.

As discussed, conditions of consent will limit the frequency and duration of the use of the track to between 12.00 pm and 6.00 pm, Monday to Saturday and limit the number of karts racing to a maximum of three at a time. Given that the use can meet the District Plan noise restrictions for the Countryside Environment for these times and that the most sensitive times, being mornings, evenings and Sunday's and Public holidays are avoided, the activity is not considered to create a nuisance or a significant reduction in aural amenity to surrounding properties.

Amenity Values

In relation to the proposed activity Policy 11.10 states that Non-residential activities should be designed and managed in a way that maintains the visual amenity values of the Environment they are in.

Policy 11.30 states that Non-residential activities in the non-urban areas of the city should be of a type, scale and intensity that will not, on an individual or cumulative basis, lead to adverse effect on the maintenance and enhancement of rural landscape and amenity values.

The site is already highly modified through clearance to create farmland, introduction of exotic vegetation and the establishment of lifestyle blocks and associated buildings and development. Given that there is existing vegetation on site which provides screening of the track and that through conditions of consent this vegetation is to be enhanced (visually and in terms improving the appropriateness of species within the Coastal Environment) the rural landscape and its amenity values are considered to be maintained.

Traffic Generation

Policy 10.14 states that activities should be of a scale and located and managed in a way that:

- Any traffic generated by the activity, including heavy traffic, does not detract from the capacity of the road to cater safely for motor vehicles, pedestrians and cyclists, and the well being of residents occupying surrounding sites;
- The safe and efficient functioning of the road network is not adversely affected.

The proposal does not generate additional vehicle trips to or from the site and therefore is not considered to impact on the safe and efficient functioning of the roading network.

Sediment Run Off

Policy 1.8 states that activities should be carried out in a way that avoids, remedies or mitigates, so minimising, the movement of soils minimises the depositing of soils and sediment and other contaminants into receiving waters, and the degradation of water quality in a way that destroys or reduces their:

- Ability to support in stream vegetation and fauna;
- Ability to be used as a food source;
- Clarity, quality and flow, and suitability for swimming.

There is no evidence that the construction of the track resulted in adverse effects via sediment run-off and given that the cut material was reused on site around the edge of the track, the movement of soil was kept to a minimum.

Summary

A1

It is considered that the proposed development would be consistent with the objectives and policies of the Proposed Plan. The Proposed Plan is "effects-based" in its approach to natural and physical resources and it has been demonstrated in the previous environmental assessment of effects that subject to conditions any adverse effects arising from the proposal would be insignificant or no more than minor. A summary of the relevant policies is provided as attached at page A1.

9.3 Any Other Matters the Consent Authority Considers Relevant (104(1)(i))

9.3.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report

Submitters also raised concerns regarding the potential affect on property values, the ability to control the future use of the track, the removal of shelter belts/visual screening, and whether or not the applicant had considered alternative locations.

Property Values

Concern has been expressed through submissions in relation to an anticipated reduction in property values for sites surrounding the development. Strictly speaking, the Resource Management Act does not recognise this as an effect. If, as is discussed in the report, the proposed development would not give rise to any significant adverse effects or compromise the existing amenity values and character of the surrounding neighbourhood, then a causal reduction in property values would not be expected.

Consideration of Alternative Locations

It is not evident from the application as to whether or not the applicant considered alternative locations for the track, either on site or at any other property. It is considered that siting the go-kart track in an alternative location on site would result in similar effects as those generated in the current location, given the size of the property and its topography. Given that effects can be mitigated in the current location, it is considered that no further assessment of alternative locations is required. In addition, the Resource Management Act requires that the application be assessed as submitted.

Provided the activity is carried out in accordance with the conditions of consent, which control the hours and days of operation and require further planting for visual screening, the activity can meet the noise requirements of the District Plan, and it is considered that all adverse effects would be effectively mitigated to a level where they would be no more than minor.

Removal of Shelter Belts

One of the submitters raised concerns regarding the removal of shelter belts currently providing screening of the activity. It appears from the submission that the shelter belts are on a third party's property (ie. not the submitter's or the applicant's property) and if this is the case, the submitter is correct in that Council can not enforce the retention of these trees through conditions imposed on this consent. However it is noted that via conditions of consent Council is imposing additional planting on the applicant's site, which will provide additional visual screening of the activity. As a condition of consent the vegetation shown in the landscaping plan would be required to be maintained in order for the use of the track to be in accordance with the Resource Consent.

Future Use of Track

Resource Consents apply to the land on which an activity takes place, and are not owned by the person who applies for the consent. Therefore if the property is subsequently sold the resource consent stays with the land and the operation of the activity by the new owner would be subject to the same rules and conditions, as well as being subject to Section 10 (Existing Use Rights) of the Resource Management Act.

9.3.2 Monitoring

The performance of the activities under this consent will be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis. In particular, attention is likely to be directed toward the implementation of conditions relating to the frequency of use of, and control of noise emitted from, the go-karts. A six monthly review of the conditions controlling the use of the go-karts will be included to enable the effectiveness of the conditions to be monitored and conditions altered if necessary.

9.4 Auckland Regional Policy Statement (104(1)(c))

The Auckland Regional Policy Statement sets out the broad resource management issues, objectives and policies for the Auckland Region to achieve the integrated management of its natural and physical resources. The Policy Statement functions as an umbrella policy document for environmental planning and policy development within the region under which the Proposed Waitakere District Plan has been prepared.

The Regional Policy Statement includes land adjacent to the coast from which surface drainage may flow directly to the Coastal Marine Area as a feature of the coastal environment. Policies within the Regional Policy Statement reflect the need to avoid where practical, or remedy or mitigate adverse effects from development on the natural character of these areas and to avoid, remedy or mitigate adverse effects from sediment discharge to waterways. Relevant policies include; 7.4.10.2(i), (iii), (v), (viii); 7.4.10.7; 7.4.10.8; 7.4.16.1; and 8.4.7.3. The impact on the natural character of the Coastal Environment and the potential for sediment run-off has been addressed through the assessment of effects contained within Section 9 of this report. Given that the natural character of the area has already been highly modified and that landscaping is proposed (with modifications and enhancement via conditions of consent) and that the earthworks were effectively contained on site through the re-use of material on site, and the distance of the works from the coastal edge, the proposal is considered to mitigate adverse effects from development on the natural character of the coast and to avoid, adverse effects from sediment discharge to waterways and therefore be consistent with the policies of the Auckland Regional Policy Statement.

9.5 Regional Plan or Proposed Regional Plan (104(1)(f))

The Proposed Auckland Regional Plan: Coastal was notified in September 1999. The purpose of the document is to promote the sustainable management of the natural and physical resources of the coastal environment of the Auckland Region. The document includes objectives, policies and rules for specific Management Areas (such as the Port, Auckland Airport and Coastal Protection Areas) as well as policies regarding land use and development, particularly in sensitive environments such as rural areas or coastal environments. Relevant policies include Natural Character 3.4.1, 3.4.2, 3.4.3, 3.4.4, Landscape 4.4.3, 4.4.5, Natural Features and Ecosystems 5.4.5, 5.4.6, General 10.4.5, 10.4.6, 10.4.14, and 10.4.15. The Regional Plan contains policies to protect the coastal environment and although earthworks have already been completed, as discussed, there is no evidence that the works resulted in any significant adverse effect on the coastal environment.

Auckland Regional Council has recently notified the Auckland Regional Council Regional Plan for Air, Land and Water. This document is specifically designed to manage the effects of development on the natural environment on a Region wide basis. The policies of relevance to this application relate to the preservation of natural features and protection of sensitive ecosystems. Relevant policies include Natural Character 2.1.4.1, 2.1.4.2, Natural Features 2.1.4.4, Ecosystems and Habitats 2.1.4.8, Landscape 2.1.4.11, 2.1.4.12, Use and Development 2.2.4.1, 2.2.4.2, 2.2.4.5, 2.2.4.6, and Amenities 2.2.4.7. The proposed development would not be contrary to the policies and objectives of this document. The site has been subdivided and developed as a rural lifestyle block and is not being used for productive purposes. The proposed activity would be associated with the permitted residential use of the site and accordingly is considered to be a legitimate use of the site that would not result in the fragmentation of the rural environment.

10.0 PART II OF THE ACT

The purpose and principles of the Act have primacy over all other considerations that are set out in Section 104 of the legislation. In summary, Sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Act requires that amenity values and the quality of the environment are to be maintained and enhanced.

Section 5 in Part II of the Act identifies the purpose of the Act as being the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment as demonstrated through the assessment in Section 9 of this report.

It is considered that the proposal is consistent with sustainable resource management. In particular this proposal is concerned with the sustainable management of the Countryside Environment in such a way that the quality of the environment and amenity values of the neighbourhood are maintained.

The proposal would allow for the establishment and use of a go-kart track that subject to conditions would be able to establish and operate in such a way that the amenities of the neighbourhood would not be adversely affected.

The proposal is not considered to adversely affect any matters of national importance. It is considered that the adverse effects arising from the proposal and the proposed mitigation are limited in significance to the surrounding neighbourhood.

Section 7 identifies a number of "other matters" to be given particular regard by Council in the consideration of any assessment for resource consent, and includes the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal will enable the establishment of a private recreational activity without significantly compromising the needs of future generations or the life supporting capacity of natural resources such as air, water and soils. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment.

As such it is considered that the proposal would be consistent with Sections 5, 6, 7 and 8 of the Resource Management Act 1991 in that any adverse effects on the environment can be avoided, remedied or mitigated through conditions of consent and the amenity values and the quality of the environment can be maintained and enhanced.

11.0 EVALUATION IN ACCORDANCE WITH SECTION 105 OF THE ACT

The threshold test in Section 105(2A) of the Act states that a consent authority must not grant consent to a non-complying activity unless it is satisfied that the adverse effects on the environment will be minor (105(2A)(a)) or the activity will not be contrary to the objectives and policies of a plan or proposed plan (105(2A)(b)). As discussed in Section 7.0 of this report very little weight shall be given to the objectives, policies and rules of the Transitional Plan as the Proposed Plan is considered to be the dominant document.

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies section 105(2A) in that subject to appropriate conditions of consent the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the Proposed District Plan. Jurisdiction to grant consent has therefore been established.

12.0 CONCLUSION

The applicant seeks consent for the use of a go-kart track by up to three go-karts at any one time and retrospective resource consent for 97.5m³ of earthworks over an area 5.0m in width and 300m in length. The subject site is located at 16 - 18 Kennedy's Road, Whenuapai and is zoned Rural 1 within the Transitional District Plan and Countryside Human Environment and General and Coastal Natural Areas within the Proposed District Plan.

It is considered that the proposal meets the criteria for granting consent as the potential adverse environmental effects are no more than minor and can adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment and operation of a Go-Kart Track will not lead to a decline in the amenity values of the area in which it seeks to locate.

The proposal is considered to be consistent with the objectives and policies of the Proposed District Plan, which seeks to maintain the amenity of the coastal and rural environment, prevent nuisance to neighbouring properties and avoid adverse effects on the roading network.

It is considered that the threshold test for a non-complying activity has been met as the proposal satisfies Section 105(2A) in that subject to appropriate conditions of consent the adverse effects on the environment of the proposal will be no more than minor and the proposal is not contrary to the relevant objectives and policies of the Proposed District Plan.

It is considered that the issues raised by the submitters can be adequately addressed through the imposition of appropriate conditions.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **merits consent** in accordance with Sections 104 and 105 of the Resource Management Act 1991.

RECOMMENDATIONS

That pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, consent be **granted** to the application by Ivan Selak for **the use of a go-kart track by up to three go-karts at any one time and retrospective resource consent for 97.5m³ of earthworks over an area 5.0m in width and 300m in length subject to conditions at 16-18 Kennedy's Road, Whenuapai, being Lot 4 DP 63327 for the following reasons:**

- (i) Earthworks carried out in the construction of the track are considered to have been minor with a cut depth of only 65mm and the material being reused on site either side of the track to provide a smooth contour from hotmix seal to grass. The potential for sediment run off was minimised through the minimal depth of cut, the minimum 20m setback from the waters edge, and the re-use of material on site in the construction.
- (ii) The amenity of the existing environment is not considered to be adversely affected given the existing modification to the site and surrounding area, the visual screening provided by the existing and proposed planting and the restrictions imposed on the use of the track.
- (iii) Provided the activity does not occur on Sundays or Public Holidays, and subject to conditions controlling frequency and duration of use and the muffling of go-karts, the proposal can operate within the Proposed District Plan, Maximum Noise Restrictions for the Countryside Environment.

- (iv) The proposal is generally consistent with the objectives and policies of the Proposed District Plan and Part II of the Resource Management Act.

Consent shall be subject to the following conditions:

1. The development shall proceed in accordance with the documents titled "Assessment of Effects Retrospective Land-use Resource Consent Application Requesting Permission to undertake earthworks within a coastal natural area" dated March 2001 and "Assessment of Environmental Effects Additional Information to assist in the assessment of a go-kart track activity within the Countryside Environment" dated April 2001 prepared by Boffa Miskell Limited through Bell Gully and all referenced by Council as RMA 20010399 and the information and all further information submitted with the application.
2. The use of the go-kart track shall be restricted to the following:
 - (a) The use of the karts shall be restricted to the private use by the property owner and invited guests.
 - (b) No more than three (3) go-karts may be used, raced, revved or operated at any one time.
 - (c) All of the go-karts used on the property are to be fitted with the additional muffler device as described in the application (Assessment of Environmental Effects Additional Information to Assist in the Assessment of a Go-kart Track Activity within the Countryside Environment - page 5).
 - (d) The go-karts shall not be used, raced, revved or operated on Sundays or Public Holidays.
 - (e) The go-karts shall only be used between the hours of 12.00 pm (noon) to 6.00 pm.
 - (f) The go-karts shall not be used for more than three (3) hours on any one day.
 - (g) Noise emissions from the use of the track shall comply with Rule 9.1 - Noise, of the Countryside Environment of the Proposed District Plan.

All of the above shall be to the satisfaction of the Manager Resource Consents.

3. The Consent Holder shall maintain a logbook of the use of the track, recording the dates and times of the use of the track. The logbook shall be produced upon request of Council.
4. A copy of the log book, required through condition three above, shall be lodged with the Manager Resource Consents every three (3) months, up to the completion of the first year of the activity, following the date of the consent.
5. The go-kart track shall not be used for commercial purposes.
6. Within six months of the commencement of the consent and every six months thereafter, the Council may initiate a review under Section 128 of the Resource Management Act 1991, of Condition 2 of this consent. The purpose of such review will be to confirm the effectiveness of restrictions imposed on the operation of the go-kart track, particularly with regard to frequency of use and noise emissions.
7. Additional crash barriers in the form of stacked tyres are to be provided adjacent to the line of planting to provide a continuous barrier along the edge of the vegetation adjoining the estuary, to the satisfaction of the Manager Resource Consents, prior to the commencement of the activity.

A2

8. The Acmena and gorse currently located within and on the edge of the riparian margin as identified on the attached plan at page A2, shall be removed within three months of the date of this consent.
9. A landscape plan shall be submitted to Council for the approval of the Manager Resource Consents within 3 months of the date of this consent. All new vegetation shall be a minimum of pb28 grade. The vegetation planted near the edge of the grass is to be provided with marker stakes positioned either side of each plant to prevent damage by motor mowers. The landscape plan shall show the species, grade and location of planting to occur within and along the edge of the riparian margin including;
 - (a) Planting along the edge of the riparian margin to provide enhanced visual screening of the site with suitable coastal species such as Pittosporum crassifolium, karo, Griselinia lucida, pukapuka, Hedycarya arborea, pigeonwood, Myrsine australis, mapou
 - (b) Planting of (preferably native) coastal trees at approximately 10 metre intervals, in the existing grassed area and on the bank down to the estuary to increase the width of the planted area. Suitable species include agathis australis, kauri, Dacrycarpus dacrydioides, kahikatea, Dacrydium cupressinum, rimu, Metrosideros excelsa, pohutukawa, Podocarpus totara, totara, Metrosideros robusta, Northern rata, Corynocarpus laevigatus, karaka, Dysoxylum spectabile, kohekohe, Knightia excelsa, rewarewa, Pittosporum eugeniioides, lemonwood, Laurelia novaezealandia, pukatea, Nestegis cunninghamii, black maire, Vitex lucens, puriri.
10. The approved planting plan shall be implemented in the first planting season (May till September) following granting of resource consent with replacement planting carried out in the following planting seasons, as necessary, until the planting has established.
11. To ensure the performance of Conditions 8 and 9 the consent holder shall pay a performance bond of \$1,500 to Council.
 - (i) The bond shall be paid prior to the commencement of the use of the go-kart track and shall be either in the form of cash or bank guarantee to the satisfaction of the Council Solicitor. The consent holder shall meet any costs associated with the preparation of the bond document.
 - (ii) The bond shall be held for a minimum period of 24 months. The bond shall be released when in the opinion of the Manager Resource Consents, Condition 8 has been satisfied. The consent holder shall meet any cost incurred by Council in preparing, checking, assessing and releasing the bond.
12. A consent compliance monitoring fee of \$500.00 (inclusive of GST) shall be paid to the Council. This fee is to recover the actual and reasonable costs incurred ensuring compliance with the conditions of this consent. If, on inspection all conditions have not been satisfactorily met, a re-inspection shall be required at a further cost of \$75.00 per hour (inclusive of GST).

The \$500.00 fee shall be paid as part of the resource consent and the resource consent holder shall be advised of any further monitoring fees if they are required.

Report prepared by: Bronwyn Allerby, Resource Planner.

