

In the matter

of the Resource Management Act 1991 (Act)

And

In the matter of:

of an Application by **THAMES COROMANDEL DISTRICT COUNCIL** for a comprehensive resource consent for festivals and events at Williamson Park, Whangamata

DECISION OF HEARING COMMISSIONER
21st day of November 2018

DECISION OF HEARING COMMISSIONER:

INTRODUCTION:

1. The Thames Coromandel District Council (Council) has applied for land use consent to hold festivals and events at Williamson Park, Whangamata over a period of 15 years.
2. I have been appointed as an independent Commissioner by Council as consent authority to hear and determine the application.
3. The application was publicly notified and drew 191 submissions of which 96 opposed, 81 in support, 11 in part support and 3 were neutral. As can be seen from the number of submissions received the application generated a great deal of interest in the Whangamata community.
4. A hearing was held in Whangamata on the 24th and 25th of October. Those persons who attended the hearing and presented submissions and evidence are listed in the schedule **attached** to this decision. Prior to the hearing, I undertook a site visit and I am generally familiar with Williamson Park from previous visits.
5. I closed the hearing on the 9th of November after receiving further acoustic evidence and the applicant's closing submissions.
6. To assist me to decide the application, I received and read the following documents;
 - The application and supporting assessment of environmental effects (AEE).
 - The submissions in support and those opposing the application.
 - A s42A Report prepared by an independent consultant planner.
 - The further submissions and evidence presented at the hearing.
7. For completeness I should mention that as Commissioner I granted consents for two previous applications allowing two music events at Williamson Park in 2017 and three events in 2018, subject to conditions.

THE APPLICATION:

8. This application has been triggered by Council's relatively recent Proposed District Plan review in which under proposed rule 7 a resource consent is required for any festival or event where more than 500 people will be onsite. I will have more to say about rule 7 later in this decision but it can be considered the main reason why

Council has filed the current consent application to allow for events to take place in Williamson Park.

9. Rule 7 reads as follows;

Rule 7 festival, event

*A festival, event, and any noise from it, is a **permitted activity** provided:*

- a) Electronically amplified noise and vehicle noise at the notional boundary of adjacent sites from 10pm is no louder than 40 dB LAeq (15 min) and 70 dB LAF max; and*
 - b) It occurs between the hours of 7am-10pm Sunday-Thursday and 7am-12 midnight Friday and Saturday; and*
 - c) The noise of any helicopter associated with the festival, event complies with the standards in NZS 6807: 1994 Noise Management and Land Use Planning for Helicopter Landing Areas (excluding Section 5: Land Use Planning); and*
 - d) No buildings are erected (under this rule) that remain after the festival, event finishes; and*
 - e) It lasts no longer than 12 consecutive hours; and*
 - f) There are no more than 500 people on the site.*
- 2. A festival, event that is not permitted under Rule 7.1 is a restricted discretionary activity.*
- 3. The Council restricts its discretion to matters 1-3, 6-7, 12 and 13 in Table 6 at the end of Section 53.*

Note

- 1. After 10pm the Council may apply excessive noise provisions under sections 326-328 of the RMA if noise, particularly electronically amplified noise, is excessive for the location and event.*
- 2. The Council recommends event planners contact the Area Manager prior to the festival, event.*

10. The Application originally sought consent for 20 day and 7 night events per year for 15 years at Williamson Park. Prior to the hearing and in direct response to concerns raised in submissions, Council modified the application to seek consent for;

- 20 day events per year between 7am and 7pm.

- 6 night events between 4pm and 11.15pm (with music finishing at 11pm).
 - 1 New Years Eve event from 4pm (31st December) until 12.30am the following day (1 January).
 - Of the 7 night events, 3 would be fenced and ticketed events meaning access to the venue could be restricted by fencing off the venue site within the park.
 - There would be no fenced and ticketed events over the Christmas/New Year period from the 25th of December to the 4th of January in each year. It is intended the New Year Eve event will be a no charge family orientated event with no alcohol sales.
11. The intention behind seeking consent for 20 day events and 7 night events is to allow for the continuation of past events that have taken place on Williamson Park over a number of years and also to allow some flexibility as to other types of events to be staged.
12. Some of the past historic events have been the Whangamata Summer Festival held over the Christmas period from 26 December to the 5th of January since the 1980s and has included various kinds of entertainment such as triathlons, day time markets and night time music concerts. Other events that have been held in the past have been the Beach Hop which is a motor vehicle and cultural festival lasting 1-2 weeks in March/April, the Brits at the Beach again another motor vehicle event and the Surf Club events and Whanga Week held over the Christmas holiday period involving fun runs, thunder cat racing and harbour swims and surf carnivals. Many of these events attract a crowd of between 1,000 to over 10,000 people.

STATUS OF THE APPLICATION:

13. There are two district plans that currently need to be considered for deciding this application. There is the Operative Thames Coromandel District Plan and the Thames Coromandel Proposed District Plan Appeals Version.
14. Although festivals and events are permitted on Williamson Park under both plans subject to meeting specific performance standards, this Application does not meet the parking and noise standards in the Operative Plan, or the time and noise standards or the crowd limit of no more than 500 people prescribed under rule 7 of the Proposed Plan.

15. This application therefore is to be considered as a discretionary activity under the Operative Plan and a restricted discretionary activity under the Proposed Plan. Overall, the more restrictive category applies so the Application is to be considered as a full discretionary activity.
16. As to what weight is should give to both plans when assessing this Application I consider greater weight should be given to the Proposed Plan. This is because it sets out the more recent policy direction of Council and that the one outstanding appeal against rule 7 in the Proposed Plan is in relation to an unrelated traffic management issue.

LEGAL CONSIDERATIONS:

17. The legal framework for considering this application is relatively straight forward. As a discretionary activity I am obliged to consider under s104 and s104B of the RMA the actual and potential effects of the proposed activities including the cumulative effects, any offset or compensation offered by the Applicant for any adverse effects caused by the proposal, what the relevant planning provisions say about this type of proposal and any other relevant matters, all of which are to be evaluated against the Acts purpose and principles in Part II of the RMA.

BACKGROUND:

18. The historical background and the chain of events leading up to this Application play an important part in providing context to the application.
19. Back in 1929 Williamson Park was donated to Council's predecessor the Thames County Council by a Mr Phillip Williamson on behalf of the Williamson Family as "a Public Park and Recreation Reserve for the use of the Public for ever". The transfer was from Mr Williamson's wife Madeline Williams to the Council.
20. Later through an exchange of letters between Council and Mr Williamson, Mr Williamson made it clear he did not want the park to become a commercial or residential area¹. At the hearing I heard from Ms Beamish-White, a close relative of the Williamson family who explained how there was an expectation by the Williamson family and friends that the park was not to be used for commercial activities.

¹ Letter dated 17th February 1962.

21. Moving to more relatively recent times, in the 1980s Whangamata as a growing seaside resort began experiencing unruly behaviour from some visitors over the New Year period. In response, a community group established the Whangamata Summer Festival to provide a focus for holiday makers over the Christmas/New Year period in the form of events and night concerts in Williamson Park. Other events have followed such as Beach Hop and Whanga Week which as mentioned involves a series of sporting and fun community events held between boxing day to New Years day. There is now a history of such events being held in the park primarily over the summer period.
22. In more recent times and to give effect to Council's economic strategy to support tourism through the funding of major events, Council sought and was granted consent to hold two concert events over the 2016/17 summer period and three concert events over the 2017/18 period. These concerts were mainly successful in terms of public support except for an electronic music concert where local residents complained they had to put up with excessive noise and unruly behaviour from some attendees in a sell out crowd.
23. After the relative success of these night time concerts, Council decided to seek consent for both day events and night concerts with sufficient flexibility to hold events in the "shoulder seasons" in order to expand tourism beyond the peak holiday periods. It worked closely with the Whangamata Community Board to develop the scope of the application and after consultation with the local community it filed the current application.

THE EXISTING ENVIRONMENT:

24. Williamson Park is 3.76ha in size and is surrounded on 3 sides by residential development. Within the park is located the Whangamata Surf Life Saving Club, a café, public toilets and a small covered community stage. Access is provided through the site to the surf club and café, with a car park located in the middle of the site. The majority of the site is retained in grass with clusters of trees including pohutukawa and norfolk pine trees.
25. The Applicant is not seeking to rely on existing use rights in relation to past events but an associated issue arose during the hearing as to whether the past use of the park for the staging of events could be taken into account as part of the existing

environment for assessing the effects of this application. As a result of rule 7, many of the regular events can no longer take place without a resource consent if the numbers attending exceed 500 people. For this reason I do not believe the regular staging of those events in the past can form part of the existing environment. However nothing turns on this as I can take into account the historic use of the reserve for various activities as a relevant matter under s104(1)(c) of the RMA.

26. I can also take into account that festivals and events are generally permitted within the reserve subject to meeting performance standards including the 500 people limit as part of the permitted base line under s104(2).

HOW COUNCIL PROPOSES TO EXERCISE THE CONSENT:

27. At the hearing the applicant explained through its witnesses how it intended to operate the consent and outlined the likely effects of doing so.
28. At a higher level Council intends to exercise the consent generally in accordance with the Whangamata Community Boards recent 2018 Policy on the use of Williamson Park. That policy sets the constraints that are to apply to different events including for example, of the 7 night events for which consent is being sought 3 will be allocated to professional promoters to be delivered as ticketed events outside the 25 of December to 4th of January period. These constraints are to be reflected in the conditions proposed by the Applicant.
29. Instead of excluding the public from having access to large areas of the reserve in order to hold ticketed events as has occurred previously, the applicant has identified an area of approximately 2ha within the park which will be fenced off for a period not exceeding 24 hours prior to the event and no later than 4pm the following day. This will allow approximately 1.5ha of the park to remain available for public use. Restricted vehicle access will remain available for Surf Club access while the fencing is in place.
30. Where a series of ticketed events may be held over a two week period, the fencing would be reduced to secure specific assets such as the temporary stage, portaloos and food tents.
31. Council also intends to restrict crowd numbers attending ticketed events to 6,000 people. In order to manage other operational matters associated with the running of

events, the applicant proposes that a traffic management plan be required for every event and a site management plan for ticketed concerts, both to be approved by Council.

32. As to managing noise, the applicant proposed the following noise limits;

- Electronically amplified noise as measured at the adjacent notional boundaries of an adjacent site should not exceed 40dB LAeq (15 min) and 70dB LAeq max between 10pm and 7am the following day.
- However for 6 concert events per year and up to 11pm, amplified music should not exceed a level of 95dB LAeq when measured at 35m from the stage.
- For New Years Eve and up to 12.30am the following day, the levels should not exceed 95dB LAeq when measured at 35m from the stage.
- Apart from the concert events there was to be no noise limits imposed for day events which is consistent with rule 7.

33. Overall the applicant's case is that by modifying the scope of the Application and having an appropriate set of operational conditions, the primary concerns raised by submitters relating to noise, amenity effects and restricting access to the park are adequately addressed. Both the applicant and submitters in support of the Application say that a balance needs to be achieved between allowing events to continue in the park which brings both economic and social benefits to the Whangamata Community and respecting the amenity values of those living in the neighbourhood. They say the application as currently framed will achieve that balance, subject to a small degree of limited tolerance on the part of the residence.

CONCERNS RAISED BY SUBMITTERS:

34. The importance of this proposal to residence in the area is reflected in the evidence presented to me at the hearing. Many of the submitters belonged to or supported the case presented by the Friends of Williamson Park Society or represented themselves at the Hearing.

35. The Society made its position clear from the beginning that it supported the use of the park for the community activities and events that has previously taken place over many years but objected initially to loud ticketed events involving rock concerts that required security fencing restricting access to large areas of the park.
36. When I asked whether they would therefore accept heavy metal band concerts or rap music in place of rock concerts, the Society amended its relief to seek the exclusion of privately promoted commercial concerts with restricted access, and lower noise limits than sought by the applicant. Otherwise the Society did not object to the 20 day events or the 7 (un-ticketed) night events sought by the applicant.
37. In support of its position, the Society contended that the commercial use of the park for concerts flies in the face of what the park was originally intended to be used for, namely for public enjoyment and not for private commercial gain. Mr Tremaine, Planning Consultant for the Society, outlined in his evidence how both the Reserves Act and the Reserve Management Plan for Williamson Park emphasised that recreation reserves and in this case Williamson Park should be used for outdoor recreation activities, along with public freedom of entry and access to the reserve in question. Mr Tremaine referred to the general Objective in the Reserve Management Plan for Whangamata which reads;

To prevent activities from occurring that would have an adverse impact on the natural environment and amenity values of a reserve or would significantly detract from the enjoyment of other reserve users.

He says the fencing off of the reserve for commercial concerts with loud noise would offend this objective.

38. Mr Williams, Counsel for the Society submitted that rule 7 is not an anomaly. It was purposefully adopted by Council to control events with more than 500 people to protect the amenity values of neighbourhoods.
39. I also heard from a number of neighbouring property owners for the Society or individually who described how they have had to put up with excessively loud music and disorderly behaviour from ticketed concerts particularly the electronic music concert in 2018. They all strongly opposed the fencing off of the reserve for up to 2

weeks over the busy holiday period to enable the ticketed concerts to be held. They said this restricted the public from enjoying the full use of the park.

40. The Society called an acoustic expert Mr J Styles who considered the noise limits sought by the applicant to be too high, inappropriate and un-reasonable. Mr Styles disagreed with the noise limits proposed by Mr N Hegley the acoustic expert called by the applicant, and considered noise levels within the limits recommended by Mr Hegley of between 85dB and 95dB LAeq emitted over a period of time to be untenable for neighbouring dwellings. Mr Styles considered lower noise limits should be set and measured at residential boundaries rather than at a distance from the stage as recommended by Mr Hegley. Mr Styles further suggested that noise limits should apply also to day events and not be limited to night events.
41. As can be seen, there was a marked difference between the two experts as to what would be appropriate noise limits to be imposed as conditions of any consent granted. As I was faced with deciding between two conflicting opinions on what is a specialist technical subject matter, I requested Mr Hegley and Mr Styles to conference to see if they could narrow their differences and to suggest a set of agreed conditions for managing noise effects.
42. Although the experts were unable to reach consensus I did receive a helpful Joint Witness Statement setting out two sets of proposed noise conditions with an explanation as to the reasons for the differences in the recommended conditions. I will consider the joint statement later in my decision.
43. Overall the main concerns raised by submitters opposing the Application related to the impact of having private commercial concerts on the amenity values of the surrounding neighbourhood, restricting public access to Williamson Park, loud noise and unruly behaviour, and the commercialisation of the reserve for private gain. The residents wanted to see the park used and enjoyed by the whole community rather than having its use limited on a commercial basis to targeted audiences to the exclusion of others.

CONSIDERATION OF THE APPLICATION:

44. It is obvious from the history associated with Williamson Park that it has become the focal point for a variety of events and recreational activities over the summer season at Whangamata.

45. Although this application has generated keen debate within the Whangamata community, the issue for me to decide is a relatively narrow one namely where should the line be drawn in order to allow events to continue to be held in Williamson Park without causing an unacceptable impact on the amenity values of the surrounding neighbourhood and without placing unreasonable restrictions on the public's use and enjoyment of the reserve.
46. Nobody disputes the park should not continue to be used for community activities and events. It is the type of events to be allowed is where the dispute lies.
47. The Applicant and those supporting the application say that allowing 3 private evening concerts per year under strict conditions within the wider mix of allowing 7 night and 20 day time events strikes the appropriate balance between protecting the amenity values of residents and delivering the broader community benefits associated with events and festivals being held at Williamson Park.
48. The majority of submitters opposing the application including the Friends of Williamson Park Society say that the "line in the sand" should be drawn to exclude privately promoted events involving restricted access.
49. For the purpose of helping me to assess the application, I am also in receipt of a comprehensive s42A Report prepared by an independent consultant planner Mr S Grace. That report recommends that consent should be granted for 20 day events and 7 night events but the commercial use of the park should be limited to 1 ticketed and fenced event only in order to maintain public access to the reserve, a key issue raised in submissions.
50. In deciding this application, I need to be careful I focus on the effects of the modified application and what the documents including the Reserve Management Plan for Whangamata say about the purpose of passive recreation reserves and the activities that can be undertaken on those reserves, rather than the type of music event that should be allowed under the consent, a common theme raised in submissions. As Counsel for Applicant submits in his closing submissions, the characteristics of holding community events including any proposed New Years Eve concert with free access are indistinguishable from privately promoted concerts except for the security fencing.

51. Further, the type of music concert to be allowed is not a relevant consideration in my view. The consenting process should not be used as a form of licencing to authorise music genres considered acceptable for staging in the park. In any case music popularity is always changing from generation to generation. From Vera Lynn singing to troops in WW II, to rock concerts, to story telling through hip hop or rap music. The point here is the focus should be on assessing the impact of holding up to 3 fenced and ticketed events on the publics use and enjoyment of the reserve and on the amenity values of the area around Williamson Park.
52. I will begin by looking at the reasons why the Society and other submitters are seeking to exclude ticketed events from the reserve.

Ticketed events are more likely to give rise to excessively loud noise:

53. The Society is seeking lower noise levels for the 7 evening events than the noise limits proposed by the Applicant and for all day events to be subject to noise limits. As a result of the conferencing between the acoustic experts, the Applicant now agrees with the Society that all events covered by the consent should be subject to noise controls. However the experts were unable to agree on the appropriate noise levels that should apply.
54. In their joint statement, Mr Hegley is critical of Mr Style's recommended levels as being too restrictive and that groups may not be able to comply with Mr Styles' suggested night time limit of 80dB LAeq (5min), and that his lower limit of 60dB LAeq for day time festivals and events would not allow any noise beyond low background music which would exclude festivals with modest noise levels from taking place.
55. As a result of conferencing, Mr Hegley has revised down his earlier recommended noise limits in the application by approximately 3dB and now recommends that the noise levels for the 7 evening events should have a limit of 85 dB LAeq as measured within any residential boundary, and that for day events the limits should be 80 dB LAeq for 5 events and 75 dB LAeq for the remaining 15 events.
56. Mr Hegley considers the upper limit of 85 dB LAeq for evening concerts will allow normal concerts to be held in the park but exclude noisy concerts such as the electronic music concert of 2018 that upset many residents.

57. In considering the two sets of noise conditions recommended by each expert, I am conscious the conditions need to allow for various forms of entertainment with amplified music but protect the residents from excessive noise. I am satisfied the conditions recommended by Mr Hegley will achieve that balance without discouraging events being held in the park due to the risk of non-compliance. In that respect I find the limits recommended by Mr Styles to be too restrictive.
58. Overall, I am satisfied that noise from festivals and events held in the park can be appropriately managed under the noise conditions recommended by Mr Hegley. Those conditions would apply to all events covered by the consent so there can be no distinction between privately promoted concerts and other concerts or events held in the park. All events are expected to comply with the noise limits.

That privately promoted commercial concerts/events with restricted access should be excluded from the park:

59. This was a constant theme in many submissions for two main reasons. Firstly a number of submitters contended that allowing the park to be used for private commercial activities is contrary to the gifting of the park to Council "to be held as a public park and recreation reserve for the use of the Public forever", as recited in the Memorandum of Transfer back in 1929.
60. I am unable to accept that argument. Although I acknowledge the Williamson family and friends may have had an expectation that the park would not be used for commercial activities, ie to respect the spirit in which the park was originally donated, there appears to have been no legal constraint on the type of activities that could be conducted on the reserve at the time of its conveyance to Council's predecessor the Thames County Council. The reserve still remains as a public reserve in accordance with the original gifting intent. There is in my view a clear distinction between allowing the reserve to become a commercial or residential area and retaining the reserve as a public reserve where some temporary commercial activities can take place for public enjoyment. In this respect I note that the park has often been used in the past for various festivals and events which have a temporary commercial component to them such as fairs and market days. Even the holding of a community concert on New Years Eve has a commercial element with the promoter/artists, I assume, expecting to receive payment for their work.

61. Although I am entitled to have regard to the purpose of the reserve at the time it was established under s104(1)(c) as a relevant matter, I give that aspect little weight in deciding this Application.
62. The other issue of greater significance raised by many submitters and one that deserves close consideration is that the fencing off of a large part of the reserve places an unreasonable restriction of the public's freedom of entry and access to the reserve contrary to the Reserves Act and the Reserve Management Plan for Williamson Park.
63. I accept the scope of the Application has narrowed somewhat since it was notified and the Applicant is now seeking consent for 3 out of 7 night events to be privately promoted concerts with restricted access, but nevertheless the submitters remain opposed to any events that involve a restriction on public access. Their main concern related to their ability to access the park during the summer season at a time the park is most used and enjoyed.
64. I heard evidence from a number of residents who described how they were unable to enjoy the park or gain access to the beach as a result of privately promoted commercial concerts with restricted access being held in the park over the past 2 years². I was presented with photographs showing the extent to which the park had been fenced off for those concerts as well as photographs of a large temporary stage constructed in the park near Ocean Road.
65. I heard evidence from Mr Tremaine, planning consultant for the Society who referred me to various provisions in the Proposed District Plan and the RMP for Williamson Park to support his proposition that restricting public access to the park is not contemplated under those documents. Mr Tremaine's assessment can be summed up at para 5.21 of his evidence where he states;

There is nothing in the purpose of this reserve that would indicate the type of activities being proposed by the consent application. When the events and festivals take place, Williamson Park will not be an area of open space with outdoor recreational value for the enjoyment of the public. It will be for the enjoyment of those attending the festival or event only. Whilst some of these types of events may be encompassed by the purpose of the reserve, for example sporting events and other activities that are open to the public, the

² 2 in 2016/17 and 3 in 2017/18.

scale, character and nature of the festival and events outlined in the consent are not consistent with the purpose of the reserve.

Mr Tremaine considers that commercial concerts with restricted access is an activity more suited to the Recreation Active zone rather than the Recreation Passive zone.

66. In response, Counsel for the Applicant Mr Muldowney referred me to the Reserves Act which clearly allows Council the right to grant exclusive use of part of Williamson Park for commercial concerts³, and also the RMP for Whangamata which again contemplates recreation reserves can be used for approved commercial activities. Counsel rejects the Society's argument that commercial ticketed concerts are better suited to the Recreation Active Zone and points to the fact that festivals and events are a permitted activity in the Recreation Passive Zone.
67. I agree with Mr Muldowney's submissions that there are no legal constraints in the Reserves Act or the RMP for Williamson Park which would prevent Council from allowing any part of Williamson Park to be fenced off for a commercial concert or that such events should not take place in the Recreation Passive zone. However I believe the issue concerning limiting public access to reserves still needs to be considered in the context that the general purpose of a recreation reserve is to allow for open public access. In considering this application it is the cumulative effects of what is being sought including the restriction on public access to a large part of Williamson Park for up to 3 times a year that I need to evaluate.
68. If I stand back and look at the scope of the application, I consider most of the submitters including the society who oppose the application have taken a measured approach in the relief they are seeking. They are saying they are prepared to accept the cumulative effects of having 20 day events and 7 night events take place in the park in each year, mainly in the summer time when the park is most used, but not for commercial concerts where the public is excluded from the full use and enjoyment of the park.
69. Although rule 7 of the Proposed District Plan may seem unduly restrictive, particularly by requiring consent for festivals and events with over 500 people in a popular holiday resort area such as the Coromandel, rule 7 does have a purpose namely the control of festivals and events to manage effects on the amenity values of a surrounding neighbourhood. Rule 7 is supported by objectives and policies in s22

³ See s53 and 54 Reserves Act.

(Recreation Area) of the Proposed Plan which generally recognised the need to maintain amenity values of adjacent areas in the development of a recreation area.⁴ I consider seeking consent for 15 years to hold festivals and events in a recreation reserve to be a form of development of a recreation area. The Reserve Management Plan for Whangamata is relatively neutral in terms of addressing offsite amenity effects, and although it does recognise that commercial events can be held in a reserve there is also an emphasis on the provision of open access to reserves for public enjoyment.

70. I acknowledge the Applicant has sought to mitigate the effects of holding commercial events with restrictive access to 3 out of 7 night events in a defined area of the park, and that where a series of events is to occur over a 2 week period perimeter fencing would be relocated to secure the event assets only. Nevertheless I consider the line should be drawn at 1 fenced and ticketed event per year rather than 3. My reasons for reaching that conclusion are that the holding of 3 such events, possibly over a 2 week period would place an unreasonable restriction on the ability of the public to access and utilise the park to its fullest extent, even though access would be restricted temporarily and not over the Christmas/New Year period. The ticketed concerts are still likely to occur during the busy summer months when the park becomes the focal point for general public use and enjoyment.
71. When looked at in isolation, the 3 ticketed events may seem acceptable but on a cumulative effects basis the restriction on access associated with ticketed events becomes an additional effect. When viewed in that light, I consider the appropriate balance is to allow 1 concert event with restricted access annually outside the Christmas New Year period. The restriction on public access would only occur for a relatively short period of 48 hours for 1 occasion in each year, which is not an unreasonable intrusion on the public's ability to access the park. However due to the public popularity of the park as described to me by many submitters, I consider any greater level of restriction of public access to be unacceptable.
72. In reaching my decision to allow 1 event with restricted access to be held in the park, I accept the recommendation in the s42A Report and the reasons supporting that recommendation.
73. As to other effects associated with holding festivals and events in the Park if this consent is granted such as traffic, lighting and security, I am satisfied they can be

⁴ Objective 2.

managed through appropriate conditions. The sale of liquor in the park was opposed by some submitters but that requires a separate process and approval under the Sale and Supply of Alcohol Act 2012.

PLANNING DOCUMENTS:

74. I now wish to address briefly the relative planning documents. I have received evidence from 3 planning experts, each of whom has provided me with an analysis of how the planning framework should be applied and what the recommended outcome should be.
75. I have earlier referred to the relevant objectives and policies of the Proposed District Plan and the purpose of rule 7 as well as outlining what the RMP for Whangamata contemplates in terms of activities and public access. I have also had regard to the relevant provisions of the other planning documents that I have been referred to by the planning experts. There is nothing in any of those planning documents that would persuade me to reach a different conclusion to granting consent for 20 day events and 7 night events subject to conditions but limited to 1 fenced and ticketed event per calendar year.

OTHER RELEVANT MATTERS AND OFFSET COMPENSATION:

76. Under s104 I'm obliged to have regard to any other relevant matters and any offset compensation offered in addition to considering the likely effects on the environment if this application is granted and any planning provisions.
77. The other matters I have had regard to are the history of Williamson Park, the past use of the park for various festivals and events, and the Reserves Act and the Reserves Management Plan for Whangamata. Apart from those matters there are no relevant matters I should consider. There is also no offset compensation to be considered in this matter.

PART II ASSESSMENT:

78. One of the reasons for seeking consent to allow 3 fenced concert events to take place in the park is to provide economic benefits to Whangamata. I believe that objective could still be achieved if Council decides to fund such events on an

unrestricted basis apart from the one privately promoted concert I intend to allow. That of course is a policy decision for Council to make.

79. However economic benefits do not trump the need to balance the use and enjoyment of the park in order to cater for a range of activities and different community groups with a need to protect the amenity values of the surrounding area and to maintain the public expectation of having open access to the park.
80. I consider granting consent to allow 20 day events and 7 night events to take place in Williamson Park each year subject to conditions, but limiting fenced and ticketed events to 1 event only strikes the right balance and meets the Acts objective which is to sustainably manage natural and physical resources.

DECISION:

81. That the application be granted under s104 and 104B of the RMA, subject to the conditions attached.

Dated this 21st day of November 2018



P H Cooney
Commissioner

ATTENDANCE SCHEDULE:

FOR THE APPLICANT - THE THAMES COROMANDEL DISTRICT COUNCIL:

- Lachlan Muldowney – Legal Counsel
- Kirstin Richmond - Events Planner
- Derek Thomson - Parks and Reserves Manager
- Nevil Hegley – Acoustics
- Christina Walker - KTB Planning

FOR TCDC – AS CONSENT AUTHORITY:

- Michael Jones – Council Principal Planner
- Sean Grace - Boffa Miskell

SUBMITTERS:

- The Friends of Williamson Park Society
 - Mr Martin Williams - Legal Counsel
 - Mr John Styles – Acoustics Expert
 - Mr Kenneth Tremaine – Planning Consultant
 - Michael Bartley
 - Anne Stewart Ball
 - Chris Ball
 - Barry Sapwell
 - Eva Sapwell
 - Jo Schneebeil
 - Paul Shanks
 - Richard Green
 - Trevor Gorrie
 - Mary Taylor
 - Gary Gotlieb
 - Joanne Beamish-white
- David Strange
- Jillian Morris
- Manolo Echave
- Whangamata Ratepayers Association
- Kevin Brookes
- Allan Rees
- William Ross

ADMINISTRATION:

Lisa Madgwick - Committee Advisor

Nicole Miell - Committee Advisor

Conditions of Consent – RMA/2018/203

General conditions

The consent holder/landowner shall comply with the following conditions:

1. This consent holder shall not give effect to this consent (or any part thereof) until such time as the following charges have been paid in full:
 - (a) All fixed charges relating to the receiving, processing and granting of this resource consent under section 36(1) of the Resource Management Act 1991 (RMA) including a consent compliance monitoring fee of \$350 (inclusive of GST); and
 - (b) All additional charges imposed under section 36(3) of the RMA to enable the council to recover its actual and reasonable costs in respect of this application.

The Council's administrative charges for receiving and processing this application in accordance with Section 36 of the Act, must be paid in full within 15 working days of receipt of the invoice for this decision, unless otherwise agreed in writing with the Development Planning Manager. The consent compliance monitoring fee shall be paid as part of the resource consent fee and the consent holder/landowner will be advised of any further monitoring charge or charges as they fall due. Such further charges are to be paid within one month of the date of invoice.

2. That a copy of this consent is to be held on site at all times that the events which the consent relates to are being held.
3. That the events proceed in accordance with the plans and information provided as part of the application, including:
 - Resource consent application and supporting attachments prepared by KTB Planning Limited entitled "Comprehensive consent for 20 day time and 7 night events per year, for 15 years, at Williamson Park, Whangamata" dated 27 June 2018(v2);
 - Site Plan entitled Example Site Plan, dated 1 October 2018.

Unless otherwise superseded or modified by a condition of this resource consent.

4. This consent authorises the following activities on Williamson Park per calendar year:
 - a. 20 day-time events between 7am and 7pm (although the Anzac Dawn Service may commence earlier than 7am);
 - b. Six night-time events between 4pm and 11pm, including one fenced and ticketed event.
 - c. One New Years' Eve Event from 4pm (31 December) until 12.30am the following day (1 January).
5. This consent shall expire on 1st December 2033 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.
6. Pursuant to Section 128 of the Resource Management Act 1991, the Council may serve notice on the consent holder of its intention to review the noise, traffic

management and public access conditions of this consent for the purpose of ensuring the adverse effects on amenity values on surrounding residential properties are adequately mitigated. All costs associated with any review shall be met by the consent holder.

Conditions applying to all events

- 7. Lighting systems shall not be directly aimed at any residential properties.
- 8. Lighting systems are to be shut down 30 minutes after the finishing of an event, provided it is safe to do so.
- 9. To avoid Powerco’s underground street light cables, no excavation or installation of marquee / tent pegs shall occur within 2m from the edge of the internal road through Williamson Park.
- 10. Any temporary fencing or structures are to erected on, or moved to, the site no more than 24 hours before the commencement of an event.
- 11. The consent holder shall ensure all security fencing and temporary structures established solely to accommodate events are removed from the reserve by 4pm the following day. Provided that:
 - a. The timeframe for removal may be extended as required in the event adverse weather conditions make it unsafe to dismantle and remove structures;

Acoustic conditions applying to all events

- 12. The noise level from any special noise event (a “special noise event” being an event that exceeds the Standard Noise Limits set out in condition 17) must not exceed the following limits when measured within any residential boundary:

Time, day and frequency	Noise limit
Up to 6 events between 4:00pm and 11:00pm per calendar year; and On New Year’s Eve between 4:00pm – 12:30am the next day	85 LAeq(5min)
Up to 5 events between 7:00am and 7:00pm per calendar year	80 LAeq(5min)
Up to 15 events between 7:00am and 7:00pm per calendar year	75 LAeq(5min)

Note: If a correlation of the noise at the residential boundary to the mixing desk is demonstrated for any event then the monitoring may be undertaken at the mixing desk to check compliance.

- 13. Noise measurement and assessment requirements:
 - a. Subject to the following, noise levels must be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008 Acoustics – Environmental Noise;
 - b. No duration correction or adjustment for special audible characteristics will be applied;

- c. Crowd noise is to be excluded from any assessment of compliance with these limits;
 - d. The noise from the sound checks shall not exceed 30 minutes between 12 midday and 4:00pm on the day of the event;
 - e. Noise from sound checks shall not exceed a level of 80dB LAeq when measured at 35m from the stage.
14. For all special noise events where the noise level will be over 75dB LAeq when measured within any residential boundary, the neighbours within a radius of 250m from the stage, shall be advised of the event via a letter box drop between seven and twenty one days before the event. As a minimum, this letter shall include the date and times of the proposed event, the nature of the event and a contact number in case there are any concerns.
 15. There must be no more than 4 special noise events exceeding 80dB LAeq(5min) within any 2 week period.
 16. A special noise event exceeding 80dB LAeq(5min) must be limited to a total duration of 6 hours. Any special noise event exceeding 80dB LAeq(5min) lasting longer than 6 hours must be counted as 2 special noise events. The duration of a special noise event must be determined by the cumulative length of time that the Standard Noise Limits are exceeded.
 17. The Standard Noise Limits (from 54.4(9) of the Proposed District Plan) are:

Time and Day	Leq Noise Limit	LAmx Noise Limit
Monday to Saturday 7 am to 10 pm	50 dB	N/A
Sunday 7 am to 6 pm	50dB	N/A
At all other times	40dB	65dB

18. The Council may at its reasonable discretion, require the Consent Holder to carry out noise measurements of any special noise event to ensure that compliance with these conditions is met. If noise monitoring is requested, it shall be undertaken for the duration specified by the Council at the residential property most exposed to noise or at the location approved under condition 12. The results of all monitoring shall be provided to the satisfaction of the Council within 5 working days of the event concluding.

Conditions applying to ticketed events

Note: A ticketed event involves the fencing off of the reserve in accordance with the approved site plan. For the avoidance of doubt, nothing in the following conditions is intended to restrict fencing for the purposes of sporting events, children’s play equipment or similar activities.

19. Ticketed events restricting public access to the reserve shall be limited to one event annually, occurring outside of the period of 25 December to 4 January, and catering for a crowd of no more than 6,000 people.

20. Fencing shall be restricted to a maximum area of 2 hectare and located in general accordance with the Example Site Plan dated 1 October 2018. Provided that additional security fencing may be installed around the Surf Club and/or Blackies Café as required.
21. Temporary fencing shall not obstruct access to the internal roadways in such a manner that prevents the passage of authorised vehicles or pedestrians. Provided that the consent holder shall be permitted to restrict non-authorised vehicular access to the internal road way on the day of an event insofar as it deems necessary to provide for health and safety.
22. Temporary fencing associated with ticketed events shall be erected no earlier than 24 hours before the commencement of the event.
23. The consent holder shall ensure all security fencing and temporary structures established solely to accommodate the event are removed from the reserve by 4pm the following day. Provided that the timeframe for removal may be extended as required in the event adverse weather conditions make it unsafe to dismantle and remove those structures.
24. A suitably qualified person shall prepare a temporary traffic management plan that shall be submitted to the Council's Roading Department 40 working days prior to each event occurring for certification. The traffic management plan shall address but not be limited to the following:
 - Expected vehicle movements;
 - How car parks will be allocated and by who (i.e. on-site staff numbers);
 - Timeframes for vehicles to be removed from the reserve and how the timeframes will be implemented;
 - Ability to accommodate any overflow car parking in the local streets;
 - Whether public buses and pick up areas are proposed and how this traffic aspect is to be managed;
 - Any other traffic matter considered appropriate such as access to the Surf Club and other activities that utilise the reserve.

The recommendations of the traffic management plan shall be implemented for each event and any recommendations associated with monitoring condition 28.

25. The consent holder shall provide written confirmation to Council that consultation has been undertaken with relevant emergency services (including, but not limited to: Police, St John, Fire Emergency NZ), Whangamata Surf Lifesaving Club staff and Blackies Cafe in the development of a Site Management Plan. The Site Management Plan shall address (but not be limited to) the following matters:
 - (a) waste management, both within and beyond the site;
 - (b) provision for emergency services;
 - (c) communication strategy for residents, emergency services and Council;
 - (d) set up and pack up details;
 - (e) measures to maintaining efficient operation of the Surf Club;
 - (f) measures for maintaining appropriate access to Blackies Cafe;
 - (g) security management plan, including how crowd movement and crowd behaviour will be managed outside of the venue before, during and after an event;
 - (h) provision of temporary toilets (portaloos);

- (i) efficient entry and egress from the site;
- (j) fencing design.

The final Site Management Plan shall be submitted to the Council's Planning Manager for certification no later than 40 working days prior to any ticketed event. The recommendations of the approved Management Plan shall be implemented.

- 26. Williamson Park is to be clear of event attendees 30 minutes after the finishing of the music.
- 27. The consent holder shall ensure Williamson Park reserve is left in a clean and tidy state. Within 200 metres of the reserve all litter and any broken bottles/glass within the road reserve; the beach reserve; footpaths; and pedestrian reserves that will be used by the public the following day should be in a clean and tidy state. All rubbish collection shall be undertaken and streets tidy by 10am the following day at the latest following an event.
- 28. Within 5 working days after a ticketed event, the consent holder shall prepare a monitoring report detailing:
 - (a) The results of an independent noise assessment, setting out compliance with the acoustic conditions; and
 - (b) A record of any complaints and/or problems (if any) relating to the event and any recommendations that are required to mitigate these potential effects (if feasible) prior to subsequent events.

The monitoring report shall be submitted to the Council's Team Leader Environmental Compliance & Monitoring.

Conditions applying to non-ticketed events

- 29. A suitably qualified person shall prepare a temporary traffic management plan that shall be submitted for approval to the Council's Roading Department 40 working days prior to each event occurring. The traffic management plan shall address but not be limited to the following:
 - Expected vehicle movements;
 - How car parks will be allocated and by who (i.e. on-site staff numbers);
 - Timeframes for vehicles to be removed from the reserve and how the timeframes will be implemented;
 - Ability to accommodate any overflow car parking in the local streets;
 - Whether public buses and pick up areas are proposed and how this traffic aspect is to be managed;
 - Any other traffic matter considered appropriate such as access to the Surf Club and other activities that utilise the reserve.

The recommendations of the traffic management plan shall be implemented for each event.

With the agreement of Council's Roading Manager, the requirement to prepare a traffic management plan may be waived. Note: this will apply when a traffic management plan is deemed unnecessary due to the nature or scale of event.

30. The consent holder shall liaise with Council, emergency services (Police, St John, Fire Emergency NZ) and Whangamata Surf Lifesaving Club staff in the development of a Site Management Plan. The Site Management Plan shall address (but not be limited to) the following matters:
- (a) waste management, both within and beyond the site;
 - (b) provision for emergency services;
 - (c) communication strategy for residents, emergency services and Council;
 - (d) set up and pack up details;
 - (e) measures to maintaining efficient operation of the Surf Club;
 - (f) security management plan, including how crowd movement and crowd behaviour will be managed outside of the venue before, during and after an event;
 - (g) provision of temporary toilets (portaloos);
 - (h) efficient entry and egress from the site;
 - (i) fencing design.

The final Site Management Plan shall be submitted to the Council's Planning Manager for approval no later than 40 working days prior to any ticketed event. The recommendations of the approved Site Management Plan shall be implemented.

With the agreement of Council's Planning Manager, the requirement to prepare a site management plan may be waived. Note: this will apply when a site management plan is deemed unnecessary due to the nature or scale of event.

31. Williamson Park is to be clear of event attendees 30 minutes after the conclusion of any night event.

Recommended Advice Notes

1. Pursuant to section 125 of the Resource Management Act 1991, this consent lapses 5 years after the date it is granted unless:
 - (a) The consent is given effect to; or
 - (b) The council extends the period after which the consent lapses.
2. The consent holder shall ensure that all activities and temporary structures maintain safe separation distances from electricity infrastructure at all times, in accordance with the New Zealand Code of Practice for Electrical Safe Distances NZECP 34:2001.
3. Where works are proposed in close proximity to any overhead or below ground electrical cables or streetlights, individuals are advised to contact the Network Owner to discuss the works.



Thames Coromandel District Council

Consents Planner: Independent Commissioner

RMA: 20180203

Plan Approved on: 23/11/2018



WILLIAMSON PARK – Example Only

01 October 2018

— Security Fencing During Events
- - - Security Fencing Between Events