

**BEFORE THE INDEPENDENT HEARINGS PANEL
AT NGARUAWAHIA**

IN THE MATTER OF Hearing 13 – Hampton Downs Motor
Sport and Recreation Zone

BETWEEN **Waikato District Council**

Territorial Authority

AND **Meremere Dragway Inc** (OS791 and
FS1118 / 1304)

Submitter and Further Submitter

**LEGAL SUBMISSIONS ON BEHALF OF MEREMERE DRAGWAY INC IN SUPPORT OF
ITS SUBMISSIONS ON STAGE 1 OF THE PROPOSED WAIKATO DISTRICT PLAN**

Dated: 8 April 2020

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MAY IT PLEASE THE PANEL

1. Meremere Dragway Inc (**Meremere Dragway**) made a submission (OS791) and a further submission (FS1118 / 1304) on Stage 1 of the Proposed Waikato District Plan (**Proposed Plan**). A number of Meremere Dragway's further submission points have been coded to Hearing 13 – Hampton Downs Motor Sport and Recreation Zone (**Hampton Downs Zone**), which is scheduled to start on 9 April 2020 at Ngaruawahia.

Background

2. While Meremere Dragway was initially developed for drag racing, since the early 1970s it has played host to a number of other activities including driver training, burnout competitions, drifting, motocross, grasstrack, speedway, jet sprint, vehicle testing and more.

The Section 42A report

3. The relief sought by Meremere Dragway is clearly contained in its further submission. The Section 42A report recommends that some parts of Meremere Dragway's further submission be accepted, and others rejected. These legal submissions address each of those further submission points in turn.

Definitions of "Motor Sport and Recreation Activity" and "Motor Sport and Recreation facility"

4. Meremere Dragway conditionally supported HD Land Limited and Hampton Downs (NZ) Limited's (**Hampton Downs**) original submission seeking to extend the definitions of "Motor Sport and Recreation Activity"¹ and "Motor Sport and Recreation facility",² subject to the inclusion of activities and buildings and structures found at any other regionally significant Motor Sport and Recreation facility. The Section 42A report writer has rejected Meremere Dragway's conditional support in both cases, to the extent that the defined terms were deleted from Chapter 13 and the content moved to Rule 26.1.1.1 P1.³
5. It is submitted that, in terms of consistency, the Section 42A report writers' recommendation to remove the defined terms from Chapter 13 and insert them as permitted activities rules in Chapter 26 should also be applied to the longstanding

¹ Hampton Downs' original submission, submission point 657.29.

² Hampton Downs' original submission, submission point 657.30.

³ Section 42A report at paragraphs 115 and 170.

activities undertaken at Meremere Dragway. It is appropriate to recognise longstanding activities (including Motor Sport Recreation Activities and Motor Sport Recreation facility) occurring at Meremere Dragway in the Dragway Park Specific Area (as sought in Meremere Dragway's original submission). There is no substantive basis to differentiate the activities occurring in the Hampton Downs Zone from those occurring at Meremere Dragway, except for differences between the size of each operation. It is recognised that the rules contained in Chapter 26 apply exclusively to the Hampton Downs Zone, but the same type of activities (including those enabled by Meremere Dragway's existing resource consents) should be provided for in rules specific to Meremere Dragway or be contained in the Dragway Park Specific Area.

6. We draw the Panel's attention to one of the leading decisions on whether a submission is "on" a plan change **Clearwater Resort Ltd v Christchurch City Council**, where William Young J held that:⁴
 - (a) a submission can only be regarded as being "on" a plan change or variation of it, if it addresses the extent to which the plan change or variation changes the pre-existing status quo; and
 - (b) if the effect of regarding a submission as being "on" a plan change or variation would be to permit a planning instrument to be amended without real opportunity for participation by those potentially affected, that is a powerful consideration against finding the submission to be "on" the change.

7. It is submitted that Meremere Dragway's submission is within scope and "on" the Proposed Plan because:
 - (a) the Waikato District Council is undertaking a review of the entire District Plan;
 - (b) Meremere Dragway is addressing the extent to which the Proposed Plan changes the pre-existing status quo, in particular, how it deals with Motor Sport Recreation Activities, Motor Sport Recreation facilities as well as other activities that undertaken by Meremere Dragway;
 - (c) Meremere Dragway and Hampton Downs undertake similar activities;

⁴ HC Christchurch, William Young J, 14/3/2003. Recently affirmed in **Calcutta Farms Ltd v Matamata-Piako District Council** [2018] NZEnvC 187.

- (d) Meremere Dragway's close proximity to the Hampton Downs Zone (the main facilities of each complex are around 2km apart), so there is a geographical connection; and
 - (e) there has been real opportunity for participation by those potentially affected.
8. It is therefore submitted that there is no scope issue, as suggested in the Section 42A report.⁵

Objective 9.1.1(a)

9. Meremere Dragway conditionally supported Hampton Downs original submission to amend Objective 9.1.1(a),⁶ subject to the definition of "Motor Sport and Recreation facility" being extended to recognise the "Dragway Way Park Specific Area". While the Section 42A report recognises that Meremere Dragway may be a regionally significant Motor Sport and Recreation facility, the author says that Meremere Dragway's submission is out of scope because the objective only applies to the Hampton Downs Motor Sport Park site.⁷
10. It is submitted that the recognition sought by Meremere Dragway does not have to be limited to Objective 9.1.1(a), rather it could occur elsewhere in the Proposed Plan. For example, in the objectives of the Dragway Way Park Specific Area. This approach would ensure the objectives of the Dragway Way Park Specific Area are consistent with the other specific zone objectives. While Meremere Dragway is sought as a "specific area" rather than a "specific zone", it is appropriate for objectives to direct development in a consistent manner regardless of whether that development relates to an area or zone. In terms of scope, we repeat the comments at paragraph 7.

Policy 9.1.1.3(a)(ii)

11. Meremere Dragway opposed the amendment sought by Hampton Downs to Policy 9.1.1.3(a)(ii)⁸ on the basis that efficient access to surrounding facilities should be maintained at all times for safety and commercial reasons. The Section 42A report accepted Meremere Dragway's submission in part⁹ and agreed that safe and efficient access should be maintained.¹⁰ Meremere Dragway also supported the original

⁵ Section 42A report at paragraphs 106 and 166.

⁶ Hampton Downs' original submission, submission point 657.56.

⁷ Section 42A report at paragraph 40.

⁸ Hampton Downs' original submission, submission point 657.59.

⁹ Section 42A report at paragraph 80.

¹⁰ Section 42A report at paragraph 76.

submission of Fire and Emergency New Zealand¹¹ supporting Policy 9.1.1.3(a)(ii) and requesting that it be retained. This submission was accepted by the Section 42A report.

¹²

12. It is submitted that the Section 42A report writer's recommendation to retain Policy 9.1.1.3(a)(ii) and the requirement to maintain efficient access to surrounding facilities at all times aligns with the objectives and policies contained in the notified version of Chapter 6 Infrastructure and Energy, namely:
- (a) Objective 6.5.1(a)(i) requiring an integrated land transport network where all transport modes are accessible safe and efficient; and
 - (b) Policy 6.5.2(a) which requires that Council promote the construction and operation of (among other things) an efficient and safe land transport network through the appropriate design and location of sites' access.

DATED this 8th day of April 2020



Andrew Green / Ben Cochrane
Counsel for Meremere Dragway Inc

¹¹ Fire and Emergency New Zealand's original submission, submission point 378.4.
¹² Section 42A report at paragraph 80.