

**Hearing Committee Report and Decision on a
resource consent application by Chilcroft Ltd -
Stadden Rise to discharge emissions into the
air from a poultry farming operation and
associated practices including waste
management activities**

Taranaki Regional Council
Private Bag 713
STRATFORD

24 November 2011

Doc# 973509

Report and decision

of a Committee of the Taranaki Regional Council which heard,
commencing at 9.30 am on 15 November 2011,
at the Taranaki Regional Council offices, Stratford,
an application by Chilcroft Ltd - Stadden Rise

The application seeks to renew consent 5258-2, to discharge emissions into the air from a poultry farming operation and associated practices including waste management activities.

The application, made in accordance with the Resource Management Act 1991 [“the Act”], was lodged with the Taranaki Regional Council [Council] and is referenced as 6877.

Present

Commissioners:

Cr David Lean [Chairperson]
Cr Neil Walker
Cr Craig Williamson

Applicant:

Chilcroft Ltd – Stadden Rise

Lester Chilcott [applicant]
Blake Camden - Tegel Foods Ltd [witness for applicant]
John McBride - Poultry Advisory Service [witness for applicant]
Noel & Rosemary Chilcott [in support of applicant]

Taranaki Regional Council Officers:

Colin McLellan	Consents Manager
Kim Giles	Consents Officer
Gary Bedford	Director – Environment Quality
Darlene Ladbrook	Senior Consents Administration Officer
Janette Harper	Consents Administration Officer

Submitters:

BL & LM Relf

Rick Summerson [on behalf of submitter]

Description of Proposed Activity

1. The application by Chilcroft Ltd – Stadden Rise [‘the applicant’] is to discharge emissions into the air from a poultry farming operation and associated practices including waste management activities. The applicant wishes to expand the current operation by constructing an additional shed on the subject property, and has therefore applied for an early renewal of consent 5258-2.
2. The subject site is located on a 3.94 ha property, located approximately 1.7 km northeast of Airport Drive, and less than 1 km southwest of the intersection between Devon Road and Mountain Road [Figure 1].
3. The site currently contains three poultry sheds with a combined maximum holding capacity of 58,000 birds. During each growing cycle, chickens are raised on site for around 42 days and subsequently supplied to Tegel Foods Limited. In a typical year, 5-6 growing cycles are carried out on the farm.
4. The chickens are housed in the sheds on litter which consists of wood shavings. At the end of each cycle [once the chickens have been removed from the site], the sheds are cleaned out by Osflo Spreading Industries Limited. During this process, the bed litter is pushed out of the shed doors and loaded into trucks. The sheds are then washed down and sanitised in preparation for the laying of fresh litter for the next poultry cycle.
5. Construction of a fourth shed would increase the maximum number of birds on the property to 101,000, and would allow the farm to operate at a more economic size.

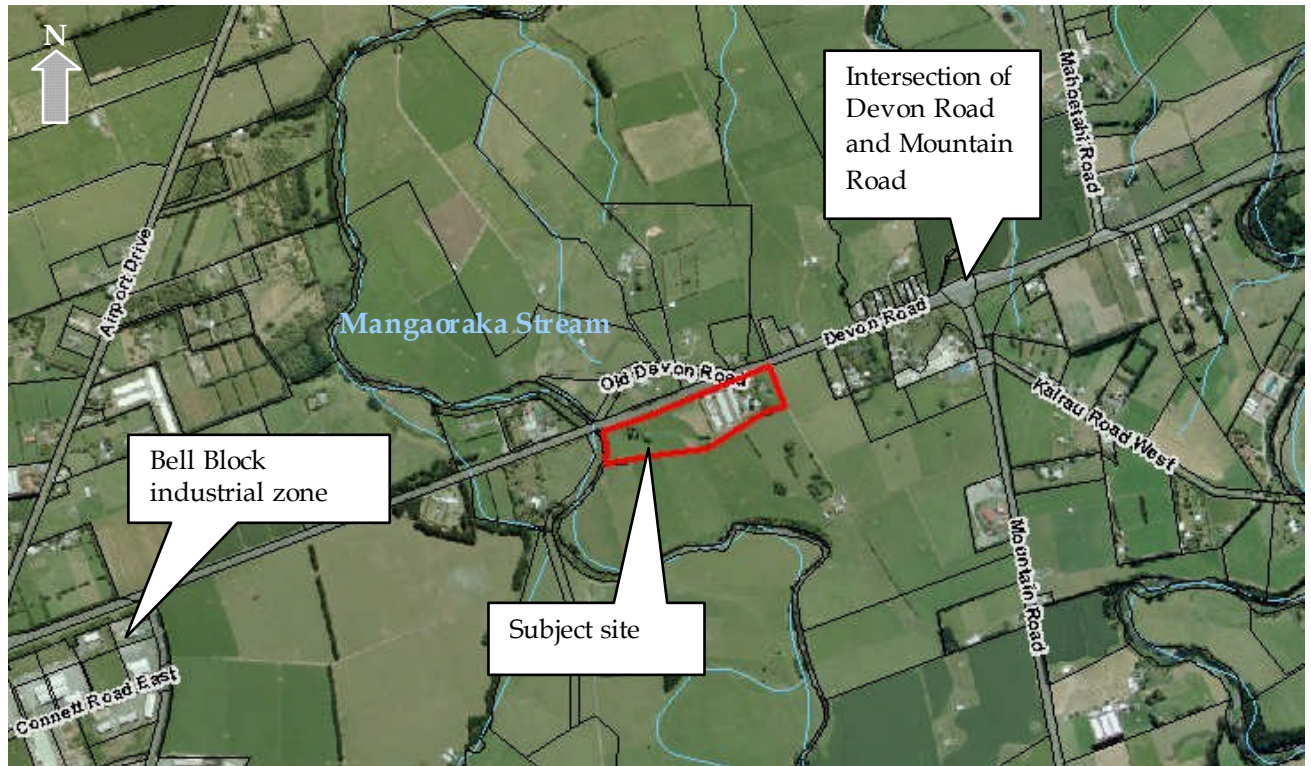


Figure 1: Aerial photo illustrating the location of the site and the surrounding environment

Regional Plan Rules Affected

6. The application is a discretionary activity under Rule 54 of the *Regional Air Quality Plan for Taranaki* [RAQP], which has been operative since 2011.

Notification and Submissions

7. The application was limited notified on 13 September 2011, in accordance with section 95B of the Act. Notice was served on all landowners located within 400 metres of the sheds, except those that had already given their written approval to the proposal.
8. Submissions were lodged by:
- BL & LM Relf [7 and 15 Old Devon Road];
 - NE & EA Sole [10 Old Devon Road]; and
 - J Gibbons [1245 Devon Road].
9. The relevant sections of each submission are summarised in the table below.

Table 1: Summary of submissions

Submitter	Summary of submission
BL & LM Relf	<ul style="list-style-type: none"> • noxious odours and airborne particulates continue to invade their property, either in compliance with the existing consent or as a result of mis-management, error or accident; • increasing the operation size of the farm by 74 % will increase the magnitude of the invasions; • the submitter has no faith in the Council's ability to respond to complaints of odours/particulate on/at their property; • allowing the erection of a building knowing it's going to vent odour and particulate within the recommended 400 metre buffer zone is perverse.
NE & EA Sole	<ul style="list-style-type: none"> • with 40,000 extra birds an extra shed will make the farm three quarters larger and in this day and age of environmental concerns the submitter doesn't need more sheds, and dusty smelly air discharges in the area; • the submitter has never complained, but tolerated the sheds. The application says there is no record of complaints by the neighbours however the submitter knows of complaints having been made by Leona Relf; • the smells occur regularly and the neighbours know the difference between foul chicken smells and normal farm odours; • the submitter completely disapproves of the proposal; • since the sheds have been built the submitter has put up with the stink and dust over the years so they ask that the sheds die a natural death in 2014 when the consent expires.
J Gibbons	<ul style="list-style-type: none"> • the smell that comes from the cleaning of the present poultry sheds is unbearable, let alone increasing the number of birds to 101,000.

Officer Report

10. Council officers prepared a report [the Officer Report] in accordance with section 42A of the Act, which was provided to all parties at least five working days before the hearing. The Officer Report included an assessment of the proposal under the provisions of the Act and recommended that the application be granted to 1 June 2026.
11. The recommendation contained conditions of consent, including an allowance for discharges beyond the boundary during the removal of birds and/or litter from the sheds, and restricting the removal of birds and/or litter from occurring at certain times.

The Hearing

Procedural Matters

12. The Chairperson, Cr David Lean, opened the hearing and introduced the members of the Committee [the Committee].
13. Cr Lean welcomed the applicant, submitters and Council staff and asked parties to introduce themselves. He also noted that the Committee were familiar with the subject site and its general area, having visited the site recently.
14. Cr Lean outlined the hearing process, noting that submissions would be taken as read, but that submitters were welcome to expand on any points raised. He also advised that the hearing was being recorded and asked each speaker to identify themselves before speaking.

Summary of evidence heard

Applicant

15. Mr McBride [consultant for the applicant] tabled written statements from the following parties in support of the applicant:
 - JR Bedford [neighbour];
 - Blake Camden [New Plymouth Broiler Manager for Tegel Foods Ltd];
 - Graeme Alldridge [Chairman of Taranaki Broiler Growers Association Inc];
 - P Johnston [neighbour]; and
 - John McBride [consultant].
16. Mr McBride reiterated that the farm has been operating for more than 40 years as a contract meat chicken growing operation in conjunction with Tegel Foods Ltd [Tegel], commencing with one shed holding 4,000 birds. Over the years, in common with other farming enterprises in New Zealand, it has been required to increase its capacity, firstly to maintain an economic income, and secondly, to meet the increasingly complex needs of the retail chicken market.

17. Mr Chilcott [applicant] stated that he needs a degree of certainty in order to expand the operation, and he had therefore applied for an early renewal of his existing consent. He said it was not viable to relocate the business and the opportunity to expand is rare. Although the property would remain economic without the expansion, he said the expansion would allow for upgrades of the existing sheds to occur sooner.
18. Mr Chilcott stated that without a fourth shed, the pace of investment in the existing sheds would be slower because of the economics of the operation. Each shed requires significant upgrades, including relining of walls and new roofs, which would have to be undertaken one shed at a time. He also stated that he was unsure of timeframes as it was a matter of identifying what was a priority.
19. Mr Chilcott confirmed that he would move the exhaust ventilation fans in the existing buildings from the side walls to the southern end of each building if he obtained consent for a fourth shed. This would result in an extra 70-80 metres of buffer distance between sheds and the road boundary. He was still unsure of how much this would cost, however he indicated that shed 3 would be done reasonably quickly if the new shed was approved. In any case however, the upgrades to existing sheds would be carried out subsequent to construction of the new shed.
20. When asked if he had received any direct complaints from neighbours, Mr Chilcott stated that he could only recall one incident where Mrs Relf had phoned him about 6 months ago to complain about odour from the sheds.

Submitter

21. The submitters case was presented by Mr Rick Summerson on behalf of BL & LM Relf.
22. Mr Summerson stated that the Relf's oppose the granting of the application on the following grounds:
 - Historically, airborne pollutant [both odour and particulate matter originating from Stadden Rise], have invaded the Relf's property;
 - The Relf's have made numerous complaints to the Council which have not been upheld. The complaints have substance and the Council's investigative methodology lack definitive quantifiable tests;
 - Odour and particulate matter are not 'normal farm discharges', they are the by-product of intensive poultry farming activity;
 - Three of the four landowners closest to and in the predominant downwind position to Stadden Rise have made a submission in opposition on the same grounds, namely odour, therefore the problem is real;
 - For this intensive poultry farming activity to continue in operation at its current size, it must during both normal and abnormal operational activity, vent odour and particulate matter into the atmosphere. These airborne pollutants will continue to invade Relf's property which they object to. To allow an approximate 74% increase in the capacity at Stadden Rise, with the corresponding increase by necessity of airborne pollutant, the Relfs oppose.

23. Mr Summerson stated that the neighbours are used to normal farm odours and that they do not consider odours from the sheds to be normal farm odours. He said the Relfs stopped making complaints to the Council as they felt that the response system didn't work. This was due to the fact that odour assessments were based on the opinion of Officer's as there are no tools available to measure odour.
24. Mr Summerson also said that in the Relfs' opinion they will always be affected by the operation regardless of whether or not it is operating efficiently, and he could only assume that the problem would get greater if an additional shed was built.

Presentation of Officer Report

25. The Officer Report was presented by Ms Giles. The report was taken as read however Ms Giles highlighted some key points, including:
 - Recognition that the proposed activity may result in the discharge of odour beyond the site boundary, and that the greatest potential for occurrence of off-site odour effects is during bird removal, and restocking and clean out of litter from the sheds. However also acknowledging that the applicant has adopted measures for minimising off-site odour, including those outlined in Good Management Practices for Intensive Poultry Farming and Tegel's Best Practice Guidelines;
 - Reiterating that although submissions raised concerns about the management of the farm and the occurrence of off-site odours, only 3 odour incidents were reported to the Council in the last 5 years, and none of the investigations concluded that a breach of consent conditions had occurred. Therefore, in light of this, and as a result of technological improvements that inevitably come with a new shed, any adverse effects associated with the increase in bird numbers were considered to be no more than minor;
 - Stating that condition 11 of the existing consent allows for the occurrence of odours beyond the boundary during the removal of birds and/or litter from the shed, which was imposed in recognition of the distance between the existing sheds and neighbouring dwellings, and the fact that odour would likely occur beyond the boundary during these events. However also noting that condition 13 of the existing consent, which restricts the removal of birds from occurring in the afternoons and weekends during the summer period, was imposed to give the submitters some certainty that these activities would not occur at particularly sensitive times;
 - Stating that similar conditions had been recommended, as the small number of complaints received since the existing consent was granted suggest that these conditions provide clarity to both the applicant and the submitter in terms of what is considered to be an offensive and objectionable odour, as well as identifying particular times of the rearing cycle when odours may be noticeable beyond the boundary; and
 - Concluding that additional conditions such as the requirement for planting and upgrading of the existing sheds had also been recommended in order to minimise off-site odours as far as practicable.
26. Mr Bedford then addressed a number of technical matters and responded to some issues raised, including:

- Noting that a correction should be made to recommended condition 10 as it the condition stated a suspended dust level of 3 g/m³, when it should have been 3 mg/m³;
- Confirming that JR Bedford, who provided a written statement in support of the applicant; is located to the east of the subject property, and is therefore located in the direction of the dominant westerly winds [as indicated by the wind rose included in the Officer Report];
- Stating that there is some objectivity in the determination of offensive or objectionable odour. Offensiveness is related to a rational scale and is not merely a matter of perception. He noted that Council Officers are trained and have their noses calibrated for sensitivity to objectively assess odour;
- Stating that the proposed increase in bird numbers does not necessarily correlate with an increase in adverse effects as site improvements have already been put in place and recommended improvements, such as shifting the fans in the existing sheds, will help to mitigate any effects. Shifting the fans to the southern end of the sheds will result in a very significant decrease in the intensity of odour due to greater dispersion/dilution before air currents reached the neighbours;
- Noting that the Act allows environmental effects to occur;
- Confirming that planting of shelter belts would definitely be of some benefit as they provide some absorption of odour and cause better mixing, hence planting of shelterbelts had been recommended as a special condition.

Applicant's right of reply

27. Mr McBride's reply on behalf of the applicants was brief. He said Tegel had been continuously working with Regional Council's to try and minimise adverse effects of odour, and that Stadden Rise would essentially be a test case.

Hearing closure

28. Cr Lean, on behalf of the Committee, thanked the submitters and the applicants for the information they provided and the manner in which it was presented.
29. Cr Lean noted that all evidence presented at the hearing would be carefully considered and a decision would be issued in accordance with the timeframe in the Act. He then adjourned the hearing.
30. The hearing was formally closed at 5.00 pm on 15 November 2011.

Principal issues in contention

31. The Act requires the Committee to identify the principal issues in contention and the main findings of fact. The Committee determines the principal issue in contention to be the discharge of odour and particulate matter beyond the boundary.

Main findings of fact

32. The Committee deliberated on the applications, all submissions, the Officer Report, and other evidence presented, with particular regard to the matters which it is required to address under the Act. The Committee's main findings of fact are detailed below.
33. Subject to the findings noted here, the Committee accepts the assessment and conclusions presented in the Officer Report, including the assessments of section 104 and Part 2 of the Act. The Committee has determined that the applications can be granted, and that subject to the consent conditions included in the decision, any adverse effects associated with the proposed activity, including the increase in bird numbers, can be appropriately avoided, remedied or mitigated.
34. The proposed activity may result in the discharge of odour beyond the boundary at certain times during the rearing cycle. The Act allows for effects, and while it is not an 'exact science' the process of determining odour effects is based on the MfE good practice guide, and ensures that there is objectivity in the determination of offensive and objectionable odour.
35. The proposed increase in bird numbers and the additional shed will not cause a significant increase in off-site odour and dust effects for any particular recipient. However, there would inevitably be some additional effects such as an increase in the intensity of the odour and longer duration effects caused by the additional time necessary to undertake bird removal and shed cleanouts. Due to the close proximity of the neighbouring dwelling these additional effects need to be avoided, remedied or mitigated as far as practicable.
36. Shifting the fans to the southern end of the existing sheds will result in a very significant decrease in odour intensity, and these upgrades are necessary to appropriately avoid, remedy or mitigate adverse environmental effects as required by Part 2 of the Act. The fans therefore need to be moved to the southern end of the existing sheds before the new shed is used. A condition to this effect is included on the consent.
37. The Committee considers that planting and maintenance of shelter belts is also important for appropriately avoiding, remedying and mitigating any adverse effects. A shelterbelt running parallel to the new shed, in addition to those existing, is considered necessary to adequately achieve this, and a condition is included to this effect.
38. The Committee agrees with the consent duration of 14 years and the review provisions, recommended in the Officer Report. The Committee notes that the early timing of the first review provides flexibility to address any unanticipated scale or characteristic of any effects that might arise.

Relevant statutory provisions

39. The actual and potential effects on the environment of the activity were assessed in the Officer Report. Subject to the comments made in this decision the Committee accepts the officer's assessment.

40. Similarly the Officer Report comprehensively assessed the proposal against the above planning documents. This assessment is not repeated in this decision but is accepted by the Committee.

Decision

41. The Committee, acting pursuant to the powers delegated to it by the Taranaki Regional Council, and having given due consideration to sections 104, 104B, 105, 107 and 108 of the Act, hereby grants the following resource consent subject to the conditions detailed in this decision report for a duration of 14 years:

Consent 5258-3 [6877] - to discharge emissions into the air from a poultry farming operation and associated practices including waste management activities.

Reasons for the decision

42. The reasons for the decision are that the actual and potential adverse effects of the proposal will be adequately avoided, remedied and mitigated by the terms and conditions of consent, and any concerns raised by submitters are appropriately avoided, remedied or mitigated by recommended consent conditions.
43. While it generally accepts the recommendations in the Officer Report, the Committee has made some changes to the consent conditions recommended. These changes are highlighted in the decision for ease of reference.

Consent 5258-3 [application 6877]

That application 6877; to discharge emissions into the air from a poultry farming operation and associated practices including waste management activities, be approved for a period to 1 June 2026, subject to the following conditions:

General condition

- a. The consent holder shall pay to the Taranaki Regional Council all the administration, monitoring and supervision costs of this consent, fixed in accordance with section 36 of the Resource Management Act.

Special conditions

1. The maximum number of birds to be held on the poultry farm at any one time shall not exceed 101,000.

2. The consent holder shall at all times adopt the best practicable option, as defined in section 2 of the Resource Management Act 1991, to prevent or minimise any actual or likely adverse effect on the environment associated with the discharge of contaminants from the site. The best practicable option includes, but is not limited to:
 - a) operating in accordance with *Tegel Food Ltd – Specifications for the development of new broiler growing facilities*; and
 - b) operating in accordance with *Good management practices for intensive poultry farming* [Appendix V of the Regional Air Quality Plan for Taranaki].
3. Prior to undertaking any alterations to the poultry unit's processes, operations, equipment or layout, which may significantly change the nature or quantity of contaminants emitted from the site, the consent holder shall consult with the Chief Executive, Taranaki Regional Council, and shall obtain any necessary approvals under the Resource Management Act 1991 and its amendments.
4. The consent holder shall minimise the emissions and impacts of contaminants discharged into air from the site by:
 - a) the selection of the most appropriate process equipment;
 - b) process control equipment and emission control equipment;
 - c) the methods of control;
 - d) supervision and operation;
 - e) the proper and effective operation, supervision, maintenance and control of all equipment and processes; and
 - f) the proper care of all poultry on the site.
5. The consent holder shall give the Chief Executive, Taranaki Regional Council at least 24 hours notice of the removal of any poultry and/or litter from the poultry sheds. Notice of any subsequent changes to the schedule shall be given as soon as practicable. Notice shall include the consent number and a brief description of the activity consented and be emailed to worknotification@trc.govt.nz.
6. There shall be no offensive or objectionable odour to the extent that it causes an adverse effect at or beyond the boundary of the site.

Note: For the purposes of this condition:

 - The boundary of the site is defined as Pt Lot 2 DP 3159 Blk III Paritutu SD; and
 - Assessment under this condition shall be in accordance with the Good Practice Guide for Assessing and Managing Odour in New Zealand, Air Quality Report 36, Ministry for the Environment, 2003.
7. For the purposes of condition 6 an odour shall be deemed to be offensive or objectionable if:
 - a) it is held to be so in the opinion of an enforcement officer of the Taranaki Regional Council, having regard to the duration, frequency, intensity and nature of the odour; and/or

- b) an officer of the Taranaki Regional Council observes that an odour is noticeable, and either it lasts longer than three [3] hours continuously, or it occurs frequently during a single period of more than six [6] hours; and/or
- c) no less than three individuals from at least two different properties, each declare in writing that an objectionable or offensive odour was detected beyond the boundary of the site, provided the Council is satisfied that the declarations are not vexatious and that the objectionable or offensive odour was emitted from the site at the frequency and duration specified in (b). Each declaration shall be signed and dated and include:
- the individuals' names and addresses;
 - the date and time the objectionable or offensive odour was detected;
 - details of the duration, frequency, intensity and nature of the odour that cause it to be considered offensive or objectionable;
 - the location of the individual when it was detected; and
 - the prevailing weather conditions during the event.
8. Condition 7 shall not apply to the discharge of odour for up to three [3] days cumulative, in any fifty-six [56] day period, during the removal of litter or poultry from any shed.
9. Between 1 October of any one year and 31 March of the following year there shall be no removal of litter or poultry from any shed between the hours of 1400 and 2300 [New Zealand Standard Time] on weekdays and at any time during the weekend [Saturdays and Sundays].
10. The discharges authorised by this consent shall not give rise to suspended or deposited dust at or beyond the boundary of the site that, in the opinion of at least one enforcement officer of the Taranaki Regional Council, is offensive or objectionable. For the purpose of this condition, discharges in excess of the following limits are deemed to be offensive or objectionable:
- a) dust deposition rate 0.13 g/m²/day; and/or
 - b) suspended dust level 3 mg/m³.
11. The consent holder shall maintain the existing shelterbelts on the property to the standard described in a) below, and within 12 months of the issue of this consent shall plant and subsequently maintain additional shelterbelts:
- a) in the form of a dense row of trees which, at full height, reach at least five metres;
 - b) located adjacent to the road boundary and extend from approximately 1702822E-5679949N [NZTM] to approximately 1702692E-5679898N [NZTM], and a second located parallel to the north-eastern wall of shed 4 [or its proposed location] and approximately 10 metres from it; and
 - c) mitigate any effects of odour on neighbouring dwellings, to the satisfaction of the Chief Executive, Taranaki Regional Council.

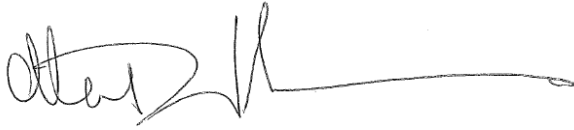
12. Before housing any poultry in shed 4 the consent holder shall upgrade the existing sheds so that the ventilation fans discharge to the southern end of the sheds.
13. In accordance with section 128 and section 129 of the Resource Management Act 1991, the Taranaki Regional Council may serve notice of its intention to review, amend, delete or add to the conditions of this resource consent by giving notice of review during the month of June 2014 and/or June 2020 for the purpose of ensuring that the conditions are adequate to deal with any adverse effects on the environment arising from the exercise of this resource consent, which were either not foreseen at the time the application was considered or which it was not appropriate to deal with at the time.

For the Taranaki Regional Council:

Dated: 24 November 2011



Councillor David Lean [Chairman]



Councillor Neil Walker



Councillor Craig Williamson