

Before the Independent Hearings Panel

In the Matter of the Resource Management Act 1991

And

In the Matter of the Canterbury Earthquake (Christchurch Replacement
District Plan) Order 2014

And

In the Matter of the Proposed Christchurch Replacement Plan
**(Proposal 21: Specific Purpose (Ruapuna
Motorsport) Zone)**

Legal Submissions on behalf of The
Canterbury Car Club Incorporated

3679/FS5035

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Introduction

1. The opening legal submissions are presented on behalf of The Canterbury Car Club Incorporated (**Car Club**) (submitter 3679/FS5035) on the Specific Purpose (Ruapuna Motorsport) Zone (**Zone**).
2. The Car Club has operated the Raceway at Ruapuna Motorsport Park (**Motorsport Park**) for over 55 years on land owned by the Council. The evidence of Mr Cowan outlines the background to the Car Club and the Raceway.
3. The Car Club and the Council have reached agreement in respect of the Zone. The evidence in chief of Mr Cowan and rebuttal evidence of Mr Thomson acknowledge this agreement. The Council's Revised Proposal attached to the rebuttal evidence of Mr Thomson reflects the agreed provisions between the Car Club and Council (**Agreed Provisions**).
4. Accordingly, there are no outstanding issues between the Council and the Car Club.
5. Given this agreed position, we only briefly outline some of the relevant findings of the Environment Court on Plan Change 52 (**PC52**) to provide some context to these proceedings and address the matters raised by Quieter Please (Templeton) Incorporated (**Quieter Please**) in its statement of evidence.

Plan Change 52

6. As the Panel will be aware, the Motorsport Park has been the subject of PC52, a lengthy plan change process which had arisen as a result of complaints from neighbours about the effects from motorsport activities at the Park. PC52 sought to:

“address the noise emissions from the Motorsport Park which since 2004 have created problems for residents living nearby, whilst at the same time not unreasonably restraining the use for the Motorsport Park for its intended purpose.”¹

¹ *Quieter Please (Templeton) Inc v CCC* [2015] NZEnvC 167 (First Interim Decision) at paragraph [1]

7. The Environment Court decision did not address the land use component of existing and potential uses of the Motorsport Park.
8. The Environment Court issued its final decision on PC52 in March 2016. We understand the final provisions will be made operative by the Council shortly.
9. To provide some context to the present proceedings, we note the following findings of the Environment Court:
 - (a) The Motorsport Park is an important facility within the region and it is appropriate to refer to the regional importance in the objective to reflect this.²
 - (b) Overall, in most wind conditions noise levels between the 55 and 60 dB contours will be reasonable for the activity levels enabled by the Council, Car Club and Speedway provisions.³ Those occasions when there are light-moderate north-westerly conditions do not occur frequently enough to warrant a different conclusion.⁴
 - (c) The provisions agreed between the Council, Car Club and Speedway comprise an “appropriate mix of potentially available measures and controls”, including a reduced operating hours, quiet Mondays, noise free weekend days, and a noise management plan.⁵ The mitigation measures for noise control other than the level of noise will, in conjunction with the noise level standards, result in a reasonable noise environment for residents between the Inner and Outer Noise Boundaries.⁶
 - (d) There was no evidence at the hearing to suggest that the activities listed in Table 4⁷ will cause unreasonable noise.⁸

² *Quieter Please (Templeton) Inc v CCC* [2015] NZEnvC 167 (First Interim Decision) at paragraph [65]

³ *ibid* at paragraph [124]

⁴ *ibid*

⁵ *ibid* at paragraph [125]

⁶ [127]

⁷ Table 4 provides for all activities not listed in Tables 1, 2, and 3 including operation of any PA system, maintenance or management of the Motorsport Park, pilot vehicles used to manage or control activities, vehicles entering, parking within or leaving the Motorsport Park

⁸ *Quieter Please (Templeton) Inc v CCC* [2016] NZEnvC 12 (Second Interim Decision) at paragraph [46]

Matters Raised by Quieter Please

Objectives

10. The Agreed Provisions add two further objectives to the objective decided by the Environment Court.
11. Objective 21.10.1.1 which was decided by the Environment Court recognises that the Motorsport Park is an important regional facility for motorsport as well as training and recreational activities, while ensuring noise effects are managed.
12. Proposed new Objective 20.10.1.2 recognises that the Park provides a range of ancillary and accessory community and cultural uses which will assist in maintaining the viability of the park and contribute towards providing for the social wellbeing of the community.
13. New Objective 21.10.1.3 seeks to control other adverse effects which are not addressed by Objective 20.10.1.1.
14. Quieter Please suggests the provisions decided by the Environment Court cannot be revisited and the additions may open the door to appeals and breach clause 4(3) of the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014 Order (**Order**).⁹
15. We agree that under clauses 4(3) and 4(4) of the Order any change to the operative City Plan while the Order is in force is deemed to be part of the Replacement Plan and only changes of minor effect can be made to those plan changes.
16. However, in our submission the additional objectives in the Agreed Provisions do not amend the objective decided by the Environment Court nor breach clause 4(4), instead they add two separate and necessary objectives to ensure the Zone can stand alone as a Specific Purpose Zone.
17. PC52 only had the narrow scope of addressing noise effects and was drafted to fit within the operative City Plan where the Motorsport Park is in Open Space 3 Zone. The Open Space 3 Zone has a number of other objectives and policies relating to matters other than noise which have not

⁹ Quieter Please Statement of Evidence at page 4

been carried through to the Park's Specific Purpose Zone in the Replacement Plan.

Proposed Reserves Act Policy

18. In its statement of evidence Quieter Please proposes an additional policy which recognises the Park as a public reserve with public access.
19. Quite apart from any issue scope for Quieter Please's proposed policy, the Reserves Act 1977 (**Reserves Act**) governs whether public access is provided at the Motorsport Park.¹⁰
20. Section 17 requires that every recreation reserve is administered so that the public has freedom of entry and access, subject to the Council, among other things, exercising its powers section 54 which enables the imposition of such conditions and restrictions necessary for the protection and control of the public using the reserve.
21. Section 54 of the Act provides for leases of recreation reserves including leases for the carrying on of any trade, business, or occupation on any specified site within the reserve.¹¹ The Car Club's current lease is granted in accordance with that section.
22. We also note there is public to access to the Motorsport Park subject to paying any necessary entry fees like any other major sporting facilities. However, in our submission complete unrestricted public access would create obvious health and safety issues given the nature of the main activities at the Park.
23. Accordingly, in our submission it is inappropriate to include a policy in the Replacement Plan which requires public access when this is a matter controlled by the Reserves Act.

Permitted Activities

24. The Car Club has sought a flexible zone which in the context of the Environment Court's noise provisions also provides for a range of non-motor racing activities that already occur at the Raceway including driver training, motor racing vehicle fabrication and repairs facilities and

¹⁰ Section 17 and 54 of the Reserves Act 1977

¹¹ Section 54 of the Reserves Act 1977

recreation activities, and will enable the Car Club to explore opportunities for new non-noisy activities, including cultural facilities and some conference/function facilities.¹²

25. We note the operative Open Space 3 Zone already provides for recreation activities and accessory administrative, social, professional and retail activities at the Motorsport Park.
26. Quieter Please is opposed to any increase of activities at the Park.¹³
27. Quieter Please suggests the hours of operation of the conference and function facilities extend well beyond the limits placed on the Park by the Environment Court.¹⁴
28. In our submission this is incorrect. The PC52 provisions decided by Environment Court only specifically limit the hours of operation for activities which are controlled by Tables 1-3. Noise from conference and function facilities would be required to comply with the Table 4 noise limits which allows activities, subject to any specific activity standard, to operate 24 hours a day so long as they comply with the lower night time limit between the hours of 2200-0700.
29. Quieter Please also considers there will be an increase in noise and traffic effects as a result of retail activities and cultural facilities being permitted activities.¹⁵
30. In our submission these activities will not increase the “noise bucket” decided in PC52. These activities are required to comply with the low noise limits in Table 4 which given the actual separation distances the activities are unlikely to be heard at any nearby dwellings.¹⁶
31. These noise limits are almost identical to the noise limits for the Rural and Residential Zones in the proposed general noise rules.¹⁷ Therefore the noise from activities which comply with Table 4 can be no louder than the noise emitted from a permitted activity in the Rural Zone.

¹² Evidence in Chief of Keith Cowan at paragraph 91

¹³ Statement of Evidence of Quieter Please at page 4

¹⁴ Statement of Evidence of Quieter Please at page 4

¹⁵ Statement of Evidence of Quieter Please at page 4

¹⁶ Rebuttal Evidence of Stuart Camp at paragraph 3.3

¹⁷ Rebuttal Evidence of Stuart Camp at paragraph 3.1

32. Quieter Please also considers there will be an increase in traffic as a result of the permitted activities. Mr Milne for the Council confirms that the traffic effects from any ancillary conference/function would not be significant¹⁸ and Mr Camp does not expect any significant noise effects from traffic from vehicles leaving functions.¹⁹

Motor Racing Vehicle Fabrication and Repairs Facilities

33. Quieter Please has singled out motor racing vehicle fabrication and repairs facilities and considers an increase in those facilities will add to the “noise bucket” and are more appropriately located in a commercial or industrial zone.²⁰
34. Any noise effects from these facilities will be minimal as they are required to comply with the noise limits in Table 4.²¹
35. In our submission these facilities are not more appropriate in a commercial or industrial zone. As discussed in the evidence of Mr Cowan these facilities are specifically for motor racing vehicles and close proximity to the Racetrack is important to the process of repair and testing of these vehicles on the track.²²
36. In any event these facilities cannot be a predominant part of the Motorsport Park as they must be ancillary or accessory to the motor racing activities and comply with the floor area limit, and the Car Club is not aware of any complaints about the current facilities.²³

Definitions

37. Quieter Please in its statement of evidence opposes the Car Club’s Stage 2 submission (2358) on the definition of “motorised sports facility”. Quieter Please did not make an original submission on the definition of “motorised sports facility” or a further submission on the Car Club’s submission.
38. Accordingly, Quieter Please does not have scope to address the definition of “motorised sports facility” or oppose the Car Club’s submission.

¹⁸ Rebuttal Evidence of Andrew Milne at paragraph 6.1

¹⁹ Rebuttal Evidence of Stuart Camp at paragraph 6.4

²⁰ Statement of Evidence of Quieter Please at page 5

²¹ Rebuttal Evidence of Stuart Camp at paragraphs 4.3 and 4.4

²² Rebuttal Evidence of Keith Cowan at paragraph 16

²³ Rebuttal Evidence of Keith Cowan at paragraph 15

39. However irrespective of the scope issue, like Quieter Please, the Car Club does not want a permanent go-kart track at the Motorsport Park as there is not room in the “noise bucket” for this type of facility.²⁴ Any ad hoc use of the Racetrack by go-karts would be required to comply with the Table 1 noise limits and would use up allocated days.²⁵

Alcohol and the Motorsport Park

40. Quieter Please refers to the sale of alcohol at the Motorsport Park in its Statement of Evidence.²⁶
41. Contrary to the allegations by Quieter Please, as outlined in the evidence of Mr Cowan, the Car Club is a responsible host who does not promote irresponsible alcohol consumption and acts in accordance with its liquor licence.²⁷
42. The Sale and Supply of Alcohol Act 2012 addresses the effects of alcohol related harm. In our submission it is not appropriate to control the sale, supply or promotion of alcohol through the Zone provisions as these are matters dealt with by the licensing process under that Act.

Conclusion

43. The Motorsport Park is a recreational facility of regional importance which for the first time in its planning history has a stand alone zone. Consequently that zone must be complete and provide for the full range of activities that occur at the Park and offer the opportunity to explore non-noisy opportunities in the post PC52 environment subject to the noise provisions that were decided by the Environment Court.
44. In our submission the Agreed Provisions meet these needs.
45. The Car Club is very much constrained by the noise provisions decided by the Environment Court. Any new motorsport activities are required to fit within the allocated noisy days and any new non-noisy activities are required to comply with the low Table 4 noise levels. Therefore any new

²⁴ Rebuttal Evidence of Keith Cowan at paragraph 27

²⁵ Rebuttal Evidence of Keith Cowan at paragraph 26

²⁶ Statement of Evidence of Quieter Please at page 4

²⁷ Rebuttal Evidence of Keith Cowan at paragraphs 18-24

activities will not increase the “noise bucket” as Quieter Please alleges nor is there evidence of any other adverse effects.

46. Taking into account the provisions decided by the Environment Court, in our submission the proposed new objectives in the Agreed Provisions are the most appropriate way to achieve the purpose of the Act and the Agreed Provisions are the most appropriate way to achieve those objectives.

Witness

47. **Mr Keith Cowan**, who gives evidence on behalf of the Car Club regarding the background of the Car Club and Raceway, the facilities and operation of the Raceway today, the PC52 process from the Car Club’s perspective, the future for the Car Club and the Car Club’s position in relation to the Zone.

Dated this 20th day of May 2016



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